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**Committee on the Exercise of the Inalienable Rights of the Palestinian People, 385th Meeting**

CHAIR: Good morning to everyone. I declare open the 385th meeting of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. It’s an honor for me to chair this meeting of the Committee. The Secretariat has distributed the provisional agenda for this meeting of the Committee. As I understand it, you have this in front of you. If there are no objections, the agenda I think can be adopted. That is the case. It is so decided.

Now before we proceed with the agenda, allow me on behalf of the Committee to welcome His Excellency Mr. Valentin Rybakov, Permanent Representative of the Republic of Belarus; His Excellency Diego Fernando Morejón Pazmiño, Permanent Representative of Ecuador; His Excellency Mr. Mohammad Hussein Ali Bahr Aluloom, Permanent Representative of the Republic of Iraq; Mr. Abdelaziz, Permanent Representative of the League of Arab States to the United Nations, who have all recently taken up their posts here in New York. On behalf of the Committee, on behalf of the observers as well, I would like to welcome you and express our best wishes for your important work. I am certain that we will continue exceptional engagement and support that the Committee received from your predecessors in pursuit of its mandate.

Now turning to the second item of the agenda. I have the pleasure of giving the floor to Rapporteur, Ambassador and friend Carmelo Iguanez to provide a brief update about the Committee activities and developments that have taken place since our 384th meeting which took place as you will recall on the 6th of September. Ambassador, you have the floor.

AMBASSADOR CARMELO IGUANEZ, RAPPORTEUR: Thank you, Madame Chair. Good morning, ladies and gentlemen. I have the pleasure of providing a brief update about the activities of the Committee that have taken place since the last Committee meeting, the 384th meeting on 6 September.

On 10 November, the Bureau had its third annual retreat. The three main themes identified for discussion at the retreat were stocktaking on the activities of 2017, plan of action for the next year 2018, and the role of the Division for Palestinian Rights and working methods. As the Secretariat has already distributed the list of decisions—also enclosed I think in your envelopes—adopted by the Bureau, I will focus on now on the main discussion points, and thereafter welcome other Committee members to express their view

The Bureau agreed to craft—to draft common messaging that the Committee members may use in their outreach, including all social media, to promote the recognition of the State of Palestine. The messaging would emphasize peace, justice, and human rights dimensions of the question of Palestine, highlight how the resolution of the question of Palestine is linked to the attainment of the sustainable development goals and the stability of the region in general. It would be stressed that the question of Palestine is not a religious issue.

The Bureau decided to engage more closely with Committee members to enhance the latest participation in Committee activities, and with the newly elected Security Council members and candidates for the Security Council, to inform their engagement on the question of Palestine. The Bureau also engaged the regional—wishes to engage regional groups to include a reference to the question of Palestine in their statements to the Security Council and other UN bodies. The Bureau intends to seek meetings with relevant Permanent Representatives to the UN, as well as US interlocutors, among others, in support of the Committee’s mandate.

The Bureau also recommended that the Committee consider organizing side events on the question of Palestine during major international summits, and undertake more targeted visits to specific Member States based on the need to engage different regions and countries. In this context, the Bureau discussed plans to visit Tanzania in early December of this year.

While the 2018 program of work could not be fully discussed due to time constraints, it was recommended that the activities for next year should be under the overarching theme of reflecting on 70 years of the Nakba while looking forward, and to hold an international conference on the question of Jerusalem next year in collaboration with OIC. The Bureau agreed to establish a working level group of focal points of the Bureau to ease information sharing, and to permit operational discussions about Committee activities. While we hope Committee members and observers will be able to support these decisions, we encourage you to share additional ideas that can help the Committee in advancing the goal of an independent state of Palestine.

On another note, on 18th October, Her Excellency Madam María Rubiales de Chamorro, Vice Chair of the Committee, who is chairing now, delivered a statement on behalf of the Committee at the quarterly Security Council debate on the situation in the Middle East, including the question of Palestine. As usual, the statement can be found on the UNISPAL website.

On 2nd November, the Committee hosted a lecture by Rashid Khalidi the Edward Said Professor of Modern Arab Studies at Columbia University on the Balfour Declaration and the impact on the Palestinian people. The session was most ably chaired by our colleague Ambassador Jerry Matthews Matjila of South Africa. The event was well attended, including by Member States, civil society organizations, and the public, and provided the opportunity for a lively debate about the Declaration. The video of the event as well as the text of the lecture can be found on the UNISPAL website.

Lastly, let me update you on the activities of the capacity-building programme for staff of the Government of the State of Palestine. The Division for Palestinian Rights sponsored two Palestinians to participate in the course on effective Multilateral Environmental Agreements, organized by UNEP in collaboration with the University of Eastern Finland. The course took place from 9 to 19 October. Second, the Division supported the participation of three Palestinians in a course organized by the UN System Staff College, entitled UN Catalytic Support to South-South and Triangular Cooperation in implementing the 2030 Agenda, which took place in Bonn from 17 to 19 October.

Finally, from 29 October to 2nd November, the Division sponsored a study visit by three Palestinians to Geneva to observe the 68th Session of the Committee on the Elimination of all Forms of Discrimination against Women. Regrettably, on 9th November, for the first time since its inception over 20 years ago, the New York segment of the annual training program for officials of the Palestinian Ministry of Foreign Affairs was canceled due to the fact that the US Consulate in Jerusalem had not issued visas to the two selected candidates.

I would like to draw your attention to the fact that following its adoption on 6 September, the annual report of the Committee was published on 28 September as UN document A/72/25 in all six languages. It can be found on UNISPAL, the website maintained by the Division for Palestinian Rights. The published report was sent to all Member States, together with a summary of its recommendation that are also included in the envelopes before you.

Thank you.

CHAIR: I thank Ambassador Iguanez for the information on the activities of the Committee and recent events. Are there any comments or questions regarding recent Committee activities or the report presented by the Rapporteur? As that is not the case, let us move on to the third agenda item.

I would now like to give the floor to Her Excellency Ambassador Feda Abdelhady Nasser, Deputy Permanent Observer of the State of Palestine for an update on the situation in the occupied Palestinian territory including East Jerusalem, and developments in the political process.

Excellency, you have the floor.

PALESTINIAN REPRESENTATIVE: Thank you, Madam Chair. Ambassador Mansour extends his apologies for being absent from this meeting, as he is traveling abroad representing Palestine at international meetings this week.

Madam Chair, I wish to thank you for chairing this meeting, and for all your efforts on behalf of the Committee in the past month. And I wish to thank the Rapporteur for his briefing on the Committee’s activities in the recent period including, as he noted, the statement delivered at the Security Council on the debate regarding the Palestine question last month, as well as hosting of the lecture by Professor Rashid Khalidi in reflection of 100 years since the Balfour Declaration and its infinite consequences on the Palestinian people and on the region.

As was noted, that event brought together the members of the Committee and many other delegations, UN staff, and civil society, representatives who broadly welcomed the opportunity to hear such a substantive presentation and to engage with the professor on issues of historical and present-day relevance. We appreciate the efforts of the Division for Palestinian Rights in organizing this and other similar encounters, and hope that more such events can be arranged in the future. I would also like to take a moment to extend our thanks to the Permanent Representative of South Africa for his dynamic and spirited moderation of that important event.

With regard to the retreat, I would also like to urge Committee members to review and support the decisions that were made by the Bureau and to extend our appreciation to the Chair of the Committee, the Permanent Representative of Senegal, for hosting that retreat at the Senegal Mission last month. That retreat, the third annual one, was a good opportunity to share concerns and ideas regarding the Committee’s work, its messaging, and future engagement, and we welcome the endorsement and support of Committee members for the plans for such engagement in the period ahead.

Mr. Chair, in this recent period, in addition to the open debate in the Security Council, there have been numerous debates at the UN, particularly at the main committees of the General Assembly, reflecting on various aspects of the question of Palestine in which my delegation has fully engaged. In the interests of time, and particularly to seize the opportunity for the Committee to hear and engage with Professor Michael Lynk, Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, whom we thank for joining us today, I will not go into detail in my briefing regarding the occupation’s violations and the extremely detrimental impact that the absence of a political horizon to bring an end to this injustice continues to have. I believe this Committee is well aware of the realities, and here I wish to recognize all Committee members and observers that participated in the recent debates in the Security Council, as well as in the Fourth, Second, and Third Committees on Palestine-related items, drawing attention to the continuing plight of the Palestinian people, calling for cessation of Israel’s illegal policies and actions against our people and our land, and calling for fulfilment of the inalienable rights of the Palestinian people, including to self-determination and independence.

In that regard, I also wish to confirm our deepest gratitude for the support that has been given by the overwhelming majority of delegations for the resolutions that were voted on last Friday in the Fourth Committee. Strong messages have been conveyed in the debates and in the voting on these resolutions, reflecting abiding principles and the international consensus on the important matters addressed by the resolutions, including for example, the illegality of Israeli settlement activities, the illegality of Israel’s blockade on Gaza, the unlawful and grave impact of the collective punishment measures imposed by the occupation, including home demolitions and forced evictions and displacement of our people, all of which we are witnessing in real time today. And in that regard, I wish to inform the Committee that we have conveyed a letter to the President of the Security Council yesterday evening, as well as to the Secretary-General and President of the General Assembly, regarding the recent measures taken by the occupying power in this regard in the occupied West Bank and the Jordan Valley, and in other areas, including the Bethlehem area and in occupied East Jerusalem.

