

IN THE
SPOTLIGHT

10 2004 - 2014
YEARS
The ICJ Advisory Opinion on the Wall

 OCHA
oPt

10 YEARS

SINCE THE
INTERNATIONAL COURT
OF JUSTICE (ICJ) ADVISORY
OPINION

9 JULY 2014

On 9 July 2004, the International Court of Justice (ICJ) issued an Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.

The ICJ stated that the sections of the Barrier route which run inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, violated Israel's obligations under international law. The ICJ called on Israel to cease construction of the Barrier 'including in and around East Jerusalem'; dismantle the sections already completed; and 'repeal or render ineffective forthwith all legislative and regulatory acts relating thereto.'¹

Ten years on, 62 per cent of the Barrier has been constructed, including 200 kilometres since the ICJ Advisory Opinion. This report summarizes the continuing humanitarian impact of the Barrier on Palestinian rural and urban communities.



Photo by OCHA

Ras Al Amud, East Jerusalem. March 2014

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Coordination Saves Lives

BARRIER COMPONENTS

In 2002, the Government of Israel approved construction of a Barrier with the stated purpose of preventing violent attacks by Palestinians in Israel. The majority of the Barrier, both constructed and under construction - 445 Km - consists of fences, ditches, razor wire, groomed sand paths, an electronic monitoring system, patrol roads, and a buffer zone. Land for construction of the Barrier is requisitioned from Palestinian landowners by the Israeli Ministry of Defence through military orders. Most orders are valid for three years and have been periodically renewed.



Around 70 Km of the Barrier both constructed and under construction consists of 8-9 metre high concrete slab segments which are connected to form a wall, particularly in urban areas such as Jerusalem, Bethlehem, Qalqiliya and Tulkarm.



FACTS & FIGURES

85%

of the Barrier's route runs inside the West Bank²

9.4%

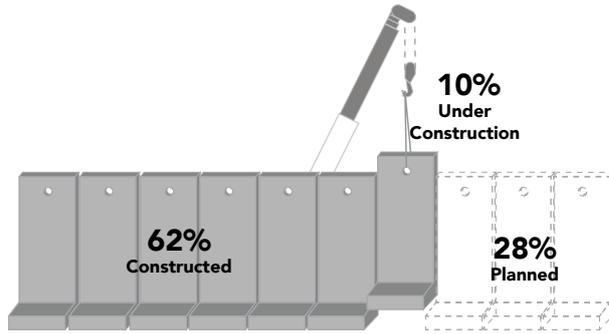
of the West Bank, including East Jerusalem and No-Man's Land will be isolated by the Barrier

65

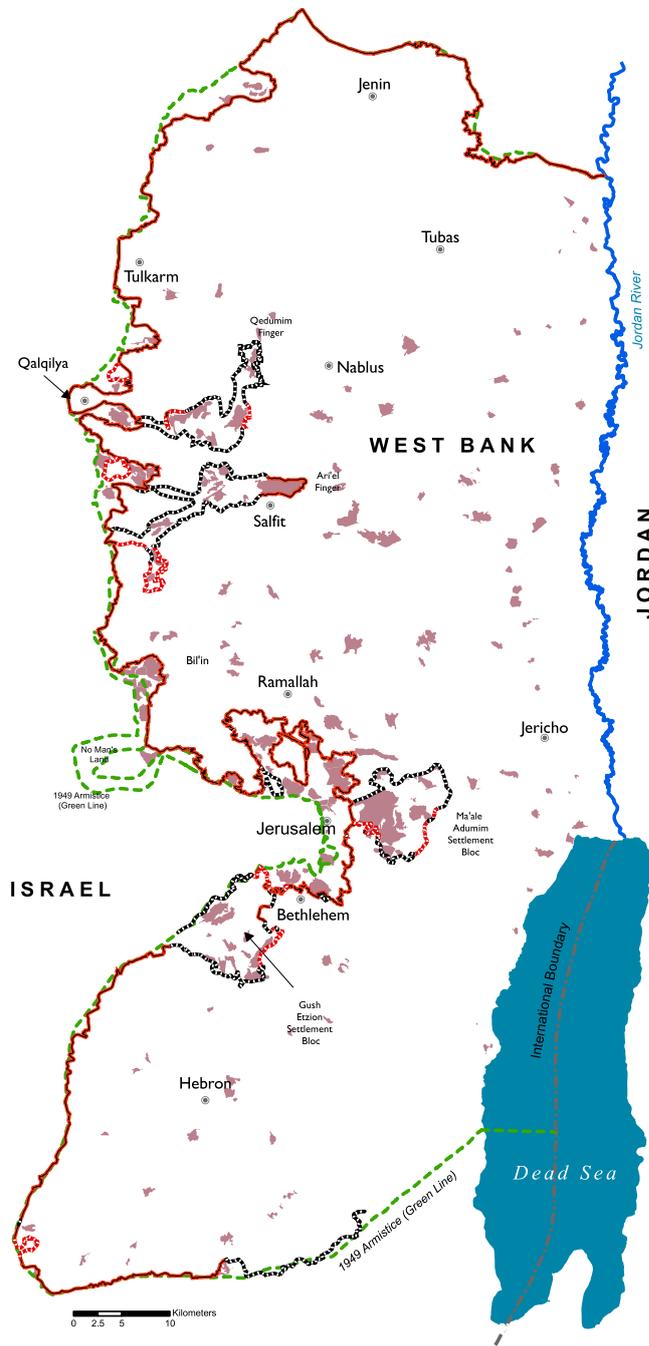
out of 150 Israeli settlements are on the 'Israeli side' of the Barrier

