

B E H I N D T H E

# WALL

Focus on International Responsibility  
On the 10 year anniversary of the ICJ Advisory Opinion

Palestine Liberation Organization  
NEGOTIATIONS AFFAIRS DEPARTMENT

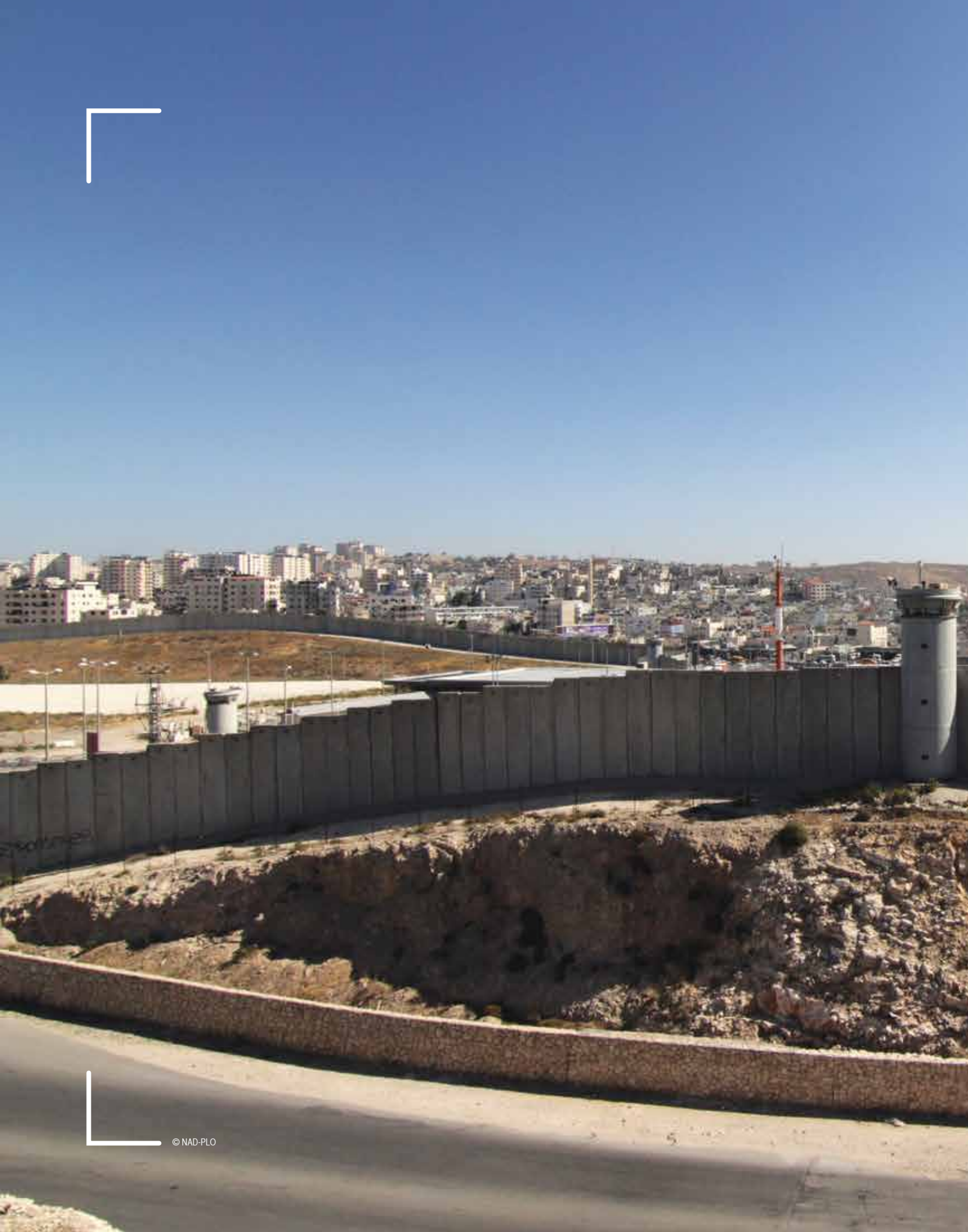


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**W A L L**

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“ 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 ”



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## Introduction

The Annexation Wall is the most visible element of Israel's occupation and control over the land and people of Palestine. Behind it, and indeed all around it, lie a series of equally ugly policies and practices designed to colonize and annex as much land as possible, with complete disregard for the lives and livelihoods of the people who have lived on that land for centuries.

Ten years ago, the International Court of Justice (ICJ) rendered an Advisory Opinion on the legal consequences of Israel's construction of a wall in the occupied Palestinian territory. The Court ruled that Israel's construction of the Wall and its associated administrative regime violate international humanitarian law and international human rights law. It called on Israel to cease construction of the Wall, dismantle its sections within Palestinian territory, and make reparations for the harm it caused. The Court also ruled that all States have a duty not to recognize or support the illegal situation created by the Wall and its associated regime, and recommended that the UN Security Council and UN General Assembly take all necessary action to end to that illegal situation.