Those resolutions, as all are aware, also reaffirm the applicability of the Fourth Geneva Convention, the rights of the Palestine refugees, and the indispensability of UNRWA, and the urgency of increased funding to the agency, as well as the two-state solution on the pre-1967 borders in accordance with longstanding terms of reference, among other aspects. We are grateful for the statements made in the recent period, and support and co-sponsorship given to our resolutions, never underestimating the meaning and significance of this unwavering and principled support in confronting this unjust situation, and in preserving and promoting the inalienable rights of the Palestinian people.

We therefore again recognize the valuable role played by all states lending their support to Palestine, including through the work of this important Committee, and we appeal for continued efforts at this critical juncture, including in the General Assembly when the question of Palestine is debated and our resolutions are voted on in the plenary, including on those drafts that the Committee will consider today.

In this sensitive period, Madam Chair, as we somberly reflect on this 50th year of the occupation, and 70th year since the General Assembly’s partition of our homeland and the ensuing Nakba that our people continue to suffer from to this day, we will also appeal for the participation and support of delegations on the 29th of November as we commemorate the International Day of Solidarity with the Palestinian People, once again with regrettably no viable path forward for the realization of our rights and a just and lasting solution.

In addition to our annual solemn meetings on that day, we would be grateful to delegations for joining us in the inauguration of our exhibit in the UN Visitors Lobby. This year, the exhibit, which celebrates Palestinian identity and achievement in the arts, sciences, sport, and other cultural pursuits, shares a positive message about the resilience of our people in spite of all of the challenges, and about some of their contributions in their society as well as globally, reinforcing that resilience as we continue to seek a way forward to attaining our rights, the independence of our state, and a peaceful solution.

Lastly, Madam Chair, I wish to reassure the Committee about the progress that continues to be made in terms of Palestinian reconciliation under the auspices of Egypt. Developments in the past month since the signing of the agreement on 12 October in Cairo between the Fatah and Hamas movements to end the Palestinian division have been rapid and meaningful with the return of the Palestinian government to ministries and institutions in Gaza and the return of its personnel to all of Gaza’s crossing points. And efforts continue to address various other outstanding issues to enable the Palestinian national consensus government to effectively assume all of its functions and responsibilities in Gaza, including to help address the humanitarian situation.

We recognize the international community’s strong endorsement of these reconciliation efforts, and recognize also the invaluable efforts being exerted by the United Nations and its Special Coordinator to support and accompany this process and to ensure its success. We urge continued support and appeal for urgent humanitarian funding for reconstruction and recovery.

It is also important to emphasize that these developments have been enthusiastically welcomed by the Palestinian people, who have long called for an end to this deeply regrettable division. They are now, however, impatiently awaiting tangible changes to remedy the dire humanitarian and socioeconomic conditions that they have been painfully enduring there for a decade. Real change on the ground is necessary to restore hope and opportunity, especially to our youth. In that regard, it is necessary for us to stress once again today that the reconciliation alone cannot remedy their situation and that the illegal, inhumane Israeli blockade of Gaza, which has now surpassed 10 years, must be lifted. We highlight this point today and urge the international community to persist and intensify its demands in this regard in accordance with international humanitarian law and relevant resolutions.

In closing, Madame Chair, I renew my appreciation to you and the Bureau and all members and observers of the Committee for the constant solidarity with the State of Palestine as we collectively seek to uphold the Committee’s mandate in support of the realization of the rights of the Palestinian people and a just peace.

I thank you, Madame Chair.

CHAIR: I’d like thank Ambassador Feda Abdelhady Nasser for her always very comprehensive briefing. I would like to now give the floor to members or observers in the Committee to make any comments, statements, observations on this item.

I don’t see anyone asking for the floor, so let’s move on to the next item of the agenda, item 4, and that is Consideration of Four Draft Resolutions on the Question of Palestine. You have before you the four draft resolutions to be submitted to the General Assembly for adoption under Agenda item 35, entitled Question of Palestine.

The first three draft resolutions deal with the work of the Committee, the Division for Palestinian Rights of the Secretariat, and the Special Information Program of the Department of Public Information of the Secretariat. The fourth draft resolution deals with the peaceful settlement of the question of Palestine. As I said, for your ease of reference, copies of the draft resolution are to be found in the envelopes before you. The Bureau recommends the draft resolutions for approval by the Committee.

I would once again like to give the floor to Her Excellency Ambassador Feda Abdelhady Nasser, Permanent Observer of the State of Palestine, to introduce the resolutions. Ambassador, you have the floor.

PALESTINIAN REPRESENTATIVE: Thank you, again, Madame Chair, for giving me the floor, and to the Committee for its consideration of the draft resolutions that are before it. As the Chair noted, the drafts appear before you with tracked changes reflecting on those updates that have been made since the 71st Session, and so I will be brief.

The first draft on the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Among the new elements that have been reflected is that the draft recalls Resolution 2334, one of the most significant developments since the adoption of these resolutions in the 71st Session, and as concerns the work of the Committee, that paragraph referring to Resolution 2334 reflects on the call for collective efforts for realizing a comprehensive, just, lasting, and peaceful solution highly consistent with the work of the Committee. This draft resolution also reflects on this year’s anniversaries, including the upcoming 70th anniversary of the Nakba, and requests the Committee to continue its efforts and initiatives to raise awareness in this regard and towards ending the occupation and advancing the realization of a peaceful solution in accordance with the Committee’s mandate and the recommendations made in the Committee’s report, which are also reflected on in Offerative Paragraph One of that draft resolution.

In the draft resolution on the Division for Palestinian Rights of the Secretariat, mostly there have only been technical updates, with the exception of one small amendment in Operative Paragraph Two, and it is a small change, but substantive, and it is intended to reflect on the positive work of the Committee and the Division for Palestinian Rights, reflecting on the positive approach that was highlighted by the Rapporteur and that was discussed at length in the Bureau in response to the attempts to wrongly characterize the work of this Committee and the Division as negative or biased or one-sided, which it is clearly not, as it is intended in line with relevant resolutions and the Charter and the principles of the international community to advance a just and lasting peace and to advance the realization of the human rights of the Palestinian people. And this is something that we will work with the Committee and the Bureau to highlight more and more as we continue our work not just to confront the mischaracterizations and misperceptions of the Committee’s work, but to further advance it and generate support for the Committee’s efforts.

The third draft on the Special Information Program on the Question of Palestine of the DPI of the Secretariat has been technically updated and renews the mandate of the DPI to continue with this important Special Information Program raising awareness of all aspects of the question of Palestine within the international community, including both the realities of the situation on the ground under occupation as well as the regional and international efforts to promote a just, lasting, and comprehensive solution.

The most comprehensive of the draft resolutions under Agenda Item Question of Palestine is, of course, the peaceful settlement of the question of Palestine, and that draft resolution once again reaffirms the longstanding terms of reference and parameters of the peaceful solution as endorsed by the international community for decades now on the basis of international law and relevant resolutions, and of course the two-state solution based on the 1967 borders. This draft resolution also reflects, rightly so, on Security Council Resolution 2334, including the call for the immediate and complete cessation of settlement activities in the occupied Palestinian territory, including East Jerusalem. It stresses the importance of multilateral support and engagement for the advancement and acceleration of peace efforts, again very relevant to the work of this Committee and to our consistent calls for international support for these efforts. The draft resolution also reflects on Palestinian reconciliation in the preamble, as reflected in page 7, welcoming the efforts of Egypt to facilitate and support Palestinian unity. And in the operative, once again, the resolution reflects on Security Council Resolution 2334 and the call for collective efforts to launch credible negotiations on all final-status issues aimed at achieving a final peace settlement.

Lastly, the only other significant change, again reflecting on Resolution 2334, is reflected in Operative Paragraph 17, this in the draft resolution on the peaceful settlement, in which the General Assembly will underscore the Council’s affirmation 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, and its call upon states to distinguish in their relevant dealings between the territory of the State of Israel and the territories occupied in 1967.

And finally, the draft requests the Secretary-General to continue his efforts with the parties and in consultation with the Security Council, including with regard to his reporting duties as per Resolution 2334, which this Committee has also consistently called on the Secretary-General to do.

As I noted in my statement, Madame Chair, we would be grateful for the support of all delegations for these draft resolutions, including co-sponsorship if possible, through the e-[sponsorship] co-sponsorship system of the plenary and, of course, your presence and support on the 29th and 30th when the debate on the question of Palestine and the situation in the Middle East commences in the General Assembly and a vote is then taken on these draft resolutions.

Thank you, Madame Chair.

CHAIR: Thank you, Ambassador, for introducing the four draft resolutions. Are there any comments from members or observers on the draft resolutions that we have before us? Cuba has asked for the floor. Ambassador Humberto?