150

Palestinian communities have land located between the Barrier and the Green Line



712 Km
more than twice the length of the **Green Line** (323 Km)



West Bank Barrier

- Constructed
- - - Under Construction
- ⋯ Planned
- Israeli Settlements

HUMANITARIAN IMPACT: UNDERMINING LIVELIHOODS

PERMITS TO ACCESS LAND

Most Palestinian farmers are now obliged to obtain special permits to access their farming land between the Barrier and the Green Line, which has been declared a 'closed area'³. These permits are difficult to obtain. The approval rate in the northern West Bank is only 50 per cent over the last four years, according to OCHA monitoring.⁴



Permits are rejected because of:

1 security grounds

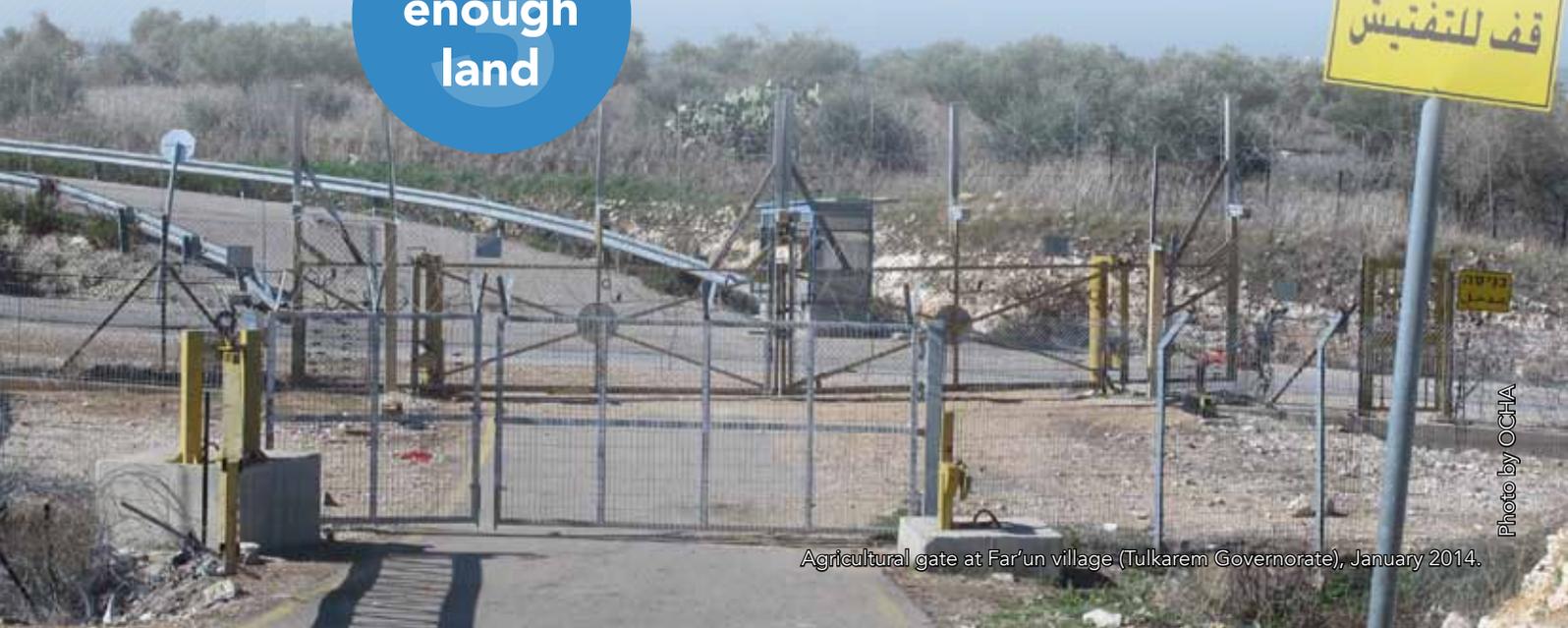
2 lack of valid land documents

3 not enough land



“In 2013 many permits applications were denied for my family, and for many farmers in my village, for security reasons or because the land is too small to qualify for a permit. In other cases, the number of permits issued is not enough for the size of the land, or we are asked to submit new registration documents.”

Mohammed Saed Khatib, farmer Qaffin, Tulkarm



Agricultural gate at Far'un village (Tulkarem Governorate), January 2014.

AGRICULTURAL GATES

For those granted permits, entry to the area between the Barrier and the Green Line is channelled through a gate, designated on the permit. In total, as of the 2013 olive harvest, there were 81 gates designated for agricultural access. However, of these, only nine open daily, and for limited hours. An additional nine open for some day(s) during the week in addition to the olive season. The majority, 63, only open during the olive season, prohibiting year-round access and cultivation.⁵

The Court 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 ... it would be tantamount to de facto annexation.

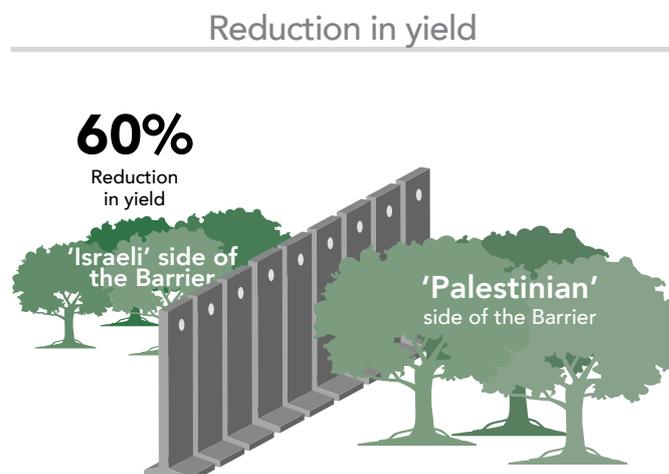
ICJ Advisory Opinion, para. 121.



REDUCED PRODUCTIVITY