But ten years later, the Wall still stands. The international community has not acted forcefully to demand that Israel dismantle the Wall and eliminate its associated administrative regime. On the tenth anniversary of the ICJ Opinion, such action is overdue and more imperative than ever. Part I of this booklet shows how the Annexation Wall plays an integral role in the deteriorating situation on the ground in occupied Palestine. Part II focuses on the conclusions of the ICJ Advisory Opinion and international responsibility in theory and practice.





# PART I - THE REALITY ON THE GROUND

## 10 things that have taken place in 10 years since the ICJ Advisory Opinion

**1**

4744 Palestinian men women and children have been killed and 24,243 people have been injured.<sup>1</sup>

**2**

Israeli military forces have raided Palestinian areas, storming into homes, businesses and other premises on over 76,000 separate occasions.<sup>2</sup>

**3**

46,268 people<sup>3</sup> have been arrested for “crimes” which may include any form of political protest, and sometimes for no reason whatsoever. There are currently around 350<sup>4</sup> administrative detainees incarcerated in Israeli prisons for indefinite periods without charge or trial.

**4**

Over 3250 homes and agricultural structures have been demolished, leaving many Palestinian families homeless.<sup>5</sup>

**5**

Almost 50,000 ‘flying checkpoints’ have arbitrarily stopped people, delaying journeys and most often subjecting them to harassment from Israeli soldiers.<sup>6</sup>

<sup>1</sup> Palestine Monitoring Group.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Addameer Prisoner Rights and Human Rights Association, as of June 25 2014.

<sup>5</sup> Palestine Monitoring Group.

<sup>6</sup> Ibid. Exact figure 49,794.

**6**

Israeli settlers, living illegally on Palestinian land, have committed almost 10,000 acts of violence and terrorism against vulnerable Palestinian communities, including the burning and uprooting of trees, damage to vehicles and places of worship, slaughtering of animals and injuring and killing of people.<sup>7</sup>

**7**

The population of Israeli settlers has grown by 116,000 settlers: from 424,000 in 2004 to more than 540,000 in 2012, an increase of 27%.<sup>8</sup>

**8**

Israel and its settlers continue to illegally appropriate and exploit Palestinian land to grow and manufacture products which are sold in international markets. The value of exports from the illegal settlements to the EU is over 15 times that of Palestinian exports to the EU.<sup>9</sup>

**9**

Israel has continued to expropriate non-renewable resources belonging to Palestine. Through West Bank quarries operating in violation of international humanitarian law, Israel pillages 12 million tons of stone per year.<sup>10</sup>

**10**

In 2004, the Food and Agriculture Organization of the United Nations (FAO) found that 40% of Palestinians were food insecure. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reports that number rising to 57% in 2012.<sup>11</sup>

Israel's prolonged occupation of Palestine cannot be described as a status quo. It is reality which deteriorates on a daily basis, leaving Palestinian men, women and children in a constant state of fear and vulnerability.

<sup>7</sup> Palestine Monitoring Group. Exact figure 9933.

<sup>8</sup> Foundation for Middle East Peace and The Statistical Yearbook of Jerusalem. Figures are only available up until 2012.

<sup>9</sup> FIDH, 'Trading Away Peace: How Europe helps sustain illegal Israeli settlements', October 2012, p. 20, <http://www.fidh.org/IMG/pdf/trading.pdf> The value of exports from settlements to the EU is 230 million euro, while Palestinian exports to the EU is 15 million euro.

<sup>10</sup> Yesh Din, 'Petition to the Israeli High Court of Justice', March 2000, p. 9, <http://www.yesh-din.org/userfiles/file/Petitions/Quarries/Quarries%20-%20Petition%20ENG.pdf>

<sup>11</sup> The World Bank, 'Disengagement, the Palestinian Economy and the Settlements', June 2004, p. 29, n.22: <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/psannexdiseng.pdf> and OCHA, 2014 Humanitarian Needs Overview, November 2013 [http://www.ochaopt.org/documents/ochaopt\\_HNO\\_2014.pdf](http://www.ochaopt.org/documents/ochaopt_HNO_2014.pdf)



## The Wall: Basic Facts

On 14 April 2002, the Government of Israel adopted a decision to begin constructing a Wall in the occupied West Bank. Though claimed to be a Wall of “separation” between Israelis and Palestinians due to “security reasons”, the Wall’s route, which snakes deep into the West Bank, exposes it as a new element in Israel’s colonialist enterprise. The facts speak for themselves:

- The length of the Wall, once completed, will be approximately 712 km, which represents more than twice the length of the 1967 border<sup>12</sup> (320 km), the internationally-recognized border between the Occupied West Bank and Israel.<sup>13</sup>
- 85% of the Wall is built on Palestinian land rather than on the actual border.<sup>14</sup>
- The Wall projects as deep as 22 kilometers into the West Bank (around Ariel settlement) and effectively annexes to the State of Israel some of the most vital areas within the Occupied State of Palestine, such as East Jerusalem<sup>15</sup>, the Latrun area, the western Bethlehem / Hebron area and the Eastern Jerusalem governorate.
- Once the Wall is completed, the size of the area between it and the 1967 border will be 9.4% of the West Bank, which includes East Jerusalem.
- There are currently approximately 11,500 people living in 32 communities trapped between the Annexation Wall and the Green Line<sup>16</sup>, in addition to the roughly 300,000<sup>17</sup> Palestinians who live in East Jerusalem. If the Wall is completed, an additional 25,000 will find themselves similarly trapped, mostly in the Bethlehem area.<sup>18</sup>
- Around 35,000<sup>19</sup> Palestinians with Israeli-issued West Bank IDs will be trapped on the western side of the Annexation Wall once it is completed, while an estimated 55,000 Jerusalemites are now cut off from their city.
- Approximately 125,000 Palestinians spread across 28 communities will be surrounded on three sides by the Wall once it is completed.<sup>20</sup>
- Approximately 26,000 Palestinians in 8 communities living at the Issawiya and BirNabala enclaves will be surrounded by the Annexation Wall on all sides.<sup>21</sup>



<sup>12</sup> The 1967 border is defined as the 1949 Armistice Line ('The Green Line') along with all legal modification thereto up to June 4th 1967.

<sup>13</sup> UNOCHA, The Humanitarian Impact of the Barrier, July 2013, [http://www.ochaopt.org/documents/ocha\\_opt\\_barrier\\_factsheet\\_july\\_2013\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_barrier_factsheet_july_2013_english.pdf)

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> UNOCHA, figures requested and verified June 2014.

<sup>17</sup> Association for Civil Rights in Israel (ACRI) 'East Jerusalem 2014- By the Numbers', May 2014, <http://www.acri.org.il/en/2014/05/24/ej-numbers-14/#fn1>

<sup>18</sup> UNOCHA, figures requested and verified June 2014


<sup>19</sup> UNOCHA, West Bank Barrier Route Projections, July 2009, [http://www.ochaopt.org/documents/ocha\\_opt\\_wb\\_barrier\\_july\\_2009\\_excerpts\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_wb_barrier_july_2009_excerpts_english.pdf)

<sup>20</sup> UNOCHA, A Summary of the Humanitarian Impact of the Barrier, July 2009 p.9.

<sup>21</sup> Ibid.