CUBA: Thank you, Madame Chair. A pleasure for our Delegation to see you chairing this meeting. I’ll be very brief.

First of all, I want to thank the distinguished colleague Deputy Ambassador for the State of Palestine for the comments and clarifications that is provided regarding the four draft resolutions, and I just wanted to tell her that, as usual, Cuba was very happy to be co-author of the four texts, and as soon as they’re presented to the Secretariat, we’ll access the e-deleGATE system and sign up as co-authors.

CHAIR: Thank you very much, Cuba. I give the floor to Indonesia. You have the floor, Indonesia.

INDONESIA: Thank you, Madame Chair. And also thank you [indiscernible] for organizing this meeting, and my appreciation also goes to the Ambassador Feda from the Palestine, State of Palestine. I have only one technical question regarding the proceeding, technical proceeding on these draft resolutions.

Of course, Indonesia has always been in the sponsor list of any Palestinian resolution. So in that regard I have a question regarding the e-Sponsorship because I have checked at the e-Sponsorship. It hasn’t happened in the list yet. So when are we going to have it in the e-Sponsorship? That is my question, Madame Chair. I thank you very much.

CHAIR: Thank you, Indonesia, for the question. I can assure you that a little later on we’re going to explain the process of e-sponsoring resolutions, including through the e-Sponsorship. I will give you a response slightly later on for your question, and I thank you for having asked this question because it’s very important for the members and observers in the Committee and other delegations that are interested to have access to co-sponsorship. So thank you.

I now give the floor to the Distinguished Delegate of Venezuela.

BOLIVARIAN REPUBLIC OF VENEZUELA: Thank you, Madame Chair. Good morning. We’re very happy to see you chair the meeting. I’d like to thank the Distinguished Deputy Ambassador of the State of Palestine, observer state, for her explanations and comments on the draft resolutions.

We’re very happy to see that Resolution 2334 has been highlighted, a resolution that Venezuela, during its membership on the Security Council, took an active part in drafting and in its approval, and it’s really quite a milestone in terms of developments in Palestine, in particular the illegal Israeli settlements. So you can count on the support of Venezuela as a co-sponsor. As soon as we find out the details of the procedure, we’re also ready to co-sponsor this resolution. And of course, we are always ready to support the Palestinian cause in the framework of this distinguished committee.

Thank you, Madame Chair.

CHAIR: I want to thank the Distinguished Delegate of Venezuela for your comment. Any other delegation? Would any other delegation wish to make any comments? Ask questions? Make statements? If that is not the case, then I consider that the Committee wishes to approve the four draft resolutions that we have examined and approve them unanimously. And I see that’s the case.

It is so decided.

So as I just said, the Committee just unanimously recommended four draft resolutions to the General Assembly, resolutions of utmost importance for the realization of the inalienable rights of the Palestinian people, which should receive, as has been the case in the past, broad support of the General Assembly membership.

Now regarding the question that was put forward by the Delegation of Indonesia, we’ve made the relevant consultations with the Delegation of Palestine and with the Secretariat, and we can inform you that delegations that intend to become co-sponsors of these four draft resolutions and have not yet signed on may sign the texts once this meeting has been adjourned by contacting directly with the Palestine observer mission as soon as possible. Ambassador Feda and her team are here.

The resolutions, as I understand it, are also open for e-sponsorship. It can be signed onto there using the mechanisms that we have all been using during the current session through the e-deleGATE portal. And we’ll get in touch with the Secretariat to open e-sponsorship of these four resolutions through this portal. I know that they haven’t yet become available, but we will make the necessary efforts to make sure that you can access them through the e-deleGATE portal as we have been doing for other resolutions during this session of the General Assembly, both in plenary and in the Main Committees.

So if there are no further questions or comments on this item of the agenda, we can move on to our next item, Agenda item 5, which involves an interactive dialogue with the Special Rapporteur Michael Lynk, who we’re honored to have with us this morning, and this in connection with his latest report on the situation of human rights in the Palestinian territory occupied since 1967. It’s been published as document A/72/556. Mr. Lynk, and I’d like to welcome him on behalf of the members and observers of the Committee, will make a PowerPoint presentation which will then be distributed together with his report to the Committee, or it was distributed, actually.

Mr. Lynk’s report focuses on the legal framework of occupation as defined by international law, and in particular on the issue of illegality of a prolonged occupation such as that by Israel of the Palestinian territory. The 1971 advisory opinion of the International Court of Justice on Namibia is presented as a precedent for the assessment of Israel’s continuing occupation of Palestinian territory.

Once again, we want to thank Mr. Lynk for his authoritative work on this issue and for his presence today at this meeting of the Committee. Mr. Lynk, you have the floor.

MR. LYNK: Thank you to the Ambassador Anayansi Rodríguez of Cuba for welcoming me here. Thank you, Excellencies, ladies and gentlemen, and Members of this Distinguished Committee and visitors, it’s truly an honor and truly a privilege to be able to appear before you this morning with respect to this issue.

What I’m about to present to you is based on my third report that was delivered three weeks ago the Third Committee of the General Assembly in late October. And my report dwells almost extensively on the legal framework of occupation and it’s the argument, thesis, the analysis in my report that suggests that we need a new framework, a new legal framework, to understand the occupation. And I say that not simply as an academic raising textbook ideas.

I’m raising this as a notion that would actually move the needle forward on how the occupation is dealt with, and why I’m suggesting this will become clear as I take you through this. And I will try to be brief and efficient. I’d like to have as many questions or comments or reactions from you as possible.

The first slide contains some information that I think probably is deeply familiar to everybody in this room: the June 1967 Israel capture of the West Bank, including East Jerusalem and Gaza, as well as the Egyptian Sinai and the Syrian Golan Heights. So, in fact, we’ve marked this past June the 50th anniversary of this occupation. And according to the International Committee of the Red Cross, this is the longest military occupation in the modern world.

The international community considers Israel to be the occupying power. That has been established over and over again by resolutions both of the General Assembly, most recently last December in 2016, and repeatedly every year by overwhelming votes in the General Assembly. The applicable law, then, that applies to the Occupied Territories—Occupied Territory includes: the law of occupation, which includes the Fourth Geneva Convention and the 1907 Hague Regulations as well as the additional protocol from 1997; it includes the entire body of international human rights law; and it also includes aspects of international criminal law as well.

And, as you know, Israel, the occupying power, refuses to recognize the situation as an occupation or to accept its responsibilities as an occupying power. It is the only Member country that I am aware of, of the United Nations, that does not regard the situation as an occupation.

Up until now, throughout the 50 years of the occupation the international community has regarded Israel as the lawful occupant of the occupied Palestinian territory, albeit one that governs with a number of illegal features to that occupation including the settlement enterprise, the construction of the wall, the 1967 and 1980 annexation of East Jerusalem, as well as a host of violations of international human rights law.

And the question I pose to you and the question I attempt to answer in the report that you’ve all been given is can there be a point when an occupying power who is in lawful occupation of an occupied territory cross a bright red line, cross a tipping point, to become the illegal occupant. And, if that’s so, then what would be the legal, political, and diplomatic consequences?

Now, I rush to add that there is no particular magic in my raising this question at the 50th anniversary. This analysis could have been done, could have been undertaken, with perhaps the same results 10, 15, 20, 25 years ago. But the 50th anniversary does seem like an appropriate time to want to reassess why has the occupation gone on so long and can it continue to bear its lawful occupant status.

So, where do we search for this answer? We look for the foundational principles in international humanitarian law and international human rights law. And let me emphasize that in international humanitarian law and the Fourth Geneva Convention do not set out a specific time limit for an occupation to end. That is as it should be, because there should be some need for flexibility in the governance of an occupation. But, we can—and this is the key point—we can answer these questions on illegality by looking at the core principles of international humanitarian law and deducing whether an occupying power is in compliance or at least in substantive compliance with them.

There are going to be four core principles that I put to you that govern that administration of any lawful occupation in the modern world under the modern rules of international humanitarian law.

And the first one, which I show here, is that the occupier acquires absolutely no title or right to any of the occupied territory. And you can see this most recently was reaffirmed by the Security Council last December where it said of reaffirming the “inadmissibility of the acquisition of territory by force.” This builds upon seven prior United Nations Security Council resolutions, beginning with Security Council Resolution 242, 50 years ago next week in November 1967.

As well, the United Nations General Assembly unanimously endorsed this point when it adopted the Declaration on Principles of International Law Concerning Friendly Relations in 1970. And in that Declaration of Principles it said, “No territorial acquisition resulting from the threat or use of force shall be recognized as legal.” And this occurs whether or not the occupation of the territory is the consequence of a so-called defensive war or a so-called war of aggression. In either circumstance the occupying power, regardless of the method of the war that led it to occupy that territory, is deemed to be an occupant under international humanitarian law and there’s no right of conquest or annexation or seizure of territory that flows from that. So, that’s point number one.