The limited allocation of permits, combined with the restricted number and opening times of the Barrier gates, have curtailed agricultural practice and undermined rural livelihoods, forcing farmers to shift from labour-intensive to rain-fed and low-value crops, or to stop cultivation entirely. Olive production has been especially affected, as activities such as ploughing, pruning, fertilizing and pest and weed management need to be carried out at certain fixed periods of the year. Delays or prevention of any of the activities has an adverse impact on olive productivity and value.

Data collected by OCHA in the northern West Bank since 2010 show that olive trees in the area between the Barrier and the Green Line have an approximately 60 per cent reduction in yield compared to their equivalents on the 'Palestinian' side of the Barrier, where the essential activities can be carried out on a regular and predictable basis.⁶



HUMANITARIAN IMPACT: LIVING IN AN ENCLAVE

11,000

West Bank
Palestinians are
isolated between
the Barrier and the
Green Line

If the Barrier is
completed
as planned,

25,000

more West Bank
Palestinians will reside
between the Barrier
and the Green Line

The intrusive route of the Barrier leaves whole Palestinian communities – approximately 11,000 people – stuck between the Barrier and the Green Line, excluding East Jerusalem. Most residents over 16 years of age are obliged to apply for ‘permanent resident’ permits just to continue to live in their own homes.⁷ Most of these communities lack basic health, education and other services, including shops, obliging residents to pass through a checkpoint to reach workplaces and essential services and to maintain family and social relations with family and friends on the ‘Palestinian side’ of the Barrier. Their family members and friends require permits to enter these areas with the result that birthday parties, religious holidays and weddings have to be held on the ‘West Bank’ side of the Barrier. The entry of dairy products, meat and eggs is also restricted and service providers require permits to enter these areas.

