

**Written Statement submitted by Pakistan concerning the  
Advisory Opinion by the International Court of Justice in  
Accordance with Article 66, paragraph 2 of the Statute of the  
International Court of Justice on the question of the Legal  
Consequences arising from the Construction of a Wall by  
Israel, the Occupying Power, in the Occupied Palestinian  
Territory, including in and around  
East Jerusalem**

**On behalf of the Islamic Republic of Pakistan**

The Islamic Republic of Pakistan requests the Court to adjudge and declare by rendering its advisory opinion on the legal consequences arising from the construction of the wall by Israel, the occupying power, in the occupied Palestinian Territory, including in and around East Jerusalem.

Pakistan supports UNGA resolution A/ES-10/14 of 8 December 2003 in which the Assembly requested the court to urgently render an advisory opinion. Pakistan requests that in adjudging the construction of the separation wall as illegal, the Court may consider and include in its findings the following:

- i) That the construction of the wall by Israel in the occupied Palestinian territory, including in and around East Jerusalem is illegal under the provisions, inter alia, of The Hague Convention of 1899-1907, The Geneva Convention of 1948 and the Additional Protocol-I of 1977, which stipulate that the occupying power shall not in any way change the legal status of the occupied territories.
- ii) The separation wall incorporates substantial areas of the occupied West Bank into Israel. The contention that the wall is a temporary measure being constructed to enhance security of Israel is not tenable. It will seriously undermine and prejudice the resolution of the Middle East conflict on the basis of the principle of land for peace.
- iii) The construction of the separation wall is a violation of applicable bilateral and international agreements and is in contradiction of

International Law, inter alia, reflected in the relevant resolutions and decisions of the United Nations. The 1995 Interim Agreement states that neither party will “change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations” (Chapter 5, Article XXXI, paragraph 7) and that “the integrity and status” of the West Bank and Gaza Strip territory “will be preserved during the interim period” (Chapter 2, Article XI, paragraph I and Chapter 5, Article XXXI, paragraph 8). Israel is violating its obligations under the Agreement as the wall being built is in clear breach of these provisions.

- iv) The construction of the wall is in violation of the will of the UN General Assembly that “Israel stop and reverse the construction of the wall in the occupied Palestinian Territory including in and around East Jerusalem, which is a departure from the Armistice Line of 1949, and it also does not follow the so-called Green Line of 1967”. (GA resolution A/ES-10/13 of 21 October 2003).
- v) The wall is incompatible with the right to self-determination of the Palestinian People and to permanent sovereignty over their natural resources. According to The Hague Convention IV, Rule 46,55 “The occupying Power shall respect Private Property”. Constructing the wall on the Private Property of the inhabitants will isolate and fragment the Palestinians and separate them from their cities and resources. Accordingly over 200,000 Palestinians will be seriously affected by the wall. An estimated 45 percent of Palestinian water resources and 40 percent of farm and land will be on the Israeli side of the wall, and 30 percent of Palestinians would have to live in enclaves in the Israeli side. The wall will separate children from their schools, women from necessary obstetrics facilities, workers from their places of employment and communities from their cemeteries thus violating the basic rights of the Palestinian people.
- vi) Article 47 of the fourth Geneva Convention stipulates that “Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present convention by any change introduced, as a result of the occupation of a territory ...”.
- vii) According to the Report of the Special Rapporteur of the Commission on Human Rights of 30 September 2003, the separation wall has all the features of a permanent structure. It will

incorporate half of the settler population in the West Bank and East Jerusalem. It will further entrench the position of the settlers on occupied territory. The evidence strongly suggests that new realities on the ground are sought to be created to reinforce de facto annexation. Annexation of this nature, known as "conquest" in international law, is prohibited by the Charter of the United Nations and the Fourth Geneva Convention of 1949.

- viii) A fundamental principle of International Law as reflected in the charter of the United Nations is that the use of force in any form is prohibited; consequently acquisition of territory by the use of force is illegal. The Security Council resolution 242 and 338 and all subsequent international agreements on the Middle East have been based on this Principle – and require Israel's withdrawal from all Arab occupied territories.
- ix) The separation wall undermines the prospects of a just and lasting solution of the Israeli-Palestinian dispute based on good faith negotiations. The Quartet's Peace Plan is also based on the principle of Israeli withdrawal from the occupied Palestinian territories in exchange for the establishment of durable peace. The Special Representative of the UN Secretary General Roed-Larsen, in a recent briefing to the Security Council, stated that "Despite the calls from all the members of the Quartet, the Government of Israel persists in building that structure (Wall). It makes the establishment of a viable Palestinian State more difficult and the hope of peace more distant, and it undermines any Palestinian Prime Minister's efforts to muster popular support". The actions of Israel are inconsistent with its commitment under the widely supported "Roadmap" for the solution of the outstanding dispute on the question of Palestine. The Roadmap requires the Government of Israel to immediately dismantle settlement outposts erected since March 2001 and, consistent with the "Mitchell Report", freeze all settlement activity. The wall spurs, not stems, the growth of settlements.
- x) The international community has an obligation to prevent unlawful annexation of Palestinian land. The separation wall, if completed, would negate the possibility of a contiguous, viable Palestine State. The Government of Israel must cease and stop any further construction of the wall. It should also dismantle the construction already undertaken by it.

- xi) It is a general principle of International Law that in disputed or occupied territories no party shall construct a wall or any such structure that would prejudice final settlement of the dispute.

Signed and submitted on behalf of the Government of the Islamic Republic of Pakistan by:



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Ambassador of the  
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