Point number two is that all occupations are inherently temporary and the occupier is required to return the occupied territory to its people in as reasonable a period of time as possible. In other words, occupation is inherently temporary. It is not indefinite and it is certainly not permanent. And you see this from the commentary, the authoritative commentary, given by the father of modern international humanitarian law, Jean Pictet, in 1958 in his commentary on the Fourth Geneva Convention and is expressed most recently in a brand new book which came out earlier on this year by the Israel legal scholar Aeyal Gross who says, and let me quote to you, “Temporality, together with the principles of self-determination and the non-acquisition of territory by force, is what distinguishes occupation from conquest and this distinction would be thwarted were occupation construed as indefinite.”

And when you stop and think of it, Delegates, the major occupations in the world since 1945 which have broadly adhered to the principles, the four core principles that I’m putting forth to you, such as the American Occupation of Japan beginning in September 1945; the Allied Occupation of Western Germany also beginning in 1945; and the American-led coalition of Iraq, its occupation beginning in 2003. All three of those major transformative occupations were finished within 10 years. That would be deemed to be the outside limit for what a temporariness in an occupation would deem to be.

The third of the four core principles that I want to put to you is that while the occupying power is administering the occupied territory it must rule as a trustee in the best interests of the protected people under occupation, subject only to any legitimate, genuine security concerns it has in its administration.

So, you see the list there of the particularly important protections that are contained in international humanitarian law, primarily found in The Hague Convention of 1907 and the 1949 Geneva Convention. The occupying power must observe the human rights of the protected people. They must be steadily preparing that territory to return to sovereignty and self-determination, both economically and socially. It must respect the principle of self-determination. The occupier is not allowed to act in a self-serving or vicarious manner. It cannot pillage the natural resources of that territory. It is forbidden to engage in collective punishment. And there shall be no mass transfers or forcible deportations of the protected population as long as that occurs.

And the fourth and final principle, core principle, that I want to put to you is that the occupier must occupy—govern that territory while its in lawful authority in good faith. The good faith principle is a cardinal rule of treaty interpretation of international law. It’s found as a cornerstone principle, both in the Charter of the United Nations as well as the Vienna Convention on the Law of Treaties.

And when you measure whether or not an occupying power is governing in good faith what you’re looking at is, number one, whether it’s been in regular, substantive compliance with the direction of the international community such as resolutions coming from the General Assembly, the Security Council, the International Court of Justice, and the High Contracting Parties to the Fourth Geneva Convention. As well, it has to be in substantive compliance with international human rights law and international humanitarian law. If it fails on either of those two premises you can judge that its occupation is no longer going to be in good faith.

Now, you may say well, this is an interesting academic idea Professor Link. Has this really ever been tested? And I draw my inspiration from one of the most clear-cut and persuasive and seminal precedences that have occurred in the modern UN system. And this is the way in which the United Nations dealt with the issue of South West Africa, subsequently known as Namibia, beginning in 1950 and culminating in the 1971 decision, the advisory opinion given by the International Court of Justice in The Hague on the question of Namibia.

This is a precedent for all of this that I’m sure many in this room know much better than I do. But, just let me take you very briefly through a short history lesson on this. Namibia, then known as South West Africa, was given as a mandatory—as a mandate to South Africa in 1922 by the League of Nations. And it was going to be governed under Article 22 of the League of Nations Covenant.

This continued through and after the Second World War. After the Second World War, of course, the United Nations succeeded the League of Nations and it transformed the mandatory system into a trustee system. South Africa, apartheid South Africa, refused to acknowledge the change in international supervision and it argued that it now had sovereignty over South West Africa. This was a subject of a number of decisions being referred to the International Court of Justice.

Eventually, in 1966 the United Nations General Assembly passed a resolution declaring that South Africa’s continuing mandate over Namibia was no longer lawful because a) South Africa was introducing forms of apartheid into South West Africa or Namibia, 2) it was making claims of de facto annexation over the territory of Namibia, and 3) it was defiant in the face of these multiple resolutions coming from the United Nations. So the UN General Assembly declared in 1966 that its mandate was now illegal. South Africa refused to obey that.

In 1970, the United Nations Security Council passed a resolution declaring that the mandate was now illegal. And when South Africa refused to obey that, the Security Council posted a—or requested an advisory opinion from the International Court of Justice as to the question of whether or not South Africa continued to be the lawful mandate holder over Namibia.

And in June 1971, in one of the most seminal international decisions, law decisions, ever issued by the International Court of Justice—this is studied, my friends, by every single law student studying international law in the world today—the International Court of Justice affirmed the core principles of no annexation for a mandate, the mandate was to rule as a trustee, and it had to rule in good faith. And it stipulated that mandate territories could not become the objects of disguised secessions; in other words, a covert means of annexation. It further said that any deliberate and persistent violation of obligations by the mandatory power—in this case South Africa—renders its continuation of that mandate to be unlawful.

And, one important thing that everybody should know: if the mandate’s presence is no longer deemed to be legal the International Court of Justice says that does not mean that all of the protective powers of the governing international instrument thereby evaporate. The protected people continue under the protection, in this case, of the terms of Article 22 of the League of Nations Covenant as long as the illegal occupant maintains effective control over that territory.

So I put to you, based on this precedent, that yes, South West Africa was a mandate under Article 22 of the League of Nations while Palestine is governed by the laws of occupation, including the Fourth Geneva Convention, as an occupied territory. But, those are different branches of the same international law tree; both of them are dealing with alien rule. In both cases, the mandate and the occupier are forbidden to annex territory. In both cases, they must rule in the best interests of the occupied people, or the protected people. In both cases, the mandate and the occupation must be temporary and the alien ruler must be leading its mandate territory unhesitatingly toward sovereignty and self-determination. This case is on almost all fours with the situation we have today in Palestine.

And if I could just add one more point coming from the ruling of the 1971 advisory opinion on Namibia. There is an international responsibility when there is a declaration of illegal occupant or illegal mandatory issued by any of the international bodies, be it the Security Council, the General Assembly, or, in this case the International Court of Justice. What this means as you see it from the quote there that Members cannot be free to disregard situations of illegality or even to recognize violations of law resulting from it. If there is a declaration of illegality with respect to the continued mandatory power over a mandate or the continued occupation by an occupant, that raises the diplomatic and legal temperature significantly. And it raises the obligations of the international community to take decisive steps to bring that occupation to a full and complete end.

And I remind all Delegates here today for something you probably don’t need reminding, that Article 25 of the Charter of the United Nations states that, “The Members of the United Nations,” and I’m quoting, “agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” That was a motivating reason for the International Court of Justice to make its determination in 1971 with respect to Namibia. And can I suggest it’s a relevant consideration for the international community to take account with respect to this.

So, this last—I’m nearly done my slides here, and I will not dwell for a long period of time on this current slide because all of you know the situation as well as I do or even better than I do. But if we were to take those four tests, those four core principles, that have been articulated through international law and just apply them to the occupied Palestinian territory. The first one is the rule, the absolute rule, against annexation and conquest. Well we all know that in 1967 and again in 1980, Israel annexed East Jerusalem and parts of the West Bank to expand the municipal boundaries of Jerusalem. Both the General Assembly in 1967 and the Security Council in 1980 were extremely quick to pass resolutions declaring that any declaration of Israeli sovereignty over East Jerusalem and those parts of the West Bank annexed to it, were null and void and a flagrant violation of international law.

As well, I want to point out to you, of the ongoing de facto annexation of much of the West Bank. This was a concern in the mind of the International Court of Justice in 2004 when it issued its advisory opinion on the construction of the wall. And as you all know, 60% of the West Bank is deemed to be in Area A, which is under the entire civil and security jurisdiction of Israel. This is where the 400,000-plus settlers, Israeli settlers, live in 225 illegal settlements. There’s also some 300,000 Palestinian who live in Area C, as well. They have great restrictions with respect to their ability to hang onto their land. They have virtually no ability at all to be able to build or expand upon their houses or to build any other commercial enterprises. There is no situation in—there are many disturbing situations in the occupied territories, but the stark difference between the unequal applications of both law and social conditions between the Israeli settlers and the Palestinians are nowhere more graphic than in the Area A of the West Bank.

Point number two, temporariness. Back in 1980, when the occupation was at that point only 13 years old, the Security Council passed a resolution which said at that time, this is June 1980, it said the Security Council reaffirmed the overwhelming necessity to end the prolonged occupation, a prolonged occupation as of 13 years, of Arab territories by Israel and it continued. And here I’m quoting, it “strongly deplored the continuing refusal by Israel to comply with the relevant resolutions of the Security Council and the General Assembly.” If the Security Council was using such words as prolonged occupation, deploring Israel’s refusal to obey resolutions from the United Nations, and talking about the overwhelming necessity to bring this occupation to an end in 1980, how do you characterize this occupation in 2017, 37 years later? There is no other occupation that has gone on for so long in the modern international world. And as I said, the normal rule of thumb for an occupation would be somewhere between 3 and 10 years at maximum. I put to you that the longer an occupant is running an occupation, the greater the justification that occupying power must display in order to be able to defend its continuing running of that occupation.

