

Statement by the Committee on the Exercise of the
Inalienable Rights of the Palestinian People
on the occasion of the Ten -year Anniversary of the Advisory Opinion of the International
Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied
Palestinian Territory

9 July 2014

The Committee on the Exercise of the Inalienable Rights of the Palestinian People met today to commemorate the landmark advisory opinion of the International Court of Justice (ICJ) on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (OPT), which was rendered by the Court on 9 July 2004.

The Committee reaffirms the findings of the 2004 advisory opinion which concluded, inter alia, that the construction of the wall that began to be built by Israel, the occupying Power, in 2003 in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law and that Israel is under an obligation to terminate its breaches of international law, to cease the construction of the wall, and to dismantle the structure already built. Israel is also under an obligation to make reparation for all damage caused by the construction of the wall, as reaffirmed by General Assembly resolution ES-10/17 of 15 December 2006 by which the Assembly established the “United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory”. The Court also concluded that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, have been established in breach of international law.

Moreover, the Committee reaffirms the Court’s ruling that all States are under an obligation not to recognize the illegal situation resulting from the construction of the Wall and not to render aid or assistance in maintaining the situation created by such construction; and all States Parties to the Fourth Geneva Convention have an additional obligation to ensure compliance by Israel with international humanitarian law. The Committee reiterates the call by the Court on the General Assembly and the Security Council to consider what further action is required to bring to an end the illegal situation resulting from Israel’s construction of the wall and the associated regime.

The Committee emphasizes that this authoritative ruling of the ICJ provided a substantial international legal framework applicable to the Israeli occupation of the Palestinian land. It clearly exposes the connection between the wall and Israel's illegal settlement policies and calls upon the responsible actors to uphold their obligations in compliance with the rules and provisions of international law.

The Israeli Government claims that the Wall was a temporary security measure. However, the ICJ indicated that the specific route Israel has chosen for the wall was not necessary to attain its security objectives and that the construction of the wall constituted "breaches by Israel of various of its obligations under the applicable international humanitarian law and human rights instruments". The overwhelming majority of the route of the Wall - 86 percent - runs inside the West Bank, not along the 1949 Armistice Line (the Green Line/pre-1967 border). The ICJ pointed out that the route of Wall has been planned to encompass the bulk of the Israeli settlements in the Occupied Palestinian Territory – settlements which are illegal under international law, thus compounding the perpetration of such violations.

Ten years after the ICJ issued its Advisory Opinion, the situation has not improved. Israel continues to flagrantly disrespect the Advisory Opinion, and the Wall remains under construction, resulting in the confiscation of more Palestinian land and property, the displacement of thousands of Palestinian civilians, the severe fragmentation of the Palestinian Territory's contiguity and the isolation of Occupied East Jerusalem and other Palestinian cities and towns. According to the Israeli plans, the total length of the Wall, if completed, will be 712km, more than twice the length of the Green Line. Approximately 443 km of the wall, consisting of concrete walls, fences, ditches, razor wire, sand paths and electronic monitoring, are complete with further 72 km now under construction.

The Wall is but one element of the wider system of severe restrictions on the freedom of movement imposed by Israel, the occupying Power, on the Palestinian civilian population in the West Bank. There are currently well over 600 closure obstacles, including checkpoints, obstructing Palestinian movement within the West Bank. In addition, the system of roads constructed by Israel in connection with the Wall and settlements is increasingly segregated: travel on hundreds of kilometres in the West Bank is restricted or prohibited outright for Palestinians, whereby Israelis are allowed to travel on them freely. About one third of the West Bank, including Occupied East Jerusalem, is completely prohibited to Palestinians without a special permit issued by the Israeli military.

These severe restrictions violate not only the right to freedom of movement. They also effectively prevent Palestinian residents from exercising a wide range of other human rights, including their right to work, to health, to education, to an adequate standard of living and to development. Farmers are prevented from accessing their fields and from exercising their right to sustain their livelihood. Children are prevented from accessing schools and students face restrictions in choosing their university. Patients are prevented from accessing hospitals, blocking them from exercising their right to the highest sustainable standard of health. Palestinian families, particularly Bedouin refugee families, continue to be forcibly displaced from their homes and lands as the route of the Wall cuts into their communities and the occupying Power seizes their lands and properties. And Palestinians currently lack meaningful access to an effective remedy – judicial or otherwise - for their plight.

The Committee expresses its appreciation to the United Nations system entities on the ground following the developments in the Occupied Palestinian Territory, including East Jerusalem, providing assistance to the Palestinian people, and documenting the vastly negative impact of the Wall, the settlements and associated restrictive Israeli policies. It appreciates in this regard the work of the United Nations Register of Damage and calls for the expeditious fulfilment of its mandate.

The Committee reiterates its condemnation of all illegal policies and measures by Israel, the occupying Power, including the continued construction of the Wall, expansion of settlements, military raids on civilian areas and the use of excessive force against Palestinian protesters,(arrest raids), the arrest and detention of Palestinians and abuse of prisoners and detainees, and the continuation of the suffocating Gaza blockade. With regard to the Wall, it calls on the Israeli Government to immediately and fully implement the ruling of the ICJ by dismantling the system of walls, fences and barriers erected in the occupied West Bank, including East Jerusalem, and making reparations to all Palestinians that sustained damage as a result of the construction of the Wall. Israel's continued disregard of the findings of the advisory opinion, ten years after it was issued, as well as its systematic and deliberate violations of international law, undermines any remaining trust between Israelis and Palestinians. They hamper any efforts aimed at achieving a comprehensive, just and lasting settlement of the question of Palestine on the basis of two States – an independent, sovereign, contiguous and viable State of Palestine on the basis of the 1967 borders, with East Jerusalem as its capital, living side by side with Israel in peace and security.

The Committee deeply regrets that the Security Council has remained silent on the critical matter of Israel's construction of the Wall and has failed in recent years to take action to condemn and bring a halt to Israel's continuing violations of international law, especially as they relate to the illegal settlement expansion and the Wall. The Committee calls on the Security Council to act urgently and decisively to compel Israel to end its violations of international law. Moreover, the Committee calls on the international community to adopt measures to hold Israel, the occupying Power, accountable for its actions and compel it to cease its violations and choose the path of peace. State Parties to the Fourth Geneva Convention are, as reconfirmed by the ICJ, under an obligation to ensure compliance by Israel with international humanitarian law. Tangible action needs to be taken on the political, diplomatic and economic levels. Recognizing the State of Palestine and supporting its access to international treaties and agreements would be important steps in upholding the right of the Palestinian people to self-determination. Ensuring that businesses and corporations have no links with companies involved with and profiting from the occupation, including from the settlements and the wall, would be a significant step to uphold international law. The Committee commends the European Union guidelines in that regard prohibiting funding to settlements and all other measures undertaken by States to hold Israel accountable for its violations in this regard.

More active steps from the international community, governments, international organizations, parliamentarians and civil society, are required to salvage the two-State solution in accordance with the relevant UN resolutions, the Madrid principles and the Arab Peace Initiative, the Quartet Roadmap, and to assist the Palestinian people to realize their inalienable rights, justice, freedom and peace.

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