

IN THE INTERNATIONAL COURT OF JUSTICE

THE STATE OF PALESTINE,

APPLICANT

V.

THE STATE OF ISRAEL

RESPONDENT

MEMORIAL OF THE STATE OF PALESTINE:

COMES NOW the State of Palestine and for their Memorial to the Court states the following:

STATEMENT OF LAW:

1. The construction of the wall in Palestinian territory by the Government of Israel is not justified by military necessity, and thus presents a breach of international humanitarian law.
2. The construction causes destruction of Palestinian homes and property, a violation of Article 53 of the Fourth Geneva Convention which states, “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited.”
3. The wall prohibits the free movement of Palestinians within and out of their country. This is in violation of Article 12, paragraphs 1 and 2 of the International Covenant on Civil and Political Rights, which respectively state, “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence,” and “Everyone shall be free to leave any country, including his own”.
4. The wall and the Government of Israel infringe on Palestine’s right to education. This is a violation of Article 13 of the International Covenant on Economic, Social and Cultural Rights, stating, “Education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace”.

5. The wall and the Government of Israel infringe on Palestine's right to adequate healthcare under Article 12 of the Convention on the International Covenant on Economic, Social and Cultural Rights, which ensures "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".
6. The wall and the Government of Israel infringe on Palestine's right to work under Article 6 of the International Covenant of Economic, Social and Cultural Rights, which recognizes the "right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right".
7. The wall and the Government of Israel infringe on Palestine's right to suitable living standards under Article 11 of the International Covenant of Economic, Social, which establishes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent".
8. The wall violates Article 17 of the International Covenant on Civil and Political Rights by subjecting Palestinians to "arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation".
9. The permit system for Closed Area 2 presents a violation of Article 12 of the International Covenant on Civil and Political Rights, which states "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence." This restriction of Palestinians from free movement and choice of residency causes lasting damage (such as the transfer of Palestinians), which violates the Fourth Geneva Convention.
10. The construction of the wall is an attempt by the Government of Israel to annex Palestinian territory, which prevents Palestinian sovereignty and right to self-determination guaranteed under the Fourth Geneva Convention.
11. Finally, the continued construction and expansion of the Wall of Separation is an attempt to annex the territory contrary to Resolution ES-10/13 issued by the United Nations General Assembly, which demands "that Israel stop and reverse the construction of the

wall in the Occupied Palestinian Territory, including in and around East Jerusalem, which is in departure of the Armistice Line of 1949 and is in contradiction to relevant provisions of international law”.

STATEMENT OF FACT

Starting in 1996, the Government of Israel has attempted to cease Palestinian movement into and out of the West Bank. In July of 2001, the Government of Israel approved a plan to construct a series of fences around the West Bank. Later that year, the offending government escalated their earlier plan and approved Government Decision 64/B to build 80 Kilometers of a Separation Barrier within three districts of the West Bank for “defense purposes”. The planned route of the Separation Wall was not disclosed to the Palestinian people. On August 14, 2002, the Cabinet ultimately approved a plan to construct a Wall of Separation with nearly 145 kilometers long and encompassing land which was formerly occupied by Israel in 1967.

On October 2nd 2003 the Israeli Defense Force, further transgressing international law, issued an order regarding the Closed Area 2, which stated “no person will enter the seam zone and no one will remain there”. This order affects 73 kilometers of Palestinian land and would forcibly remove 5,300 Palestinians from 15 communities that currently reside in the ‘closed area’. Israeli citizens who have immigrated to the area may reside in the closed area, moving in and out freely, while native Palestinian residents must be issued a permit by the IDF to remain in the Closed Area.

The State of Palestine has adhered to international standards.

STATEMENT OF JURISDICTION

1. Article 96 of the United Nations 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. During the Tenth Emergency Special Session on December 8th, 2003 the General Assembly issued resolution ARESIES-10114 requesting an advisory opinion on the previously stated legal violations from the International Court of Justice, in compliance with Article 96 of the Charter.

ARGUMENTS

1. By building the Wall of Separation, the State of Israel has blatantly and repeatedly transgressed its obligations to the Palestinian people and international community, stated under Article 53 of the Fourth Geneva Convention, Articles 6, 11, 12, 13, and 17 of the International Covenant on Civil and Political Rights, and within Resolution ES-10/13.
2. In light of the continuous effort to construct the wall, the State of Palestine believes that the State of Israel will continue to neglect its legal obligations previously noted. Israel will continue its planned and illegal occupation and annexation of Palestinian lands unless brought into accord with its international agreements.

SUMMARY AND REQUESTS

In summation, the State of Palestine urgently requests that the court adjudge and find that Israel's actions are violations of the Fourth Geneva Convention, the International Covenant on Civil and Political Rights, and the Resolution ES-10/13. The State of Palestine also requests that the Government of Israel cease construction of the Wall of Separation, remove any existing barriers to the Palestinian people, and cease their program of forced eviction in the Closed Area.