# The Route of the Wall

State of Palestine  
 Wall and Colonization Portfolio



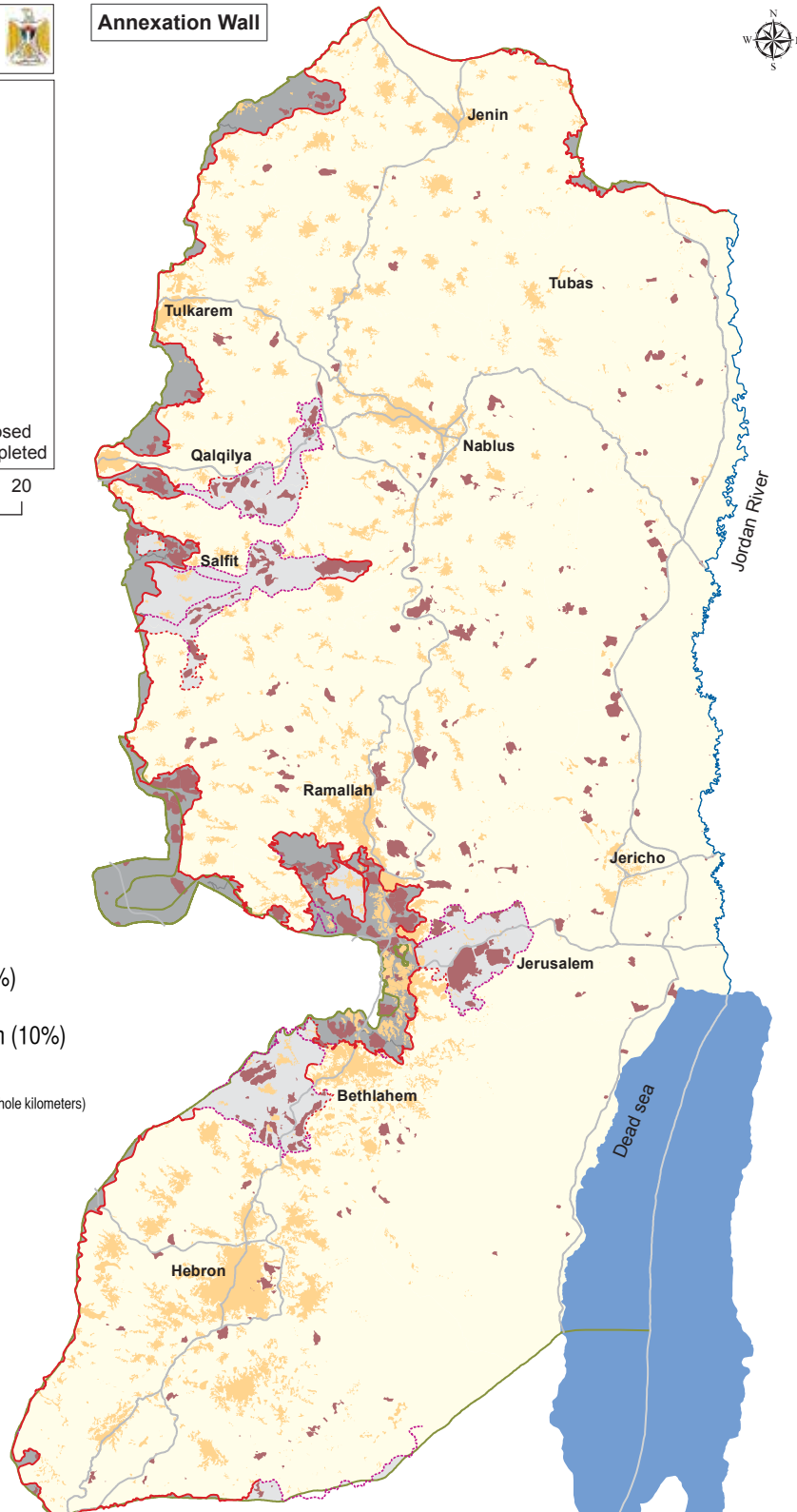
**Legend**

**Annexation Wall**

- Constructed
- Under Construction
- Projected
- Green Line
- Main Road
- Settlements
- Palestinian Built-up
- Area totally closed behind wall
- Area that will be closed once the wall is completed

0 5 10 20  
 Kilometers

## Annexation Wall



### STATUS OF THE WALL

Constructed: 443km (62 %)  
 Projected: 200km (28 %)  
 Under Construction: 69km (10%)  
 Total: 712km(100%)

Source: OCHA 2013 (figures rounded to whole kilometers)

June 2014

## The Associated Regime

The 'associated regime' is the administrative system of control associated with the Wall, comprising of elements which help to sustain the Wall and its annexation of Palestinian land.



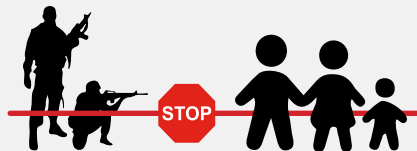
### Confiscation and Destruction of property:

In order to build the Annexation Wall, Israel has destroyed Palestinian homes and property that either lie on the route of the Wall, or are built close to the Wall and do not have permits issued by the Occupying Power.



### Gates and Checkpoints:

The Wall separates people from their land, family and friends, schools, hospitals, workplaces and places of worship. Israel alleges that through a system of military-manned gates and checkpoints Palestinians can still access their land, but the system is not easy: Special military permits, reduced hours of crossing and mistreatment are only a few of the obstacles imposed on a daily basis.



### Permit System:

Since 1991, Israel has imposed its permit regime on Palestinians living in the Occupied State of Palestine. Originally affecting mainly Palestinians from Gaza living in the West Bank, today all Palestinians are subjected to this system of military permits. The construction of the Wall has meant that Palestinians aiming to access areas within their own district are now also forced to apply for permits. According to Israeli military order 1650, if a Palestinian is caught in an area without the required Israeli-issued permit, he or she could be imprisoned or deported as an "infiltrator" in his or her own country.<sup>22</sup>

### Identification Documents (IDs):

Through its ID system, Israel has divided Palestinians into five different categories: Palestinians with West Bank IDs (who may not enter East Jerusalem or Gaza without special permission); Palestinians with Gaza Strip IDs (who may not enter the West Bank, which includes East Jerusalem, without special permission); Palestinians with East Jerusalem IDs (who are treated as alien residents in their own city); Palestinians with Israeli Passports; and Palestinians with foreign passports (who may only visit their homeland on an Israeli tourist visa and are frequently denied entry). With the Annexation Wall, Israel has been making use of the ID system to forcibly displace people, by claiming that, for those who are now trapped on the non-Jerusalem side of the Wall, Jerusalem is no longer their center of life. East Jerusalem IDs are then revoked and replaced with West Bank IDs, as part of a policy to ethnically cleanse Jerusalem of its Palestinian Christian and Muslim identity.

<sup>22</sup> [http://www.hamoked.org.il/items/112301\\_eng.pdf](http://www.hamoked.org.il/items/112301_eng.pdf)



## Trapped between the Wall and the Green Line: The Direct Impact of the Wall and its Associated Regime

The 'Seam Zone', as it is often referred to, is the 9.4% of the occupied West Bank, which includes East Jerusalem, that lies between the Annexation Wall and the Green Line, effectively trapping 25 000 people, plus the 270 000 Palestinians who live in occupied East Jerusalem.