The third point that I had raised, the trusteeship or the best interests. I don’t think I need to spend a very long time talking about how shrunken the Palestinian economy is. How it’s engaged in a downward spiral of de-development with significant restrictions on the blockage of both personal travel and commercial travel between Gaza, the West Bank, and it’s three different territories, and East Jerusalem, as well as pointing out the two separate systems of rights and social development enjoyed by the protected people of the Palestinians and the settlers in those territories. Nor do I need to add the 10-year long blockade of Gaza.

And fourth and finally, the issue of good faith. Any occupying power governing an occupied territory in good faith would make sure that it was always compliant with the strictures of international humanitarian law and international human rights law. As well, it would be compliant with all of the directions of the international community expressed for the General Assembly, the Security Council, the International Court of Justice, and the high-contracting parties of the Fourth Geneva Convention. I put to you, and I provided greater detail in my report, but I put to you that Israeli, the occupying power, is in substantial breach of all four of these core parts of the test of whether or not an occupant, an occupying power has crossed the bright red line going into being an illegal occupation.

So finally, what is the importance of this. I think it’s important, and I’m suggesting in my report, that the international community should analyze what I’ve written in my report, should debate and consider whether or not Israel has indeed crossed that bright red line, that tipping point, and become an illegal occupant. And if it has, I suggest this is a moment when possibly the boat will change, the Titanic will change, in its direction. Right now, Israel has been in occupation for approximately—for over 50 years. It has not paid very many consequences for its continuing occupation in the face of international persistent international criticism with respect to this. And in the 18 months that I have been Special Rapporteur, in my many, many meetings with civil society and my meetings with the diplomatic community and my meetings with the foreign office, my meetings with those who think a lot about the conflict of Israel-Palestine and where it may be heading. It’s my tentative thought that this occupation, should nothing particular change, is very sustainable. It will not become unsustainable until the international community begins to change its course and there’s a dramatic change in both the international and the internal status quo.

My suggestion to you, with respect to the issue of whether or not Israel is now the illegal occupant, maybe one of those contributing factors that will help turn the boat on this and will that help change the diplomatic, legal, and political climate, with respect to whether or not this occupation has another 20 years or 50 years and is indeed in front of it or, indeed, it should be brought to a complete end as the international community has been demanding and we can finally see the establishment of Palestinian self-determination in its homeland.

And I put to you as my final remark that if there was a declaration of illegal occupation, that would require and trigger a number of international obligations on the part of the world community to take all reasonable steps to end cooperation with the occupation. It would require international and national courts to apply appropriate laws to end cooperation with the ongoing occupation. It would mean that the international community would be developing strategies and policies to review cooperation with the occupying power until it ends the occupation. And I suggest to you, as well, this would become an important precedent in international law to judge other prolonged and protracted occupations. My point then, as I put up there, is most of all, I think such a declaration would confirm the moral importance of upholding the international rule of law when aiding the besieged and the vulnerable there.

And if I put to you it’s not simply me who winds up saying this, I think I built upon, I’m the mere person who builds upon the work of many, many enlightened international law scholars and the work of many dedicated national and regional human rights and NGOs and this. But I also put to you that there are prominent Israelis of conscience who say this, as well. I will just quote one. Amos Schocken, who is the publisher of *Haaretz*, which is the leading Israeli daily, has written recently about his own country’s leadership. He says: “International pressure is precisely the force that will drive them to do the right thing.”

Thank you very much, delegates.

CHAIR: Thank you, Mr. Lynk, for your very interesting presentation and for your outstanding contribution to monitoring the issue of human rights in the Palestinian occupied territory including, as we saw in your presentation, from the perspective of international law, international humanitarian law, and international law of human rights.

I would now like to open the floor for those who wish to ask questions and make comments or observations on Mr. Lynk’s presentation especially bearing in mind this is an interactive debate, so I would invite you to participate.

Ambassador Carmelo, you have the floor.

MALTA: Thank you, Madam Chair. I will be speaking now not as rapporteur but in my own national capacity of Malta. First of all, I would like, again, to thank Professor Lynk. I had the pleasure and honor to listen to you twice this presentation. Always full of intrigue, always mentally challenging, interesting, and forward-looking, which I have no doubt that will share right for, and justice for, the Palestinian cause.

While I listened to you in the presentation, maybe this time for me, it’s easier to grasp the whole concept. I looked at the four principles, core principles, that you have articulated. I have one particular question on the last principle, which is the principle of good faith. And I would like you to enlighten us a bit more about this precisely because my issue, which I asked myself while I listened to you, is that where can an occupier ever occupy another land in good faith? Does good faith, is it not paradoxical for an occupier, or for the multilateral legal framework, including the UN, to “justify” an occupation as being an occupation in good faith.

So to say that listen to countries. If you’ve got a problem, whether the two reasons that you’ve brought forward, the reason of defensive, meaning to combat a threat, or aggression, once you utilize all your international tools at your disposal, you’re justified to occupy another land? Because that would bring in the good faith. So I would argue, humbly so because in the light of the discussion that we are really modestly so, I would argue that more than being in good faith, I would say, the principle is whether an occupation, the occupier, should respect all the other legal obligations emanating from international law. But still it’s not in good faith. I would like to maybe explain to me whether I’m wrong, totally wrong. It’s good for me even to argue with other—my colleagues.

Thank you.

CHAIR: Thank you, Ambassador Iguanez. We’ll take some comments and questions and then to giving the floor back to you, Mr. Lynk. Okay? Okay.

The Ambassador of Palestine, please.

PALESTINIAN REPRESENTATIVE: Thank you, Madam Chair, and thank you, Professor Lynk, for your comprehensive, very interesting, once again, revealing and compelling presentation and follow-up of your report to the Human Rights Council. We appreciate your articulations and your substantive efforts and follow-up of the report to engage the international community on, as you said, it’s time in this 50th year of Israel’s occupation, indeed an inconceivable situation considering the temporality of occupation. But it’s time to begin considering what exactly this occupation is as per international law. And in light of the Security Council and General Assembly resolutions that have called for the end to this occupation and for the realization by the Palestinian people of their right to self-determination and independence in the territory that was occupied in 1967.

So my comment is similar to the slide that Ambassador Iguanez referred to regarding the obligations, the set of four principles. But also, the obligations of the occupying power to rule in the best interest of the occupied population. And that slide concisely and clearly reaffirmed that Israel is in grave breach of all of its violations as an occupying power. These violations have been broadly acknowledged by the international community and the demands for their cessation have been constant and consistent. So my question would be, and I think you did answer this to some extent in your proposals and arguments for follow-up by the international community, but what more can be done by the international community in light of Israel’s blatant noncompliance that effectively confirms its status as illegal occupant of the Palestinian territory it has occupied since 1967. What recommendations can you possibly share to contribute towards accountability and towards ultimately bringing this occupation to an end?

Thank you.

CHAIR: Thanks to you, Ambassador. I now give the floor to the Distinguished Delegate of Cuba. You have the floor, Ambassador. Thank you.

CUBA: I want to start by thanking Professor Lynk for his very interesting presentation. Of course, we need to work more with the academic sector. I mean, we have all kinds of meetings, lots of meetings. And this morning with your presence and your intervention, I think this offers a very interesting perspective on the situation. What I wanted to add are two comments.

First of all, from the political point of view and in terms of the settlements, whoever occupies, always occupies illegally and the international instruments are clear about this regarding the reasons for which a territory is occupied. An occupation is a violation of international law. It’s a violation of sovereignty and of the territorial integrity of another country or the states. When the World War II ended, and the United Nations was established in that situation, those who had acquired certain territories were given an opportunity where, in fact, they were defined as administrative power. Fifty years later, in terms of decolonization, we still have 17 territories on the list of non-self-governing territories. And Puerto Rico isn’t on that list but should be. These are territories that are occupied. The inhabitants of these territories are not the original owners and they are not deciding their future. I don’t want to define that as pure occupation. But it is in certain ways. So what we tried to eliminated when we created the United Nations still persists this new form of colonialism.

Now, I completely agree and I’m not an academic, obviously. I’m sorry but I agree that the decision of the International Court of Justice was very important from a legal point of view in the case of Namibia and gives a legal precedent to refer to. Of course, again, not from an academic point of view, but when we speak of Namibia and when the court issued its decision, South African continued to illegally occupy that area. Let’s not forget that. So what should have happened didn’t happen. There was a very intense war, the invasion of South—by South Africa of Angola, and this led to the international movement. And Cuba was drawn into this and played an important role with other countries. And we worked—we stood shoulder to shoulder with the movements of liberation in Angola, Namibia, and this led to liberation of these nations. And so that decision that was not complied with by the decision of the International Court of Justice eventually led to the independence of Namibia. I just wanted to recall this beautiful history in which our country was involved in.

Now you, Professor, you dwell on this aspect of prolonged occupation. And based on what I said earlier, once we consider that occupation of territories a violation of the sovereignty of another state, you can’t consider legal even if it’s not prolonged. It’s just a comment I’m throwing out in this interactive dialogue.