“My main wish is to be like any other child in the world and that my friends can come freely to visit me at home.”

Ziad, pupil from Nazlat Issa in Tulkarm, whose house lies between the Barrier and the Green Line and who must cross a checkpoint to go to school.⁸





In the northern West Bank, the Barta'a enclave consists of eight communities (pop. approximately 6,000) which have been severed by the Barrier from the rest of the West Bank. The nearest hospital is in Jenin, accessible only through a checkpoint. Abu Rami, a member of the village council, is responsible for the coordination with the Israeli authorities.

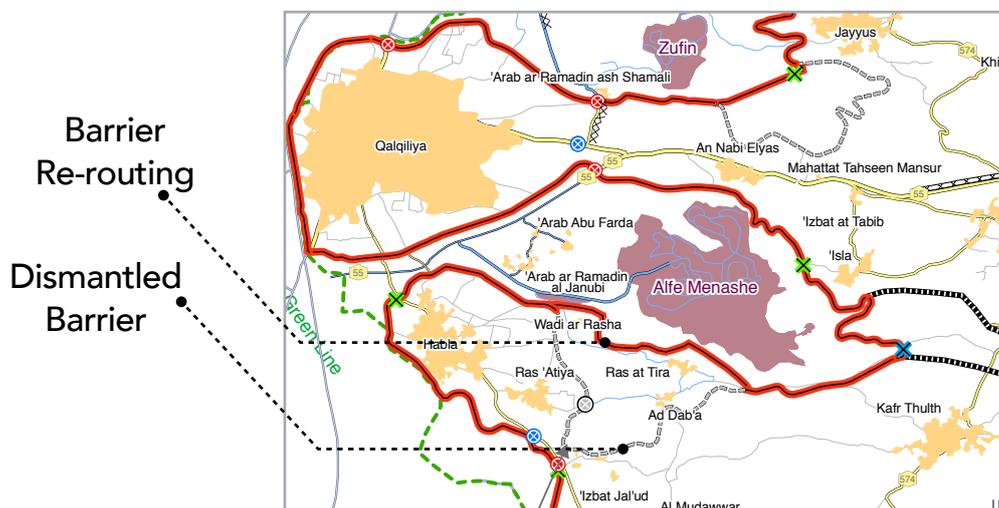
“I deal almost daily with cases of sick people who need to cross the checkpoint. Anyone who cannot walk needs special coordination with the Israelis as well as anyone who has to cross during the night when the checkpoint is closed. With the Barrier and the checkpoint, what was a 15 minutes drive to or from Jenin now takes about one hour.”

(The Barrier) has further led to increasing difficulties for the population concerned regarding access to health services, educational establishments and primary sources of water.

ICJ Advisory Opinion, para. 133

BARRIER RE-ROUTING

Re-routings of the Barrier in recent years have 'reconnected' a number of communities isolated between the Barrier and the Green Line to the remainder of the West Bank. In May 2010, a re-routing 'returned' three communities – Ad Dab'a, Wadi Ar Rasha and Ras at Tira, Qalqiliya (nearly 900 people) - thus facilitating their access to services and livelihoods on the 'West Bank' side of the Barrier. However, these amendments, which are in compliance with decisions issued by the Israeli High Court of Justice rather than the ICJ advisory opinion, leave the re-routed sections of the Barrier within the West Bank rather than along the Green Line or in Israel.



IMPACT ON EAST JERUSALEM: FRAGMENTING THE URBAN FABRIC

Access to East Jerusalem for West Bank ID holders restricted to

4 of 13
checkpoints.