The 25 000 who do not live in East Jerusalem have found themselves **living in enclaves**, imprisoned by the huge concrete wall which, in some places, surrounds homes on all four sides. Aside from the horror of having an 8-meter concrete wall built around one's home, the effects on people's lives has been devastating due to the **inability to move freely and access basic necessities** such as health services, places of work, educational institutions and places of worship for Christians and Muslims.

Around 11,000 Palestinians who live between the Wall and Green Line must have **permits** or special arrangements **simply to continue to live in their own homes.**<sup>23</sup>

In many places, Palestinians are **cut off from their sources of livelihood**, mostly in terms of agricultural land. Approximately 150 communities have land located on the other side of the Wall.<sup>24</sup> Though Israel claimed that access would be granted to agricultural lands left on the Western side of the Wall, Palestinian farmers and their families face a number of obstacles in order to get to their land. Of the 74 agricultural gates in the Wall, Israel opens only 22 for most of the year, with the exception of one six-week period, during the olive harvest season.<sup>25</sup> Moreover, in order to pass through the gates, **Palestinians are required to obtain special military permits.**

The difficulties and obstacles imposed by the Wall and its associated regime have led to the **forced displacement of Palestinians**, who are either physically evicted from their homes, threatened with the revocation of their residency status in East Jerusalem or compelled to leave their homes because of the increasingly harsh reality of their daily lives, as a result of Israel's policies and practices.



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<sup>23</sup> UNOCHA, The Humanitarian Impact of the Barrier, July 2013, [http://www.ochaopt.org/documents/ocha\\_opt\\_barrier\\_factsheet\\_july\\_2013\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_barrier_factsheet_july_2013_english.pdf)

<sup>24</sup> Ibid.

<sup>25</sup> Ibid, n.2.

## The Wider system of Colonization and Annexation

When Israel occupied the West Bank and Gaza Strip in 1967, the Israeli government developed the Allon Plan. The Allon Plan defined the West Bank areas that Israel would annex and the areas that could be left for “Arab autonomy”. In order to implement this plan, Israel began incentivizing its population to move into occupied territory through the construction of settlements and related infrastructure such as bypass roads, industrial parks, agricultural settlements and other public infrastructure for the exclusive use of Israeli settlers. Many of the areas which were earmarked for annexation in the Allon Plan are now being annexed by the Wall.

The initial seizures of land, for the construction of settlements, were later accompanied by infrastructure such as roads and power grids, as well as elements of subjugation and control such as evictions, home demolitions, movement restrictions and the permit regime, which would isolate various Palestinian areas. The Annexation Wall is the latest component of the settlement enterprise. It expropriates yet more land, for the expansion of many settlements, primarily those in and around Occupied East Jerusalem. For the Palestinians, the Wall fragments not only the land but also the very social fabric of the Palestinian people. Ten years after the ICJ condemned it, the Wall is now an integral element of Israel’s project of colonization.