My thoughts are—follow the [lines] suggested by our rapporteur. Is any occupation in good faith really? And of course Israel is trying to—has been disregarding its obligations for over 50 years. As the Deputy Permanent Representative of Palestine said, I would heed her recommendations of what we could do today so that we wouldn’t simply see the daily fight of the Palestinian people being the main vehicle to achieve the end of occupation. What can we do in the multilateral level? And what can we do to affect the end of occupation, and to bring about a two-state solution? And again, I’m not an academic. I’m sorry. I just wanted to share these comments with you.

CHAIR: Thank you very much, Ambassador Humberto, for your comments and questions. I would now like to give the floor to the Ambassador and Permanent Delegate of the Bolivarian Republic of Venezuela, and then I’ll give the floor back to Mr. Lynk to address the various comments and questions of this first round so that we give an opportunity, Mr.—to Mr. Lynk to address all these various questions. Ambassador Ramírez, you have the floor.

BOLIVARIAN REPUBLIC OF VENEZUELA: Thank you, Ambassador [indiscernible]. Thank you. Thank you to the panel that has been guiding this meeting, and thank you in particular to Mr. Michael Lynk for your work and for your presentation.

I would like to simply add a comment to what our dear friend, the Representative of Cuba, Ambassador Humberto, said in that looking at your PowerPoint presentation, it’s obvious that Israel is maintaining an illegal occupation of Palestinian territory. And the four—regarding the four principle elements. This occupation is very far from what could be considered legal. And I, just to put in context my question, we were in the Security Council two years, Venezuela was two years; for the first time after 25 years we were in the Security Council. And of course as the position of our country and of the Non-Aligned Movement, and really the majority of Member States, of the vast majority of Member States of the United Nations we tried to have the Security Council take a position on this point. And I have to say, Mr. Lynk, it is impossible to speak in the Security Council on the topic of Palestine. There is simply no way. We have reports on violations of human rights of children who are in prison. This should be a topic that should really at the forefront of the attention of this body, and yet it’s impossible to make any press statement, or even less a presidential statement in the Security Council.

The veto of the United States prevents action in accordance with the principle of international law in this specific case. Maybe in other cases as well, but in this case specifically. We tried to do something. We organized an informal meeting with the organizations of civil society from Israel, and I noticed that one of these organizations explained that the government of Netanyahu that doesn’t represent obviously the entire Israeli people, because this is not an issue against the Israeli people, but rather it’s against the government, that this government was acting with impunity, because it’s actions have no consequences in the international arena. Nothing happened. It’s a government and administration that constantly violates international law, because it knows that it has the unrestricted support of the United States.

At the end of our term, and thanks to an extraordinary coincidence of circumstances at the end of the term of President Obama, and the upcoming stepping down of Ambassador Power, we had Angola, Senegal, New Zealand, Angola in the Security Council, and we fostered a resolution. We promoted a resolution at the very last moment, I think it was the 26th of December, it was approved resolution against settlements that are illegal from every point of view, Israeli settlements on Palestinian territory. This was the first time in 10 years that the Security Council said something on this point.

And so there’s this huge contradiction here. The whole United Nations system acknowledges that Israeli actions are completely illegal, that the situation of Palestine is unsustainable, the status quo is unsustainable, and that Israel, far from thinking about withdrawing, in fact is accelerating its settlement expansion, and in order to dilute really the possibility of having a two-state solution, which is the solution that the Security Council supports and that is supported by a vast majority of countries. But for this solution to be feasible, Palestine has to exist as a state, and Israel is taking the opposite direction. So I’m very worried that much of the discussion within the Israeli political establishments speaks of an annexation of this territory, complete violation of everything that the United Nations has approved and stands for. So we have this contradictory situation.

We have a vast majority of countries that are in favor of finding a two-state solution, and yet at the same time we have one country blocking any progress on this in the Security Council. So what can we do? What is to be done? What kind of steps can be taken to force the Security Council to take action? And once again, the same question keeps cropping up. Why do organizations such as the European Union, which constantly invoke the principles of the United Nations, why don’t they do anything? Because if the Security Council doesn’t express a position, we could at least have other regional groups speaking out in favor of Palestine and in favor of legality, such as the European Union. So how can we do this? How can we achieve that?

And I believe, and I—whenever I say this I’m accused of being an anti-Semite. I have nothing against Jews at all, never, but it’s a way of disqualifying any kind of opinion on this topic. I think at one point as the Representative of Palestine said, we will have to act as some point, just as action was taken against apartheid in South Africa. Something will need to be done. At some point the international community will reach a point that it will be unacceptable that a country simply disregards the resolutions of the vast majority of the international community. Something will need to be done to change the situation.

So it will be interesting to find out what you believe, your vision of this, because 50 years have now passed, and if you can say anything that the Palestinian people have been very patient. And they could have also been drawn into this spiral of violence that we see in the Middle East and North Africa. But no, the leadership of the Palestinian people have always been in favor of political and peaceful solution to this situation.

Thank you.

CHAIR: Thank you very much. Thank you Ambassador Ramírez. I now give the floor to Mr. Lynk, and then we’ll have another round of questions. Mr. Lynk, you have the floor.

MR. LYNK: Thank you very much for those questions. They were all insightful and inspiring. I’ll answer them in the order I was asked.

By the Ambassador from Malta, if I understood your question, you asked if an occupier can ever occupy in good faith? I think the answer would be this: We have to think of occupations as being de facto illegal or de facto lawful. It’s sometimes odd or hard for those who don’t dwell in international law, and I must admit I am not an international lawyer. I’m trained as a Canadian domestic human rights lawyer who came to this relatively late in my career. But the—for example, the American occupation of Japan, or the Western Allies occupation of Germany after the Second World War were both deemed to be—would be in the realm of a lawful occupation taken as the end of a result of a war of aggression that defeated the aggressor. So those occupations were actually lawful. And the rules of occupation [one] of applying to them.

But even if there has been a war of aggression and a territory was taken as a war of aggression, well, that war itself would be illegal. But the rules of occupation, the Fourth Geneva Convention apply nevertheless. The rules of occupation are separate from what the cause of the war was. And the point of that is to ensure that the people under occupation enjoy the full benefits, and protections, and rights of The Hague Regulation, the Fourth Geneva Convention, the Additional Protocol, and all the other aspects of it. So that’s why we—you have to distinguish between whether somebody is at the very beginning a lawful occupant or an illegal occupant at the very beginning. We can all imagine wars which resulted from a war of aggression, captured territory. That party is an illegal occupant from the very beginning. But the laws of occupation apply in order to be able to protect those people.

I’ve made the assumption, and it’s—there’s a rich, historical debate in this, as to whether or not the 1967 war, which led to the Israel capture of these territories, was a defensive war or a war of aggression. I’m not taking a position with respect to that. I’m going to assume for the moment it was a defensive war, and therefore Israel was the lawful occupant at the beginning. My point is even a lawful occupant who is there by right of authority because of a defensive war at the beginning of an occupation, can nevertheless at some point turn into an illegal occupant if it breaches one or more of these particular core principles of international humanitarian law.

And my point is, as I said, I raise this at the 50th anniversary of the occupation. It could well be, and I’ll leave that to historians, that Israel demonstrated that it was in violation of one or more of those key points at some earlier point. My mother always used to say to me, the best time to plant an oak tree was 20 years ago. The second best time to plant it is now. So if we didn’t raise this issue of illegal occupant before, we certainly can raise it now to guide our actions going forward.

With respect to the question from the Deputy Ambassador from Palestine, what more can be done by the international community? I’m particularly grateful for that question. What I obviously forgot to raise in my presentation were the recommendations that you will all find at the very end of my written report. What I’m recommending that the United Nations General Assembly do are four things.

One, that they commission a study on the legality of Israel’s continued occupation of the Palestinian territory. In other words, verify what I’ve said.

Two, consider the advantages of addressing—of seeking an advisory opinion from the International Court of Justice on the question of the legality of the occupation, exactly what was done 47 years ago with respect to Namibia.

Three, consider commissioning a legal study on the ways and means that UN Member States can and must fulfill their obligations and duties in order to ensure respect for international law, including the duty of nonrecognition, and the duty to cooperate to bring to an end an unlawful situation, and the duty to investigate and prosecute grave breaches of the Geneva Conventions. And fourth, to consider the adoption of a filing of a uniting for peace resolution with respect to the question of Palestine, in the event that there’s a determination that Israel’s role as the occupier is no longer lawful, and the occupying power refuses to surrender the occupation.

And if I can jump ahead, this in effect helps to answer the question of the Ambassador of Venezuela. I’d mentioned in my comments with respect to Namibia, this was action taken both by the Security Council in 1970 and the General Assembly in 1966 with respect to Namibia. And I hear you with respect to the issues of the challenges of trying to get such a resolution through the Security Council. But hark back to 2003, it was after a failed attempt of the Security Council to get such a resolution to ask for an advisory opinion to the International Court of Justice with respect to the construction of—Israel’s construction of a wall in occupied territory. That then went to the General Assembly, and the General Assembly has full jurisdiction to be able to ask for an advisory opinion directly to the International Court of Justice. And that was the result—that was the process that led to monumental decision that came from the International Court of Justice in 2004. So I think—I hope that answers the question you posed with respect to the challenges of the Security Council.