1,400

West Bank residents now isolated on the 'Jerusalem' side of the Barrier

1000's

of East Jerusalem residents now located on the 'West Bank' side of the Barrier

East Jerusalem has traditionally served as the focus of political, commercial, religious and cultural life for the entire Palestinian population of the West Bank and Gaza Strip, and a hub for essential services.¹⁰ Palestinians from the remainder of the oPt require permits just to access the city, with entry restricted to four of 13 checkpoints around the city. The majority of these

have been incorporated into the Barrier, further restricting access and intensifying the separation of East Jerusalem from the remainder of the West Bank.¹¹

Certain Palestinian communities such as Kafr 'Aqab and Shu'fat Refugee Camp, are now located within the Jerusalem municipal boundary on the 'West Bank' side of the Barrier. They need to cross Barrier checkpoints to access the health, education and other services to which they are entitled as Jerusalem residents.¹²

Conversly, some 1,400 West Bank residents living in 17 communities are now isolated on the 'Jerusalem' side of the Barrier but they are denied residency and access to work and services in East Jerusalem.¹³

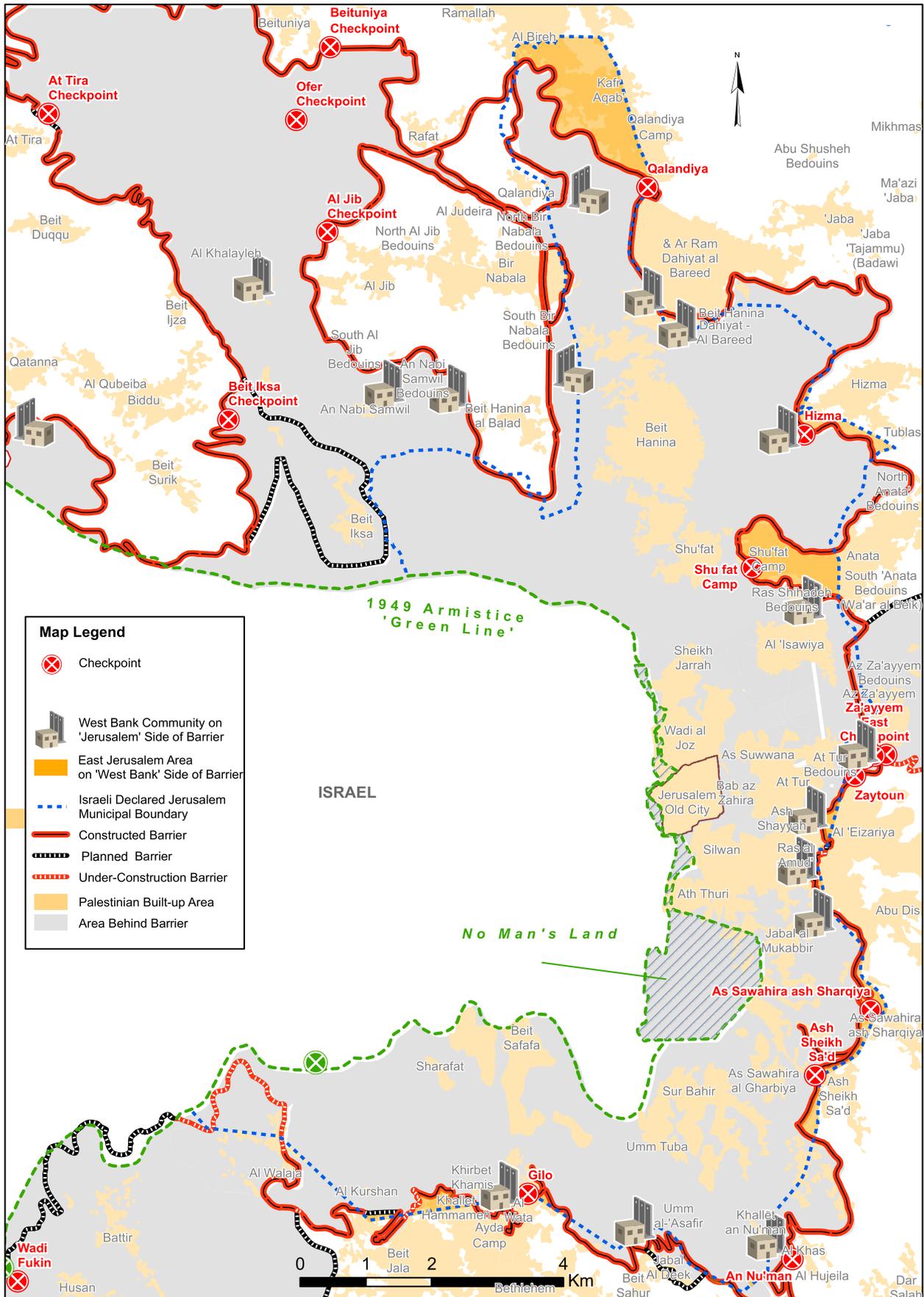
The wall's sinuous route has been traced in such a way as to include within that area the great majority of the Israeli settlements in the occupied Palestinian Territory (including East Jerusalem).