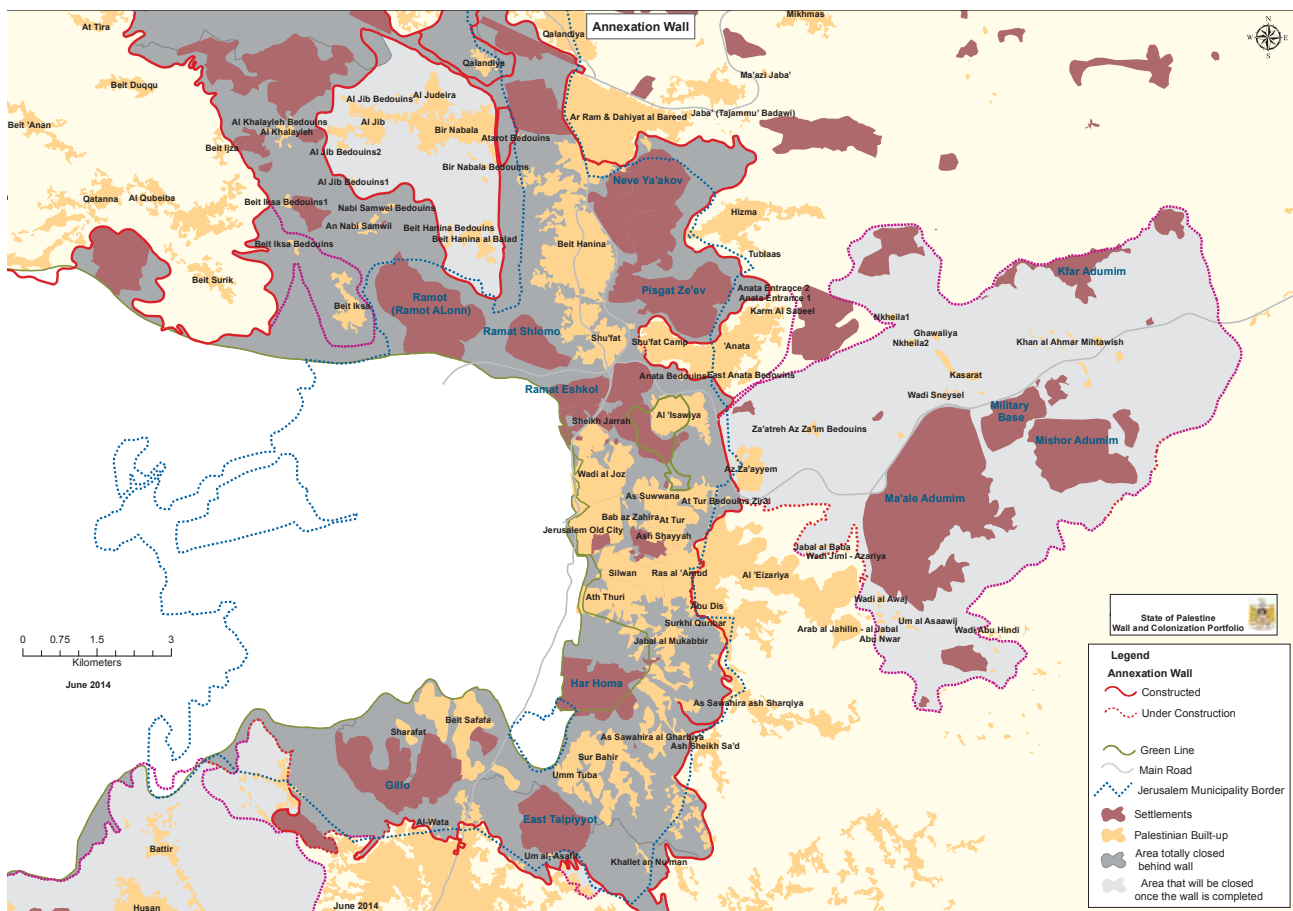


## Close-up: The Annexation Wall in Jerusalem

In and around Occupied East Jerusalem, the Wall consolidates Israel's unlawful annexation of the city. Of the 168 kilometers planned for the Wall in the Jerusalem area, only 3% runs along the 1967 border. Most of the Wall incorporates Israeli settlements built in rings around East Jerusalem. The traditional metropolitan area of Jerusalem, a corridor of 30 kilometers running from Ramallah in the north to Bethlehem in the south, has been completely disrupted by the settlements and Wall. This corridor has traditionally accounted for 35% of the Palestinian national economy.

The Wall in East Jerusalem isolates the Palestinian capital from the rest of the occupied State of Palestine. It severely restricts Palestinian access to hospitals,<sup>26</sup> educational centers and places of worship. Palestinians trapped between the Wall and the Green Line in areas such as the Mount of Olives, Eizzariya (Bethany) and Abu Dis have the dual problem of lack of access to family, friends, basic services, workplaces and places of worship, and the risk of losing their residency rights in their home city and national capital.

For Israel, the Wall and its associated regime help to achieve the goal of turning Jerusalem into an exclusively Jewish city and the “eternal and undivided capital of Israel”. At the outset of the Wall's construction, Israeli minister Haim Ramon stated: “[The Wall] also makes [Jerusalem] more Jewish. The safer and more Jewish Jerusalem will be, it can serve as a true capital of the state of Israel.” Asked about the Palestinian neighborhoods that would be isolated by the Wall, Mr. Ramon said: “I don't think anybody is sorry about this.”<sup>27</sup>



“Wall and Colonization Portfolio”

<sup>26</sup> The six Palestinian hospitals in Occupied East Jerusalem provide services that are unavailable in the rest of the Occupied State of Palestine such as dialysis, oncology, open heart surgery, neurosurgery, neonatal intensive care, eye surgery and rehabilitation for handicapped children.

<sup>27</sup> “Wall Makes Jerusalem More Jewish” in The Guardian, July 12 2005. Available at <http://www.theguardian.com/world/2005/jul/12/israel1>



# PART II-INTERNATIONAL RESPONSIBILITY IN THEORY AND PRACTICE

## The ICJ Advisory Opinion and International Responsibility

On 14 April 2002, the Government of Israel adopted a decision to begin constructing a Wall in the occupied West Bank. In October 2003, the General Assembly, gravely concerned at the situation, requested an Advisory Opinion from the International Court of Justice on the 'Legal Consequences of the Construction of a Wall in the occupied Palestinian Territory'. The ICJ rendered its Advisory Opinion on that question on July 9, 2004. The Court reached several conclusions that triggered international responsibility to suppress Israeli violations of Palestinian human rights and end Israel's infringement of the universally recognized Palestinian right to self-determination.