And the last question then goes to the question posed to me by the Ambassador from Cuba, and his question has to do with two issues, as I read it. One has to do with the fact that after the Advisory Committee delivered its—sorry, the International Court of Justice issued its advisory opinion on Namibia in 1971, you’re perfectly right. It took another 19 years until Namibia achieved independence. I would argue that the advisory opinion delegitimizing South Africa’s rule over Southwest Africa played a minor role in the achievement finally of self-determination for the Namibian people.

What I hope today is to say that the situation in Namibia in the ‘70s and ‘80s is different today with respect to the issue of the Palestinian people. I think today there is a stronger stated commitment by the international community than there was 45 years ago with respect to the international rule of law. I think there is stronger international recognition, both at the diplomatic level and at the popular level, the civic level on the plight of the Palestinians. And there’s a wide acceptance that a declaration that the continued occupation, or Israel’s continued role as occupant, is determined to be illegal would not happen without further consequences.

It’s my opinion, and I’m not the first person to say that, is that criticism without consequences is a recipe for drift and inaction, and it’s an encouragement to the party that’s continuing the wrongdoing. I think what’s the challenge now to the international body is to match the criticism with consequences to ensure that illegal situations are brought to an end, and they don’t stand as a precedent to further countries who may wish to engage in prolonged illegal situations.

And the final point I think made by the Distinguished Ambassador from Cuba had to do with prolonged occupation. And this was—you won’t find this surprising that when an academic is asked to write 10,000 words for a report, he comes up with 20,000 words. So a lot of my work wound up on the editing floor, quite rightly. It deserved to be going on the editing floor. But one of the points I made which didn’t make it into the report, simply because of space, is this whole concept of prolonged occupation. I accept prolonged occupation as an apt descriptive term to describe a very long occupation, or prolonged occupation. But I do not accept prolonged occupation as some international bodies do and as some international scholars do, as a need when there is a prolonged occupation, 30, 40, 50 years, the answer is to alter the rules of international humanitarian law so that we can take into account changing circumstances. That misses the vital question. It misses the vital question of why an occupation is taking so long.

As I said before, I pose the question again. The longer the occupation, the higher the onus rests on the occupying power to justify its prolonged occupation. That has to be the very first question instead of tinkering with the rules of the occupation to make it a little more bearable for the people under occupation. If we can—if we answer the question, the prolonged occupation in this case is justified because of reason A, B, and C, let’s think about tinkering with the rules of international humanitarian law.

But if the first and foremost question cannot be answered in the affirmative, if the prolonged occupation bears no justification in law, and if the—if it now tips into an illegal situation, that’s the focus that the international community then has to wind up addressing. And I put to you as a Committee that’s done a lot of hard work on this issue over the years, I think that has to become your principle issue in the foreseeable future.

CHAIR: Thank you, Mr. Lynk. There are other requests for the floor. I’d like to give the floor to Mr. Razee Mohammad Fakhrul, member of Bangladesh National Parliament. Please, sir, you have the floor.

BANGLADESH: Thank you, Madam Chair, for convening this meeting. We would like to thank Mr. Michael Lynk, the Special Rapporteur on the situation of human rights in Palestine territory occupied since 1967, for his presentation. At the outset we would like to reiterate our unwavering solidarity to the Palestine brethren and their legitimate aspiration for an independent State of Palestine, which is derived from our constitutional obligation.

In various reports of the United Nations on Palestine issue, including the latest report of this Committee, document number A/72/35, it is evident how grave the situation is in occupied territory of Palestine, and total defiance of the occupying power to international laws and repeated calls by international community for restoring peace and stability in that region. We urge the Committee to remain seized, as it has been mandated, for greater advocacy and for—and for greater advocacy for inalienable rights of the Palestinian people, and mobilizing for assistance, to motivate the international community to—international community to impress upon the occupying power to cease systematic violation of human rights and international humanitarian law, as well as its unjust acts of collective punishment unleashed against the people of Palestine.

Madam Chair, we appreciate the Palestine authorities for the recent unity deal, which would ease the indescribable situation in Gaza caused due to the decade-long blockade by Israel. We appreciate the Committee for organizing various events in the two-day program to mark the 50 years of occupation at the United Nations earlier this year. We also appreciate Committee’s engagement with various governments focusing on the gravity of the ongoing crisis in Palestine to sway the understandings for resolving this long-standing issue. Further, we are looking forward for events to be organized by this Committee on observance of the International Day of Solidarity with the Palestinian People on 29 November 2017, and observance of 70th anniversary of the expulsion of Palestine refugees from their homeland in 1948 next year.

To conclude, Madam Chair, we would like to stress the urgency of achieving without any delay an end to the Israeli occupation that began in 1967 as a just, lasting, and comprehensive peace settlement between Palestine—and Palestinian and Israeli sides based on the relevant resolutions of the General Assembly, Security Council, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative, the Quartet Roadmap, to a permanent two-state solution to the Israeli-Palestinian conflict. Thank you,

Madam Chair.

CHAIR: I thank Mr. Fakhrul for your statement and your presence here among us. I now give the floor to the Distinguished Delegation of Tunisia. Please, sir, you have the floor.

TUNISIA: Thank you, Madam Chair. And I thank all the speakers today. I would like to thank Mr. Lynk for his presentation, and I have two questions for him. I would like to know the latest information on the number of states that have recognized the State of Palestine and their geographic representation of those if possible.

And the second question, which is perhaps simplistic, but I’m an economist by training. How do we make the best use of international law from a point of view of pragmatism to highlight the obligations that arise under the illegal occupation when the international community does recognize a state? And how do the allies then revise their positions to lead to the broader international recognition of the State of Palestine? I think that maximizing the recognition of the State of Palestine through diplomacy and other means will allow us to change the situation. Is that the case? Thank you.

CHAIR: Thank you to the Delegation of Tunisia. Any other comments or questions? If that is not the case I will once again like to give the floor to Mr. Lynk.

MR. LYNK: Thank you very much for that. I just want to be able to express my gratitude for the comments from the Honorable Delegate from Bangladesh. His intervention is important and insightful, and I’m—I gained a lot from it.

With respect to the questions from the Delegate from Tunisia, the first question I’m afraid I don’t have an answer for you as to how many—what’s the latest number of states who have recognized Palestine as a state. I’m sure that answer is available, and I’m sure the Mission of the State of Palestine would have an answer for you on that.

Your question on how to use international law to advance the issue of self-determination of Palestine, what I can say is in a world that’s riven by differences with respect to ideology, religion, race, color, class, disparities of income, there are a whole list of issues that keep us apart or attempt to keep us apart. The one common language we have, the one great language that we’ve created particularly in the 70-plus years since the creation of the United Nations in 1945 is international law.

International law is a common language that every single Member State in this world has signed up to and has agreed to be bound by these rules of—this rule of law. And if we continue to capitalize and to deepen that particular commitment, then we are creating that kind of world order and world peace where we can find passable ways—peaceable ways of resolving differences and disputes, which was what was in the dreams of those who imagined the United Nations in 1945.

So when it comes to the issue of Palestine, the international law has spoken at great length through resolutions, through papers, through conferences with respect to the rights of those who are the most vulnerable in the Israeli-Palestinian conflict. In fact, in many ways international law has pushed forward the boundary of law in many positive ways. We know much more about the rights of refugees because of the tragic issue with the Palestinians. We know much more about the right of self-determination because of what’s been said with respect to the Palestinians. We know much more about the illegality of settlements and about the interpretation of many aspects of the Fourth Geneva Convention because of what’s happened in Palestine.

So it’s a paradox, is it not? That on the one hand we’ve made all these advances on international law in part because of this ongoing 70-year plus conflict involving the Israelis and Palestinians? But on the other side of the paradox, those for whom international law was most destined to try to benefit, to help, to come to the aid of the vulnerable, they’ve seen the least benefit of all this with respect to international law. So our responsibilities, myself as an officer of the UN and also as an academic, and your responsibilities as part of the international diplomatic community here in New York, is to find creative ways, is to narrow that gap between the aspirations of international law and the delivery of the promises of international law to whom it’s meant to benefit.

CHAIR: Okay. Thank you. Thank you, very much. If there are any other questions? It is not, let me answer the first question of doing this with efficient collaboration with the Secretariat. The number of states that have recognized the State of Palestine is 138.

Well, that concludes our interactive dialogue. I once again would like to thank Mr. Lynk for your presence here this morning and for your presentation and the answers to questions, your valuable contribution. I think this is—has been a very useful and valuable discussion. It provides us with new information, new arguments, especially from the point of international law to continue to defend the Palestinian cause for which both members and observers are—to which we’re strongly committed.

So once again I thank Mr. Lynk and all those present for your active participation in this discussion.

Now I suggest that we move to item 6 of the agenda, Observance of the International Day of Solidarity with the Palestinian People, and updates from member states on their activities regarding Solidarity Day. I just want to inform you that as customary, on the 29th of November our Committee will organize a special meeting in—an extraordinary meeting in observance of Solidarity Day with the Palestinian People. The meeting will be held in the Trusteeship Council Chamber from 10 a.m. to 1 p.m., so a morning session. Observances will also take place, observance of this Day of Solidarity will take place in the United Nations offices at Geneva, Nairobi, and Vienna.

