



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2006/NGO/213
7 March 2006

ENGLISH, FRENCH AND
SPANISH

COMMISSION ON HUMAN RIGHTS
Sixty-second session
Item 8 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB
TERRITORIES, INCLUDING PALESTINE**

**Written statement* submitted by the Federation of Associations for the Defense and
Promotion of Human Rights,
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting
non-governmental organization(s).

THE COLLAPSE OF INTERNATIONAL LAW: THE WALL OF OCCUPATION IN PALESTINE

From 4 to 10 September 2005, the **Federation of Associations for the Defence and Promotion of Human Rights** and the **Platform 2015 and more** organised a Mission of Legal Experts to the Occupied Palestinian Territories and Israel to assess compliance with international law, on the first anniversary of the International Court of Justice Advisory Opinion on the legal consequences of the construction of a wall in occupied Palestinian territory, endorsed unanimously by all EU Member States, who called for its application, and adopted as UN General Assembly Resolution ES-10/15.

The delegation was made up of scholars, members of the judiciary, representatives of Spanish civil society organisations and parliamentarians. The delegation held a number of meetings with some of the international agencies working in the area, as well as interviews with administration representatives, political leaders, scholars and NGOs, both Palestinian and Israeli.

Also, the Mission held a number of meetings with the Consulate General of Spain in Jerusalem and with representatives of a number of Spanish development NGOs which support international co-operation projects for development and humanitarian aid in the area. The Mission also held a formal meeting with the Spanish Foreign Affairs Minister and the Secretary of State for International Co-operation, who were in the area at the time.

The Mission's aim was to draw attention, before public institutions and public opinion, of the reasons why the construction of a wall, by the State of Israel in the Palestinian Occupied Territory, is a clear and flagrant violation of International Law, as well as why population and territorial alterations through the construction of further settlements and colonies within its boundaries are contrary to International Law.

CONCLUSIONS OF THE MISSION

The Spanish Mission of Legal Experts to the Occupied Palestinian Territories and Israel (4 to 10 September 2005), in light of the facts found and verified on the ground (in East Jerusalem and the West Bank), as described above;

Recalling the right of all peoples to self-determination and in particular the Palestinian people's right to be free of foreign occupation and to establish its own State;

Recalling applicable international humanitarian law on military occupation, including the Fourth Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 and the Regulations annexed thereto; the Fourth Geneva Convention relative to the Protection of Civilians in Times of War, of 12 August 1949; and Protocol I Additional to the Geneva Conventions, of 8 June 1977;

Recalling international humanitarian law and human rights instruments, and in particular the Universal Declaration of Human Rights, of 10 December 1948; International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, of 19 December 1966 and the Convention on the Rights of the Child, of 20 November 1989, all of which are applicable to the Palestinian population by Israeli military authorities, the former being subject to the latter's effective jurisdiction;

Recalling the many relevant resolutions adopted both by the United Nations General Assembly and, especially, by the Security Council;

Aware of the International Court of Justice's Advisory Opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, of 9 July 2004;

Considers that the Israeli authority's decision to build a wall (regardless of its specific denomination as a wall, barrier or fence) on and along Palestinian territory on the West Bank and in East Jerusalem is a flagrant violation of international law, both of international law in general and of international law applicable to the areas under occupation, in as much as, with such violation, the Israeli authorities are consolidating an occupation which, by its very nature, can only be temporary, and are even pointing towards a *de facto* annexation of certain occupied territories, given the difficulty in reversing the situation created by the construction of the wall;

Considers also that the decision to construct the wall, in isolating various Palestinian towns and establishing severe restrictions to communication between these and the remaining West Bank and East Jerusalem territories, is a breach of the populations' most fundamental rights (right to work, right to health, right to education, right to liberty of movement and the freedom to choose one's residence, right to privacy and family life, etc.), recognised by international humanitarian law and human rights instruments;

Believes that, as stated by the International Court of Justice in its Advisory Opinion of 9 July 2004, on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, breaches of international law incurred by Israel cannot be justified on the grounds of irrelevant claims regarding the inherent right to self-defence enshrined in Article 51 of the Charter of the United Nations in the context of the struggle against terrorism. Considerations regarding alleged military exigencies (state of necessity) were put forward, but were rejected by the International Court of Justice. Further, the alleged proportional nature of the measures adopted (a claim upheld by the Supreme Court of Israel in various decisions regarding different sections of the wall) can in no way mitigate the State of Israel's responsibility regarding the breach of its aforementioned obligations under international law.

Notes that, pursuant to applicable provisions of international law regarding international responsibility, given the seriousness of the aforementioned actions, the international community as a whole, and certainly the State of Spain, is under an obligation not to recognise the illegal situation, not to render aid or assistance conducive to furthering the illegal situation and to contribute to its termination;

Considers that as a consequence of the international community's condemnation of these actions, expressed in Resolution A/RES/ES-10/15, of 20 July 2004, it is necessary for all States and international organisations they take part in, to act accordingly, considering the aforementioned Resolution called on all States Members of the United Nations to comply with their legal obligations as mentioned in the advisory opinion (point 3);

Considers that, in light of the above, it is necessary for the State of Spain and the European Union, in addition to refraining from actions liable to obstructing the aim of re-establishing international law violated by the Israeli authorities, to adopt the appropriate actions to ensure strict compliance with international law. In this respect, existing political, diplomatic and legal and conventional relations between the State of Spain, the European Union and the State of Israel can be an essential factor in designing a solution to the present situation, in accordance with international law. The adoption of

measures to exert pressure on Israel in this context, always within the provisions of international law, may be an adequate mechanism to this end.
