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CAMERA ALERT: Background on Israel's Anti-Terror Fence

The International Court of Justice (ICJ) at The Hague in the Netherlands has issued an "Advisory Opinion" that Israel's security fence is illegal and violates international law. The court advised the United Nations Security Council to take action to stop Israel's construction of the fence and to dismantle parts already built. It said compensation should be paid to Palestinians affected by the fence.

See the [report](#) and Israel's [reaction](#).

It is important to note that:

- * The route neither annexes any lands to Israel nor establishes any borders. These can be established only by negotiation between the Israelis and the Palestinians.
- * No land is confiscated for the building of the fence. The land needed is seized for military purposes and thus remains the property of the owner. Compensation is offered the owner for the use of this land and for damage to crops or property. There are legal procedures allowing any owner to file an objection to the seizure of his/her land.
- * Israel relocates olive trees and other fruit trees growing within the area of the Security Fence to new sites designated by the farmer to which he has free access. Over 63,000 olive trees have been replanted.

Below is background information on the legality of the fence and its effectiveness.

Fence Is Justified Under International Law

International law experts Laurence E. Rothenberg and Abraham Bell, of the Jerusalem Center for Public Affairs, provide the following points regarding the legality of the fence:

*** The security fence is a necessary and proportional response to a campaign of genocide, crimes against humanity, and war crimes by Palestinians. If the fence were built along the 1949 armistice line (the "green line"), it would not achieve Israel's

legitimate security goal of protecting its citizens.

*** The "green line" from 1949 bounding the West Bank is solely a defunct military line demarcating the extent of the Transjordanian invasion of Israel in 1948. Indeed, at the insistence of Syria, Egypt, and Jordan, each of the armistice agreements of 1949 specified that the ceasefire lines were not borders and that neither side relinquishes its territorial claims.

*** The fence does not violate the Fourth Geneva Convention because the Convention does not apply to the West Bank, a territory of disputed sovereignty to which Israel has the strongest claim, and which was not previously possessed by a legitimate sovereign.

*** Even if the Convention applied, a fence that controls movement of civilians does not violate it; the Convention permits occupying states to take necessary and proportional steps for security purposes.

*** The resort to the International Court of Justice by the PLO is itself a violation of the Oslo Accords. Under Oslo, any disputes must be resolved by negotiation between Israel and the Palestinians, by agreed-upon conciliation, or agreed-upon arbitration.

*** The UN General Assembly (GA) resolution asking the International Court of Justice (ICJ) for an advisory opinion is actually a request for an endorsement of an already-stated political opinion of the GA. The ICJ lacks jurisdiction over the case because the GA has dictated the desired result. The court is not authorized to make endorsements of the GA's political opinions dressed in legal garb.

For more details, go to <http://jcpa.org/jl/vp513.htm>

Israel's Anti-Terror Fence Saves Lives

* The anti-terror fence is extremely effective in saving lives. In the year since its construction began, the fence has already reduced terror attacks 88% in the area where it is mostly complete, resulting in a significant decrease in deaths (28 vs. 103) and wounded (83 vs. 688). (<http://www.securityfence.mod.gov.il/Pages/ENG/news.htm#news19>)

* The security fence is a nonviolent way to reduce terrorism. Israel has been faulted for using force to defeat terrorists; it is hypocritical of detractors to likewise oppose passive measures that cause no casualties. Moreover, when the terrorism stops, the fence can be taken down. Until then, Israel, like any other country, has the duty and right to protect its citizens.

* Israel's own judiciary has intervened to require maximum effort by the government to avoid hardship for Palestinians in determining the route of the fence, while endorsing the legality and importance of the structure to protect Israeli life.

* While the fence has clearly caused difficulty for some Palestinians, it has increasingly

also resulted in benefits as Israel has been able to lift curfews and remove checkpoints and roadblocks in Palestinian areas. Press reports tell of normal life resuming, with an upswing in economic activity in the West Bank. Recent articles, for example, in the June 25th *Washington Times* ("Mideast Security Barrier Working; Terror Deaths Drop Sharply") and the April 9th *Forward* ("Suicide-bombing capital' thrives as new barrier nears completion") detail these changes.

Other Security Fences Around the World

There are numerous security fences around the world in disputed areas. Why is Israel's condemned while the others are considered acceptable, even commendable security measures?

For details, read "**Unilaterally Constructed Barriers In Contested Areas**" By David Makovsky and Ben Thein

www.washingtoninstitute.org/distribution/PCE465.doc

To view other security fences around the world, go to:

<http://standwithus.com/campus/pdfs/flyers/fence6.pdf>

(must have Adobe to see) If this link does not work, go to www.standwithus.com and then click on Flyers. You will see several flyers regarding Israel's security fence.

For details about the security fence between India and Pakistan, go to

<http://www.nytimes.com/2004/07/04/international/asia/04kash.html?pagewanted=print&position>

(visitors must register for free with NY Times to see article)