

# Sharon's 'Berlin Wall' on Trial in The Hague

by Dean Andromidas

The new Berlin Wall of the Middle East was the subject of testimony at the International Court of Justice (ICJ) in The Hague on Feb. 23-25. The Palestinian National Authority, supported by a resolution of the United Nations General Assembly, is seeking a judgment by the court that the wall being built under the direction of Israeli Prime Minister Ariel Sharon is a war crime and a crime against humanity. A ruling is expected in about a month.

Although any ICJ decision will be non-binding, if it declares the wall in violation of international law, this will have considerable moral impact, not only casting Sharon as violator of international law, but underlining the hypocrisy of the Bush Administration's support for him. Such a ruling could also serve as a basis for further action by the United Nations. In the 1970s, the ICJ ruled that South Africa's policy of apartheid and its continued occupation of Namibia were in violation of international law. This led to the UN adopting economic sanctions against South Africa, which were not lifted until apartheid ended and South Africa withdrew from Namibia in 1990.

Written testimony against the wall was submitted by 44 nations, in addition to the Organization of Islamic States and Arab League. Of these, 16 made oral presentations. The Bush Administration refused to participate, claiming it would "politicize" the court. The nations of the European Union also refused, despite the fact that most agree that the wall is illegal. Israel refused to recognize the legitimacy of the court, with Sharon calling it a "circus." Significantly, no nation on the planet came forward to defend Israel's position, not even the regular supporters of Israel at the United Nations such as the Marshall Islands.

## 'Collective Detention Camps'

"This wall is not about security," declared the Palestinian National Authority's United Nations Envoy, Nasser al-Kidwa. "It is about entrenching the occupation, and the de facto annexation of large areas of Palestinian land. This wall, if completed, will leave the Palestinian people with only half of the West Bank within isolated non-contiguous, walled enclaves. It will render the two-state solution to the Israeli-Palestinian conflict practically impossible."

In a televised speech broadcast to coincide with the opening of the hearings, Palestinian President Yasser Arafat urged Palestinians and "forces of peace in Israel" to make their voice heard against "this wall of expansion and annexation." He

went on: "No security and no peace can ever prevail between the Palestinian and Israeli peoples, and even in the whole region in the shadow of this . . . expansionist and racist segregation wall. . . . This is another Berlin Wall . . . aimed at swallowing 58% of our West Bank and transforming our towns and villages . . . into isolated ghettos, illegally controlled by occupation settlements, and preventing us from establishing our Palestinian state with Jerusalem as its capital. The wall has already transformed our towns and cities and villages into prisons and collective detention camps."

"This fence will not bring security to Israel," warned Palestinian Prime Minister Ahmed Qureia at a rally in Abu Dis. "It destroys the principle of a two-state solution and makes Palestinians' lives a hell." Rallies against the wall took place all over the West Bank and Gaza, in Israel, and neighboring Arab countries.

## Failure of the UN Security Council

The hearings in The Hague took place because of the failure of the United States and Europe to put a stop to Sharon's war plans, which threaten the destruction of the Palestinian people in the Occupied Territories, and the ongoing loss of lives of innocent civilians on both sides of the conflict. The case against Sharon's wall, whose full title is, "The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," was submitted to the Court by the UN General Assembly. It was a request made following the failure of the Security Council to act against Israel's building the wall on land which is recognized internationally as being illegally occupied. This is the grossest violation of Palestinian human rights to date, being in violation of numerous Security Council resolutions. It is important to emphasize that Arafat and other Palestinians have said that Israel can build a wall along the Green Line—the armistice line set at the end of the 1948 Arab-Israeli War, also sometimes referred to as "the 1967 border," and accepted internationally as the border of Israel—but it cannot be built on Palestinian Occupied Territory. Sharon's propaganda machine is totally ignoring this fact.

Palestinian envoy al-Kidwa made this point in his opening address, declaring that the Security Council failed to act against Israel's gross violation of almost all of the 38 UN Security Council resolutions concerning the Israeli-Palestinian conflict since 1948. In an obvious reference to the United States, al-Kidwa said, "The basic reason has been the use, or the threat of use, of veto by one of the Council's Permanent Members. . . . The most recent [veto] was cast on 14 October 2003, when the issue of the construction of the wall in the Occupied Palestinian Territory was brought before the Council and it failed to act."

## Wall for Transfer and War

The wall, which in large sections is over 9 meters high, is higher than the Berlin Wall. The wall the Nazis built around the infamous Warsaw Ghetto was only 3 meters high. *EIR* has

documented how Sharon's generals studied the Nazi destruction of the Warsaw Ghetto to develop its military operations against Palestinian cities. Sharon's allies within the Bush Administration—particularly Vice President Dick Cheney and the gaggle of neocons he leads—are willing parties to this policy of genocide.

