



IN THE INTERNATIONAL COURT OF JUSTICE

The Advisory Opinion: Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

MEMORIAL OF THE NATION OF PALESTINE

COMES NOW the Nation of Palestine and for their memorial to the Court states the following:

Statement of Law

1. Territory of Palestine
 - a. Shortly after WWII the British government occupying the Palestinian territory wished to establish a 'Jewish National Home' which would be located in part of the territory of Palestine.
 - b. A recommendation for partition divided the land with (1) an Arab State, that was allocated 42.88% of the territory of historical Palestine; (2) a Jewish State that was allocated 56.47% of that territory; and (3) an independent Jerusalem in 0.65% of Palestine to be under a UN Trusteeship.
 - c. On 29 November 1947, the General Assembly, favoring the UNSCOP partition plan, adopted the two-State plan in Resolution 181 (II) by a vote of 32 in favor to 13 against with 10 abstentions.
 - d. The area of the West Bank, including East Jerusalem, was demarcated in the Jordanian-Israeli Armistice Agreement and the Armistice Line came to be widely known as the "Green Line." The area of the Gaza Strip was demarcated in the Egyptian-Israeli Armistice Agreement.
 - e. On 5 June 1967, the Six Day War erupted. Israel was able to occupy the whole of the Gaza Strip and the whole of the West Bank (including East Jerusalem) On 22 November 1967, the UN Security Council unanimously adopted Resolution 242 (1967), which has become the basic platform for a peaceful settlement. The resolution upholds the Armistice Lines or the "Green Line."
2. Jerusalem
 - a. Under the Partition Resolution 181 (II), Jerusalem was designated as a *corpus separatum* under an international regime to be administered by the UN.
 - b. On 23 January 1950, Israel declared that Jerusalem was its capital. No other State recognized this declaration. They soon after passed three laws incorporating Jerusalem as a whole.
 - c. The UN General Assembly responded to this Israeli action by adopting Resolution 351169E on 15 December 1980, in which the Assembly affirmed in operative paragraph (2): "that the enactment of the 'Basic Law' by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in the Palestinian

and other Arab territories occupied since June 1967, including Jerusalem.

d. The Security Council has, likewise, consistently rejected any attempt by Israel to change the legal status of Jerusalem. In its Resolution 252 (1968) of 21 May 1968, the Council: "Consider[ed] that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status;"

e. The Security Council reacted to the Basic Law and adopted Resolution 478 (1980) of 20 August 1980 by 14 votes in favour to none against, with one abstention, and expressed its deep concern over the enactment of the Basic Law by Israel. The Council: "Affirm[ed] that the enactment of the 'basic law' by Israel constitutes a violation of international law and does not affect the continued application of the [Fourth] Geneva Convention [. . .] in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem"

Statement of Fact

The Wall that is being built by Israel is being constructed almost entirely in the Occupied Palestinian Territory, including in and around East Jerusalem, in departure from the Armistice Line of 1949 (Green Line). It is a whole regime, composed of a complex structure as well as practical, administrative and other measures. It encircles entire communities in walled enclaves and, if completed, will wall-in almost all of the Palestinian population. It has resulted in vast destruction and has entailed the confiscation of thousands of dunums of Palestinian land and has already imprisoned thousands of Palestinians between it and the Green Line. There is a clear correlation between the route of the Wall and the illegal Israeli settlements in the Occupied Palestinian Territory and water resources as well. The Wall is having a devastating socioeconomic impact on the Palestinian people. It clearly aims at the de facto annexation of large areas of the Occupied Palestinian Territory and makes the viability of a Palestinian State and the implementation of the two-State solution almost impossible. The purpose of this Chapter is to outline and depict the existing, approved and projected route of the Wall, and to explain the regime of the Wall and accompanying measures and effects and the Wall's social and economic impact on the Palestinian people in the Occupied Palestinian Territory.

Statement of Jurisdiction

1. Article 96, Paragraph 1 of the United Nation Charter states, "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question."

2. Article 65, paragraph 1, of the Court's Statute stipulates: "The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request."

3. Therefore, the General Assembly holds the right to ask for the opinion of the court on any legal issues which question international law.

Arguments

1. The Wall built by Israel violates the territorial boundary set forth by the UN, The Green Line.

The lands given to Israel for their "Jewish Homeland" by the UN set specific boundaries for a Palestinian and Israeli territory. The Wall infringes on the land of the Palestinian people, and was done so to make an advancement on their land.

2. The Isolation of Peoples

The deliberation of the Wall was done so without the consultation of the international community, UN, or Palestine. It was an action taken in a unilateral matter which must be done so within the United Nations. For the Wall is not just a fence; it is a regime, a regime of isolation, discrimination and the denial of rights which does not tally with its ostensible motive, security. Except for short distances, the Wall has not been and will not be built along the Green Line, the well-known line separating Israel from the Occupied Palestinian Territory. Nor is it operated in any way which would be consistent with its avowed motive of securing Israel from attacks.

3. Self-Determination

Though Israel continues to isolate the people of Palestine, the Wall undermines the possibility of self-determination. The UN has recognized that The Wall is a direct violation against Palestine's right to self-determination. Therefore, if for no other reason, must be removed immediately.

4. The Wall Has Caused the Displacement of thousands of Palestinians and the Destruction of their homes

The preamble to Resolution A/ES-10114 refers to "the confiscation and destruction of Palestinian land and resources, the disruption of the lives of thousands of protected civilians and the de facto annexation of large areas of territory" in connection with Israel's construction of the Wall in Occupied Palestinian Territory. The resolution also points to "the even more devastating impact of the projected parts of the wall on the Palestinian civilian population and on the prospects for solving the Palestinian-Israeli conflict and establishing peace in the region."

5. Confiscation of resources through the borders

Peoples have the right to free movement of trade within their borders; however, Israel continues to confiscate goods coming in and out of the Palestinian Territories. Israel has cut the water supply going into the Palestinian Territory. Comparatively Israel has consumed four times the amount of water as Palestine. This has caused a continual drought within the land resulting in a collapse of the agriculture. Furthermore, Israel has seized the waters of Palestine and caused the main source of economy and food to fall by 2/3. Finally, Israel has cut off aid and private donations coming into the Palestinian territory.

Summary and Prayer for Assistance

The constant disregard for International Law by Israel, and their construction of The Wall in direct violation of the UN charter has brought this court to make an Advisory Opinion on the Legal Consequences of the Construction of The Wall. The construction of The Wall has violated several international laws including the boundaries between Palestine and Israel established by the UN General Assembly and the Security Council. The colonial forces of Israel have kept Palestine from taking any action toward liberation. Wherefore, Palestine prays that the Court will reach the opinion Israel's construction of the wall was in direct violation of international law and the UN Charter. Furthermore, that the Court shall find the proper legal consequences for the violations they have committed.