ICJ Advisory Opinion, para. 119.



Qalandia checkpoint, March 2013.

THE BARRIER IN EAST JERUSALEM



ICJ OPINION

- On 9 July 2004, the International Court of Justice (ICJ), the principal judicial organ of the United Nations, issued an Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. The ICJ recognized that Israel 'has to face numerous indiscriminate and deadly acts of violence against its civilian population [however], the measures taken are bound nonetheless to remain in conformity with applicable international law.'
- The ICJ stated that the part of the Barrier which runs inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, violates Israel's obligations under international law.
- The ICJ called on Israel to:
 - cease construction of the Barrier 'including in and around East Jerusalem';
 - dismantle the sections already completed;
 - 'make reparations' for the 'requisition and destruction of homes, businesses and agricultural holdings' and 'to return the land, orchards, olive groves, and other immovable property seized.'

Given the powers and responsibilities of the United Nations in questions relating to international peace and security, it is the Court's view that the construction of the wall must be deemed to be directly of concern to the United Nations.

ICJ Advisory Opinion, para. 49

International Legal Obligations of Member States:

- Not to recognize the illegal situation resulting from the construction of the Wall in the Occupied Palestinian Territory, including in and around East Jerusalem.
 - Not to render aid or assistance in maintaining the situation created by such construction.
 - To see to it that any impediment, resulting from the construction of the Wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end.
- UN General Assembly Resolution ES-10/15, of 20 July 2004, demanded that Israel comply with its legal obligations as stated in the ICJ opinion.¹⁴



END NOTES

1. ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004*, para. 141. The full text of the ICJ opinion can be found at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4>
2. For a comparison of the successive Barrier routes and revisions see OCHA, *Five Years after the International Court of Justice Advisory Opinion*, July 2009, pp. 10-11. http://www.ochaopt.org/documents/ocha_opt_barrier_report_july_2009_english_low_res.pdf
3. In the northern West Bank, the land between the Barrier and the Green Line was declared closed by military order in October 2002. In January 2009, the closed area designation was extended to all or part of areas between the Barrier and the Green Line in the Salfit, Ramallah, Bethlehem and Hebron districts, and various areas between the Barrier and the Israeli-defined municipal boundary of Jerusalem.
4. See 'Overview of the 2013 olive season', OCHA Humanitarian Bulletin, December 2013. http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_01_20_english.pdf
5. Ibid. The figures are correct as of the 2013 olive harvest.
6. See 'Impact of the Barrier on agricultural productivity in the northern West Bank', OCHA Humanitarian Bulletin, February 2013. http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_03_19_english.pdf
7. In certain areas not designated closed, an ID card/prior coordination system operates.
8. See 'Impact of the Barrier on education' in OCHA Humanitarian Bulletin, April 2013. http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_05_21_english.pdf
9. See 'The case of the Barta'a Enclave', OCHA, *West Bank Movement and Access Update*, September 2012. http://www.ochaopt.org/documents/ocha_opt_movement_and_access_report_september_2012_english.pdf
10. Ten percent of hospitals beds in the oPt are located in Jerusalem. The six hospitals in East Jerusalem have served Palestinians for more than 50 years, offering specialized treatment that is not available in the West Bank or Gaza Strip. World Health Organization, 'The Wall: 10 years of dividing Palestinians in the oPt and restricting access to health care,' July 2014. <http://www.emro.who.int/pse/palestine-news/the-wall-10-years-of-dividing-palestinians-in-the-opt-and-restricting-access-to-health-care.html>
11. See OCHA, *East Jerusalem: Key Humanitarian Concerns, March 2011*. http://www.ochaopt.org/documents/ocha_opt_jerusalem_report_2011_03_23_web_english.pdf
12. Ibid, pp.69-72.
13. See 'Dislocated communities on the Jerusalem side of the Barrier; concern over forced displacement' in OCHA Humanitarian Bulletin, March 2013. http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_04_29_english.pdf
14. Resolution ES10/14 adopted by the General Assembly of the United Nations on 8 December 2003 at its Tenth Emergency Special Session.



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