The International Court of Justice, Peace Palace, The Hague, © Roman Boed

### The Wall is tantamount to annexation

“ The Court notes that the route of the wall as fixed by the Israeli Government includes within the “Closed Area” ... some 80 per cent of the settlers living in the Occupied Palestinian Territory.” (119) ”

“ As regards these settlements, the Court notes that Article 49, paragraph 6, of the Fourth Geneva Convention provides: “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” (120) ”

“ The Court considers that the construction of the wall and its associated regime create a “fait accompli” on the ground that could well become permanent, in which case, and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to *de facto* annexation. (121) ”

“ ...the route chosen for the wall gives expression in loco to the illegal measure taken by Israel with regard to Jerusalem and the settlements, as deplored by the Security Council. (122) ”

### The route of the Wall is not necessary for Israel's security

“ To sum up, the Court, from the material available to it, is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives. The wall, along with the route chosen, and its associated regime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public order. (137) ”

“ 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... (142) ”

## Israel is obliged to cease its construction, dismantle the Wall and make reparations .....

“ Israel has, first, a legal obligation to bring the illegal situation to an end by ceasing forthwith the construction of the wall... (145) ”

“ ...Israel is under a legal obligation to make reparation for the damage arising from its unlawful conduct. (145) ”

“ ...reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed. (152) ”

“ ...Israel is under a continuing duty to comply with all of the international obligations violated by it as a result of the construction of the wall... (145) ”

“ All legislative and regulatory acts adopted with a view to its [the Wall's] construction, and to the establishment of its associated regime, must forthwith be repealed or rendered ineffective. (151) ”

## With specific regard to international responsibility:

### Duty of non-recognition and obligation not to render aid or assistance in maintaining the illegal situation .....

“ Given the character and importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognise the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. (159) ”

### Affirmation of Palestinian-Self Determination as the obligation of all States .....

“ Every State has the duty to refrain from any forcible action which deprives peoples...of their right to self-determination (Quoted from the UN Charter) (88) ”

“ ...a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person...that they are “to be observed by all States whether or not they have ratified the conventions that contain them... (Quoted from a previous ICJ opinion of 1996) (157) ”

“ The obligations *erga omnes* violated by Israel are the obligation to respect the right of the Palestinian people to self-determination, and certain of its obligations under international humanitarian law. (155) ”

### Additional onus on State parties to the Fourth Geneva Convention .....

“ All State parties to the Fourth Geneva Convention [relative to the Protection of Civilian Persons in Time of War of 12 August 1949] have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention... ”

“ The Court would recall that the Fourth Geneva Convention was ratified by Israel on 6 July 1951 and that Israel is a party to that Convention. (91) ”

### Onus on the UN Security Council and UN General Assembly to take action .....

“ ...the Security Council and the General Assembly must take due account of the advisory opinion to be given by the Court. (145) ”

“ Finally, the Court is of the view that the United Nations, 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 and the associated regime... (160) ”

## International Responsibility in Practice: Manifestations of the Duty of Non-Recognition

The ICJ Advisory Opinion is clear about the obligations of the international community with regard to Israel's violations of international law through the construction of the Wall and its associated regime. Unfortunately the theory of international responsibility is seldom turned into practice. However, in recent years, there have been some steps taken which begin to show signs of the implementation of international law as it relates to the situation in Palestine. Below are two examples of the manifestation of the duty of non-recognition, which show how international responsibility can be put into practice, and how it can go further.

### The EU Guidelines on grants, prizes and financial instruments:<sup>28</sup> A welcome step

These guidelines, published in July 2013 and effective January 1, 2014, represent a step towards aligning the EU's operative policy with its long-held declarative policy towards Israel's occupation and illegal settlement enterprise. The guidelines are designed to ensure the full and effective implementation of the EU's own legislation, which must be interpreted consistently with the Union's commitment to uphold international law.

The EU's position is that it does not recognize Israeli expressions of sovereignty in the territory which it has occupied since June 1967.<sup>29</sup> The EU therefore decided that Israeli entities in the occupied State of Palestine would no longer be eligible for EU funding.

Following the same principle, the EU recently informed Israel's Ministry of Agriculture that European countries can no longer buy poultry or poultry products produced in Israeli settlements, as it does not recognize Israeli veterinarian procedures beyond the 1967 border.

While the focus is usually taken to be settlements, the principle of non-recognition employed by the EU, through these guidelines, applies to all Israeli expressions of sovereignty over Palestinian territory. The Wall and its associated regime is another such expression. As seen in the previous section, the ICJ Opinion highlighted that all states have an obligation not to recognize or render assistance to the unlawful situation created by the wall and its associated regime.

It is now important to ensure that the EU guidelines are fully implemented. States should adopt the interpretation of the duty of non-recognition embodied in the Guidelines in their bilateral relations with Israel, and go further in ensuring that they are not supporting those who are directly or indirectly involved in Israel's settlement enterprise, of which the Wall is an integral element.