Sharon's announcements about possibly withdrawing from the Gaza Strip are little more than a smokescreen behind which he can continue to build the West Bank wall. Even if Sharon manages to withdraw, the tiny Gaza Strip already has a wall around it, and with a population of 1.5 million, it will continue to be an overpopulated ghetto. Without a peace agreement now, starvation and misery will only increase.

Sharon's ultimate goal is the "transfer" or ethnic cleansing of the entire West Bank. In fact "voluntary" transfer is already occurring among the tens of thousands of Palestinians who find themselves in enclaves on the Israeli side of the wall between the Green Line and the wall.

The fear that the wall is just another stratagem by Sharon to implement his "Jordan is Palestine" policy was expressed by the Jordanian presentation to the Court. It explicitly referred to Jordan's fear that the purpose of the wall is to force Palestinians to flee to Jordan.

While many eloquent statements have been given in the ICJ hearings demonstrating the illegality of the wall's construction, it is important to cite Israeli opposition and criticism of it. The Israeli daily *Ha'aretz* on Feb. 16 interviewed Col. (reserve) Shaul Arieli, who has made presentations throughout Israel demonstrating that Sharon's wall has nothing to do with security, is a land grab, and will actually increase terrorism.

Arieli has shown that the current path of the barrier siezes no less than 900 square kilometers of the West Bank's 5,878 square kilometers. If Sharon builds his so-called "eastern wall" along the Jordan Valley, he will sieze another 1,543 square kilometers. Furthermore, if one includes the wall around East Jerusalem, over 400,000 Palestinians will find themselves on the Israeli side of the fence in a no-man's land between the Green Line and the fence. Another 300,000 will be cut off from their farm land or water wells.

Last year, Arieli presented a plan to Sharon, demarcating a fence line that would have included the same number of Israelis on the Israeli side of the fence, but would have taken only 300 square kilometers of land. This route was rejected by Sharon and his generals.

Arieli works with Yossi Beilin and has participated as a consultant in the negotiations that led to the Geneva Accord peace initiative. He was the last commander of the "Gaza Brigade," which was withdrawn in accordance with the Oslo accords.

In the same interview in *Ha'aretz*, Arieli went even further, charging that Sharon's intention with the wall is ethnic cleansing of the entire West Bank by forcing "voluntary transfer" on thousands of Palestinians.

Arieli declared that Sharon has refused to recognize the significance of UN Security Council resolution 242, sometimes referred to as the "land for peace" resolution. It gave recognition to Israel's right to exist within secure borders by, in effect, defining the so-called Green Line—the 1948 line of disengagement—as a de facto border. This effectively partitioned the country—77% for the Israelis, 23% for the Palestinians.

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## Documentation

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*In addition to the statement by Palestinian Envoy Al Akidwa, the Palestinian case was argued before the court by attorney Stephanie Khouri and Prof. James Crawford, the head of the International law department at the university of Cambridge, and Prof. Ron Lowe of Oxford University.*

*The court then heard testimony from other nations and organizations. Some excerpts follow:*

**Arab League, represented by Sudanese Ambassador to the Netherlands:** "The action of the construction of the wall defies and violates international law and is wrongful act that should cease immediately."

**Organization of the Islamic Conference, represented by French lawyer Minique Chemillier Gendreau:** Suicide bombings and other attacks against Israel do not happen in a vacuum. "They have to be linked to the far more bloody terror by Israel against the Palestinians since its founding. With the wall there is no longer a viable Palestine; thus no peace is possible between the two states."

**South African Deputy Foreign Minister Aziz Pahad:** "The separation wall is anathema to the peace process as envisaged in the Road Map, as it eliminates the prospect for a two-state solution. This court could play a fundamental role in contributing meaningfully to sustainable peace and security in the Middle East and indeed the whole world."

**Jordan's representative Ziad Raed Zaid al-Husseini:** "Israel's separation fence is threatening Jordan's demographic balance. A new wave of refugees is threatening my country in light of the fence. . . . We must be realistic: Attempts to achieve a diplomatic agreement between Israel and the Palestinians have not made any progress over the past months and there is little chance for any progress being made as long as the wall is being built."

**Cuban Deputy Foreign Minister Abelardo Moreno Fernandez:** "The construction of the wall by Israel violates fundamental principles and norms enshrined in the charter of the UN and international law."

**The representative of Belize, Bassam Freiha:** "We have to bring an end to the ignoble terrorism that takes place in Israel and we recognize Israel as entitled to protect itself. But building the wall is a bad and inappropriate response."