

# Press Release 2004/28

The International Court of Justice (ICJ)

## **Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory**

### **Advisory Opinion**

**The Court finds that the construction by Israel of a wall in the Occupied Palestinian Territory and its associated régime are contrary to international law; it states the legal consequences arising from that illegality**

THE HAGUE, 9 July 2004. The International Court of Justice (ICJ), principal judicial organ of the United Nations, has today rendered its Advisory Opinion in the case concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (request for advisory opinion).

The Court responds to the question as follows:

— “A.

The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law”;

— “B.

Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto ...”

— “C.

Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem”;

— “D. By thirteen votes to two,

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;

### Legality of the construction by Israel of a wall in the Occupied Palestinian Territory

The Court determines the rules and principles of international law which are relevant to the question posed by the General Assembly. The Court begins by citing, with reference to Article 2, paragraph 4, of the [United Nations Charter](#) and to General Assembly resolution 2625 (XXV), the principles of the prohibition of the threat or use of force and the illegality of any territorial acquisition by such means, as reflected in customary international law. It further cites the principle of self-determination of peoples, as enshrined in the Charter and reaffirmed by resolution 2625 (XXV). As regards international humanitarian law, ... refererer til flere slike som er applicable in those Palestinian territories that were occupied by Israel during that conflict I 1967.

The Court ascertains whether the construction of the wall has violated the above-mentioned rules and principles. It first observes that the route of the wall as fixed by the Israeli Government includes within the “Closed Area” (between the wall and the “Green Line”) some 80 percent of the settlers living in the Occupied Palestinian Territory. Recalling that the Security Council described Israel’s policy of establishing settlements in that territory as a “flagrant violation” of the Fourth Geneva Convention, the Court finds that those settlements have been established in breach of international law.

It further considers certain fears expressed to it that the route of the wall will prejudice the future frontier between Israel and Palestine; it considers that the construction of the wall and its associated régime “create a ‘fait accompli’ on the ground that could well become permanent, in which case, . . . [the construction of the wall] would be tantamount to de facto annexation”. The Court notes that the route chosen for the wall gives expression in loco to the illegal measures taken by Israel, and deplored by the Security Council, with regard to Jerusalem and the settlements, and that it entails further alterations to the demographic composition of the Occupied Palestinian Territory.

It finds that the “construction [of the wall], along with measures taken previously, . . . severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel’s obligation to respect that right”.

The Court then considers the information furnished to it regarding the impact of the construction of the wall on the daily life of the inhabitants of the Occupied Palestinian Territory (destruction or requisition of private property, restrictions on freedom of movement, confiscation of agricultural land, cutting-off of access to primary water sources, etc.). It finds that the construction of the wall and its associated régime are contrary to relevant provisions . . . that they impede the liberty of movement of the inhabitants of the territory and that they also impede the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living.

Lastly, the Court finds that this construction and its associated régime, coupled with the establishment of settlements, are tending to alter the demographic composition of the Occupied Palestinian Territory and thereby contravene the Fourth Geneva Convention and the relevant Security Council resolutions.

The Court states that it is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives and, holding that none of such clauses are applicable, finds that the construction of the wall constitutes “breaches by Israel of various of its obligations under the applicable international humanitarian law and human rights instruments”.

In conclusion, the Court considers that Israel cannot rely on a right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall. The Court accordingly finds that the construction of the wall and its associated régime are contrary to international law.

#### Legal consequences of the violations found

The Court finds that Israel must respect the right of the Palestinian people to self-determination and its obligations under humanitarian law and human rights law. Israel must

also put an end to the violation of its international obligations flowing from the construction of the wall in the Occupied Palestinian Territory and must accordingly cease forthwith the works of construction of the wall, dismantle forthwith those parts of that structure situated within the Occupied Palestinian Territory and forthwith repeal or render ineffective all legislative and regulatory acts adopted with a view to construction of the wall and establishment of its associated régime, except in so far as such acts may continue to be relevant for compliance by Israel with its obligations in regard to reparation. Israel must further make reparation for all damage suffered by all natural or legal persons affected by the wall's construction.