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<sup>28</sup> For the full text of the Guidelines see: [http://eeas.europa.eu/delegations/israel/documents/related-links/20130719\\_guidelines\\_on\\_eligibility\\_of\\_israeli\\_entities\\_en.pdf](http://eeas.europa.eu/delegations/israel/documents/related-links/20130719_guidelines_on_eligibility_of_israeli_entities_en.pdf)

<sup>29</sup> The EU's position is particularly clearly stated in its Council Conclusions from May and December 2012. May 2012: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/dplc/dv/council-conclusion/\\_council-conclusion\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dplc/dv/council-conclusion/_council-conclusion_en.pdf); December 2012: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/dplc/dv/council-conclusion/\\_council-conclusion\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dplc/dv/council-conclusion/_council-conclusion_en.pdf)





## Business Guidance

The UN Guiding Principles on Business and Human Rights of 2011 (UNGP)<sup>30</sup> are a non-binding global standard preventing and addressing the risk of adverse impacts on human rights linked to business activity. In March 2014, the 47 member states of the UN Human Rights Council voted almost unanimously (with the exception of the United States) in favor of resolutions calling for the implementation of the UNGP in relation to Israel's occupation.

A number of States have issued official business guidance statements, warning businesses of political, legal, financial and reputational risks of involvement in settlements.

The EU has also prepared a similar document, referred to as the 'Common Messages.' This is a short statement aimed at raising awareness among EU citizens and businesses regarding the risks of involvement in financial and economic activities in the settlements. This document is yet to be published.

As with the EU Guidelines, this rests on the principle that Israeli expressions of sovereignty in the occupied State of Palestine should not be recognized or supported. This relates to the settlements and the Wall, as well as other elements of Israel's attempted colonization and annexation of Palestinian land.

There are a number of ways in which the international community can ensure compliance with the UN Guiding Principles and fulfil commitments to corporate social responsibility. States which have not yet issued business guidance should do so and the EU should publish its common messages. Companies in all countries should be aware that doing business with Israeli companies involved in the settlement enterprise carries legal, political and reputational risks, including potential liability for contributing to violations of international humanitarian law and international human rights law.

As a logical consequence of the duty of non-recognition, all members of the international community should ensure they are not directly or indirectly supporting Israel's violations, whether through the construction of the wall, its associated regime, or the wider enterprise of colonization and annexation. In this way, State and non-State actors can be assured that they are fulfilling their commitment to corporate social responsibility and upholding universal principles of human rights.

<sup>30</sup> The full text of the UN Guiding Principles is available at: [http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31\\_AEV.pdf](http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf)

## Concluding Statement by Dr. Saeb Erekat

When Israel began the construction of the Wall, our people could only watch as their land was confiscated, their families separated, their property destroyed, their trees uprooted, and a whole host of other basic human rights violated. Israel attempted to justify these actions through “security needs”, the same pretext it has used for the construction of settlements.

It is true, both the settlements and the Wall are built for the same reason. But that reason has little to do with security and everything to do with Israel's project of colonization that aims at taking as much Palestinian land as possible while pushing Palestine's people into ever-shrinking bantustans.

Something had to be done. Ten years ago, a legal team led by Ambassador Nasser Qudwa, and supported by a number of friendly nations, put an idea into action: To take the case of the Wall to the International Court of Justice (ICJ), the first time that Palestine would make use of an international legal venue in order to confront Israeli violations of international law.

It was a moment of truth for many nations. Some were reluctant to vote in favor of holding Israel accountable for its violations. But the Opinion of the International Court of Justice was ultimately adopted almost unanimously by the General Assembly, with only six votes against (Israel, US, Australia, Marshall Islands, Micronesia and Palau). The ICJ Opinion is not only relevant in terms of confirming that the Wall is illegal, but also in setting a course of action: Israel is obliged to dismantle the Wall and compensate those affected. The Opinion stipulates that Israel is under the obligation to “terminate its breaches” of international law, and it tackles the illegality of the Israeli settlement enterprise, of which the Wall is an integral part. It is emphatic in confirming that Israeli policies are denying the Palestinian people its right to self-determination.

The ICJ opinion was also a wake-up call for the international community. The Court found that all states are obliged not to recognize or help maintain the unlawful situation created by the construction of the Wall. It reaffirmed the Palestinian right to self-determination as an obligation of all states (*erga omnes*). It further called on State parties to the Fourth Geneva convention, as well as the UN General Assembly and Security Council, to take action.

One may well consider: Since 2004, how many international companies have done business with those directly or indirectly contributing to Israel's project of colonization in Palestine? How many countries have engaged in new agreements with Israel while the Wall continues to erode the hopes for Palestinian self-determination? How many politicians have tried to normalize the illegal situation resulting from the construction of the Israeli Wall, especially as it relates to Occupied East Jerusalem?

As a recognized State under occupation, we have a duty to make use of the appropriate mechanisms in order to hold Israel accountable for its repeated violations of international law. We will continue to ask the international community to divest from Israel's occupation. But the ICJ Opinion is also a reminder, for all countries, that Israel itself should not continue to be treated as a state above the law.

We are marking 10 years of inaction from certain countries that have continued to hide their responsibility behind calls for “resumption of negotiations”. Without justice there can never be peace. And without aiming to have a just and lasting peace for Palestine and Israel, negotiations are meaningless. Ten years have passed since the ICJ rendered its Advisory Opinion. Thousands have lost their lives and millions have been denied their most basic human rights. Will it be another ten before something is done?

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