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Israel/Occupied Territories: Dismantle the wall, says International Court of Justice

In the wake of the Opinion of the International Court of Justice (ICJ), Israel must immediately halt construction of the fence/wall inside the occupied West Bank, dismantle the sections already built there, and make reparation for the damage caused. Amnesty International said.

In its Advisory Opinion, issued today, the ICJ concluded that the construction of the fence/wall by the Israeli army inside the West Bank, including in and around East Jerusalem, violates international human rights and humanitarian law and that *"Israel also has an obligation to put an end to the violation of its international obligations flowing from the construction of the wall in Occupied Palestinian Territories"*.

The ICJ concluded that Israel has an obligation to make reparation for the damage caused so far, noting the principle that *"...reparation must, as far as possible, wipe out all the consequences of the illegal act..."*.

"The Opinion of this world court underscores that Israel's right and duty under international law to take measures to stop potential attackers from entering Israel does not justify building such a fence/wall inside the West Bank. The construction has destroyed agricultural land and the livelihood of tens of thousands of Palestinians for the benefit of unlawful Israeli settlements.

"The security measures that Israel takes must respect international human rights and humanitarian law, including in particular the rights of the Palestinian population," said Amnesty International.

Where the fence/wall has already been built, the Palestinian population is living under virtual siege in towns and villages surrounded by fences, walls, barbed wires, gates and checkpoints. Farmers are separated from their land and water supply while communities are cut off from each other and from schools, healthcare facilities, and other essential services.

As noted by the ICJ, the location of the fence/wall - some 90% of which lies inside the West Bank - benefits scores of Israeli settlements (including some 80% of the settlers living in the West Bank). These settlements are illegal under Article 49 of the Fourth Geneva Convention which forbids an occupying power from transferring part of its civilian population to the territories it occupies.

The ICJ underscored that "every State" which is a High Contracting Party to the Geneva Conventions "is under an obligation to ensure that the requirements of the instruments in question are complied with", and that "the UN, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall...".

Consistent with the Opinion of the ICJ, Amnesty International reiterates its call on the international community to take action to ensure respect for international humanitarian and human rights law in Israel and the Occupied Territories.

Amnesty International also notes the Israeli Supreme Court ruling of 30 June. The Court ruled that the damage inflicted on the local Palestinian population by a section of the fence/wall around West Bank villages north of Jerusalem was not justified by Israel's security needs and thus annulled orders seizing Palestinian land for its construction.

While a positive development, Amnesty International notes that the Israeli Supreme Court ruling concerns only a very small section - less than 40 km out of more than 600 km - of the total route of the fence/wall; and, unlike the ICJ, the Israel Supreme Court failed to address the overarching and underlying illegality under international law of the Israel's construction of the wall inside the Occupied Territories.

Background:

The International Court of Justice is the main judicial organ of the United Nations; its principal seat is located in The Hague (the Netherlands). On 8 December 2003, the UN General Assembly, exercising its powers under Article 96 of the Charter of the United Nations, passed a resolution requesting the ICJ to issue an Advisory Opinion on the legal consequences of the construction by Israel of the fence/wall inside the Occupied Territories. After holding hearings and receiving written submissions, the Court issued its Advisory Opinion on 9 July 2004.

Amnesty International has repeatedly expressed its concern that Israel's construction of the fence/wall inside the Occupied Territories violates the country's obligations under international human rights and humanitarian law. It has called on Israel and the Palestinians to comply with international law and has also called on the international community to take action to ensure such compliance.

See among other documents:

Israel and the Occupied Territories: The place of the fence/wall in international law
<http://web.amnesty.org/library/index/engmd150162004>

Israel and the Occupied Territories: Surviving Under Siege, the impact of movement restrictions on the rights to work <http://web.amnesty.org/library/index/engmd150012003>

Public Document

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