As in the past, the Committee would greatly appreciate receiving a message of solidarity in connection with this important occasion from your head of state of government, and we would invite member states to be represented at this meeting at the level of Permanent Representatives. A letter on this regard can be found in the envelopes in front of you.

In the afternoon of that same day, the General Assembly will debate the resolutions on the question of Palestine that we have just approved unanimously in the Committee as part of our agenda today. The vote is expected to take place on 30th of November, and I would encourage all the members and observers of the Committee to participate in the debate, and obviously vote in favor of the four resolutions as an expression of support and solidarity with the Palestinian people.

In the evening of the 29th of November, our cultural event will see the opening of the photo exhibit entitled The Palestinian People: Everlasting Roots, Infinite Horizons. This will be followed by a reception. We will also have a special performance by Ameer Dandan, Palestinian Arab Idol star. It’s a contest, Arab Idol. This cultural program will take place on 29th of November at 6:30 p.m. in the Visitor’s Lobby of the General Assembly building, and we hope many of you will participate if maybe even all of you.

I now invite members and observers of the Committee to share with us information about activities planned at the national level in observance of the International Day of Solidarity with the Palestinian people. Are there any? You have the floor if you wish to update us on any of these activities. I don’t see any requests for the floor. I do see a request for the floor.

Ambassador Maged Abdelaziz, and we welcome you. We welcomed you at the beginning of the meeting as well. It’s a great honor for us to have you here with us as a representative of the League of Arab States. You have the floor, Ambassador.

LEAGUE OF ARAB STATES: Thank you, Madam Chair. Ambassadors, friends, allow me at the outset to say how pleased I am, Madam, to see you chairing our very important Committee. I would also like to express my gratitude and appreciation to all the members of the Committee for all that you do in service of the just cause of Palestine and for your efforts towards creating an independent Palestinian State with East Jerusalem as its capital in the briefest time frame possible. I once again would like to express my pleasure at being able to join you here today as the Permanent Representative—Permanent Observer of the League of Arab States at the United Nations after seven years as Permanent Representative of Egypt and five more years as USG for African Affairs.

Thank you, Madam, for the excellent presentations of the events that will take place as of November 29th to commemorate the International Day of Solidarity with the Palestinian People. On our part, the League of Arab States is actively preparing in coordination with all Arab states to actively participate in all events that will be organized as well as cultural events that you mentioned just now. We will make all the necessary contacts at the highest level between UN representatives and the League of Arab States and all of our Member States to express our solidarity and support for the Palestinian cause and the two-state solution to allow the Palestinian people to exercise their inalienable rights and established—establish their independent state as soon as possible.

As part of this effort, we have had several meeting—the Secretary-General of the League of Arab States had several meetings at the high level—during the high-level week of this session of the GA. The Secretary-General also convened a number of meetings to raise awareness on the occasion of the hundredth anniversary of the Balfour Declaration and the negative impacts thereof. Together with the State of Palestine, we have also made a documentary so that has been translated into French, Spanish, German, and Russian, and we will provide you with a link to this documentary so that the members of the Committee can view it. This is a very important documentary, and I’d like to once again highlight the importance of bilateral coordination between the UN, League of Arab States, the Palestinian division as well as the OIC.

And we thank the UN division for Palestinian Rights for the important role that they play in supporting this Committee and the various activities that we’ve organized in solidarity with Palestine. And I thank you once again, and thank you for the kind words said in my regard at the beginning of our meeting. I apologize for arriving somewhat late today, but I will make sure to be present at every meeting from beginning to end.

I thank you.

CHAIR: We know, Ambassador, you do not have to apologize. And you are always very welcome. And thank you very much for the information that you have provided on the different initiatives and activities sponsored or organized by the League of Arab States in commemoration of the International Day of Solidarity with the Palestinian People next 29th of November. Thank you very much for that.

Now, I’d like to give the floor to the Delegation of Nicaragua. Manuel?

NICARAGUA: Thank you, Madam Chair. I’d like to thank you for chairing this meeting, and I’d like to thank the various speakers for their briefings and also express our support for the resolutions. Regarding the activities in support of the Day of Solidarity, it’s not exactly for the 29th but last month Nicaragua had the honor of hosting the Fourth Congress of the Palestinian Confederation in Latin America and the Caribbean. So that is part of the activities we’re involved in.

Thank you.

CHAIR: I’d like to thank the Delegation of Nicaragua for that update. Would any other delegation wish to take the floor on this item of the agenda? If that is not the case then, well we have no doubt that at a national level we will organize various activities to commemorate the International Solidarity Day with the Palestinian People, and we would be grateful for you to inform us about these events—inform the Committee so that we can share information with everyone. And I once again reiterate the invitation to all the members and observers of the Committee to participate in an active—actively in the various events and activities that will be held on the 29th of November, or on the 30th of November in this headquarters.

If there are no further comments now, I suggest that we move on to the last item of the agenda, Other Matters. Are there any other matters that anyone wishes to raise under this item? I see that the Distinguished Ambassador of Venezuela is asking for the floor.

Ambassador Ramírez, you have the floor.

BOLIVARIAN REPUBLIC OF VENEZUELA: Thank you, Ambassador. I feel it’s my responsibility as Chair of the Fourth Committee to briefly inform the members of this Committee of the outcome of our deliberations with Topics 52 and 53 of the Fourth Committee have to do closely related to the issue of Palestine. So very briefly, very briefly I’ll tell you what happened.

First of all, I wanted to say that during the formal session of the Committee, we examined the topic related to UNRWA, the United Nations agency for Palestinian refugees and Middle East refugees. And we heard, there was a report by UNRWA, a very disturbing report about the—on the various, various elements that undermine the human rights—the rights of Palestinian refugees there, 5.3 million Palestinian refugees under the mandate of UNRWA. There was an interactive dialogue, it was a very, very, very important interactive dialogue with the Director of the office of this body, agency in New York. Thirty-six statements were made on this—under this item, and by an overwhelming majority a resolution was adopted related to the assistance to Palestinian refugees and displaced persons as a result—persons displaced as a result of the 1967 War and the protected property of Palestinian refugees. So there was a broad, broad consensus on these resolutions. But Israel requested a vote on each on separately.

Now, one important topic that I should bring up here is the issue of the funding, the budget of UNRWA. Its director has denounced that, that it’s very difficult to plan budgeting because these budgets are allocated in a very kind of limited, restricted way, and it’s very difficult to plan anything. And some of the major donors—donors of UNRWA, which are also the major factors, major reasons for the occupation because they have supported the Israeli occupation, they have put conditions for UNRWA to continue to receive its budget.

One of the conditions was not to approve a resolution on the budgetary—the budget of UNRWA. This is very serious because this impact prevents this very important body of the United Nations to have a budget, a stable budget that makes it possible for it to plan its activities. Also, item 54 of our program was examined, granting the Committee in charge of Investigating Israeli Practices that Affect the Human Rights of Palestinians and other Arab Residents of Occupied Territories Including the Golan, and a report was presented by the representative or Sri Lanka. There were comments by the New York office of the—of the High Commissioner for Human Rights.

Thirty-two statements were made in the general debate, and as our rapporteur said, or as our speaker said, it was a denunciation of the constant violation of the Palestinian human rights, in particular the case of children, children 8 to 12 years old, Palestinian children that are in Israeli military prisons. And a new draft resolution was adopted on these—on this very important matter. And the Commission—Committee concluded its examination on this.

I did want to highlight that there was some unacceptable statements made by the occupying power, Israel, who said—who stated that the work of the Committee was a circus. That was how it called the work of this Committee on these topics that are so important for the United Nations and for the Palestinian people. So very briefly, it was a very successful session. There was a very important dialogue with the various high-ranking representatives there, and we approved all the resolutions that we had on the agenda on these various items.

Thank you very much.

CHAIR: Thank you, Ambassador, for your very timely statement. The work of the Fourth Committee in general, and specifically on the topic of Palestine were very, very intense and very, very fruitful. And we hope that this will have an impact on the ground and will lead to progress on this very important topic. And this importance is reflected in the fact that for each one of the almost all of the items of our agenda, the Rapporteur mentioned these when he presented the work of our Committee and other activities that were carried out this previous session in his report.

And he spoke of the importance of resolutions adopted in the Fourth Committee, and so I wanted to take this opportunity, Ambassador, to congratulate you and to acknowledge your leadership and the outstanding guidance of the Fourth Committee, which is of great importance to the international community and in particular this Committee where—which also reflects the work—the Fourth Committee reflects our work and our commitment to the Palestinian cause. So I congratulate you.

Would any other delegation wish to take the floor or raise any other issue under this item? Other—any other matters? That not being the case, we conclude with this item of our agenda, and we have finished with the agenda of this meeting.

And so that being done, I now close this 385th meeting of the Committee. Thank you very much.

Meeting is adjourned.