

Why Israel boycotted the International Court hearing on West Bank wall

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Israel's refusal to appear before the International Court of Justice (ICJ) hearing on the West Bank security wall demonstrates its longstanding contempt for the United Nations and flouting of international law. Yet, instead of eliciting condemnation and threats of reprisals from the United States, Britain and the European Union for having acted as a "rogue state," Israel has been supported in its insistence that the ICJ—and by extension the United Nations—has no right to interfere in Israel's affairs without prior agreement.

Only the politically naive would accept that the stance of Washington, London and Brussels is determined solely by considerations of legal precedent. The International Court of Justice was set up by the United Nations in the aftermath of World War II as a mechanism for resolving international disputes, and its functions indeed have the limitations that Israel has sought to exploit. It can only decide a case between states when a defendant state agrees to accept its jurisdiction and has no power to enforce compliance with its judgments. It can, however, give a non-binding legal opinion when asked to do so by relevant UN organisations that can become the basis for moves to pass a UN resolution.

The United Nations General Assembly referred Israel's construction of the wall on Palestinian Authority land to the ICJ after an appeal by the Palestinians in December of last year. Opening the oral hearings at the ICJ on the legal consequences of the wall, Palestinian UN representative Nasser Kidwa said, "The wall is not about security: 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."

The Palestinians argue that the wall—built on land outside Israel's borders and involving the destruction of civilian homes, property and livelihood—is in breach of the Fourth Geneva Convention, which requires humane treatment for people in occupied territories. Article 147 defines extensive destruction and appropriation of property not justified by military necessity, and carried out unlawfully and wantonly, as a "grave breach." Last September, the UN issued a report condemning the wall as "an unlawful act of annexation."

However, Israel has repeatedly ignored UN resolutions and has no intention of changing course and accepting its authority, or of cooperating with its subsidiary bodies. Ever since the 1967 war, when Israel seized the West Bank from Jordan and Gaza from Egypt, its illegal occupation of the Palestinians' land and its policy of collective punishment, deportations, house demolitions, detention without trial, the routine use of torture, curfews, road blocks, and political assassinations have breached every aspect of the Fourth Geneva Convention.

Successive Israeli governments have ignored UN resolutions calling for the withdrawal of its forces from the Occupied Territories and condemning its actions against the Palestinians. The UN recognises that Israel has committed serious violations of international law; breached the Geneva Conventions; and that it refuses to implement Security Council Resolutions. Its record of defying the UN far exceeds that of any other member state.

But its contempt for the UN and for international law did not begin with its seizure of the Occupied Territories. After the UN voted in November 1947 for the partition of Palestine into two states—one for the Jewish people and one for the Palestinians, and an international status for Jerusalem—war broke out between the Jewish community in Palestine and its Arab neighbours. The superior weapons and training of the Zionist forces prevailed over the superior numbers of the Arab armies, and the newly established Zionist state was able to expand its territory by 21 percent compared with the UN partition resolution. This was at the expense of 700,000 Palestinians who fled the war or were forcibly expelled, while just 150,000 remained in Israel.

Between 1948 and the 1967 war, there were six UN resolutions condemning Israel for its raids on its neighbours Gaza, Jordan and Syria; recommending that Israel suspend its "no man's zone in Jerusalem"; and urging compliance with UN resolutions.

In the period between the 1967 war and the year 2000, the UN Security Council has passed 138 resolutions relating to the Israel/Palestine conflict, all of which have been ignored:

* On June 14, 1967, the Security Council called upon Israel to "ensure the safety, welfare and security of the inhabitants, facilitate the return of those inhabitants who have fled the areas since the outbreak of the hostilities and recommends the scrupulous respect of the humanitarian principles contained in the Geneva Conventions of 12 August 1949" (Resolution No. 237).

* On November 22, 1967, Resolution 242 referred to the "inadmissibility of the acquisition of territory by war" and called for the "withdrawal of Israeli forces from territories occupied in the conflict...."

* On May 21, 1968, Resolution 252 called on Israel to rescind measures changing the legal status of Jerusalem and to end its expropriation of land and properties.

* On March 22, 1979, the Security Council adopted Resolution No. 446, which stated that the policy of establishing Zionist settlements in the Occupied Territories had "no legal validity" and called on Israel "to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and in particular, not to transfer parts of its own

civilian population into the occupied Arab territories.”

Fourteen resolutions have criticised Israel for defying UN resolutions. Four resolutions have accused Israel of violating the UN Charter. Seven have reprimanded, warned or criticised Israel for its deportations of Palestinian civilians. A further 19 resolutions have accused Israel of violating the terms of the Fourth Geneva Convention, which deals with the protection of civilians in war and under occupation.

Even this underestimates the true scale of Israel’s defiance of the UN, since the chief backers of the Zionist state, the US and Britain, have regularly used their power to veto Security Council draft resolutions. In total, the US had blocked more than 35 draft Security Council resolutions on Israel.

The US, in fact, bankrolls Israel’s oppression of the Palestinians. Smaller than the state of New Jersey, Israel receives nearly one third of the entire annual US Foreign Aid Budget—approximately \$6 billion—as economic and military aid and loan guarantees. A massive \$2 billion is earmarked for military aid.

The historical record embodied in these resolutions demonstrates the essentially criminal character of successive Israeli governments and is the real reason why Israel cannot submit to the International Court of Justice. To do so would mean accepting international law as set out by the UN and recognising that its actions for the last 37 years have violated every aspect of the Fourth Geneva Convention, adopted by the UN in 1949. More fundamentally, it would mean abandoning its policy of establishing a Greater Israel through the forcible expropriation of the majority of the West Bank and its incorporation into the Zionist state.

The US and the European Union—the latter originally supported the General Assembly resolution in December 2003—have backed Israel’s boycott, arguing that the Court should not get involved because the wall is such a contentious political issue. This contrasts starkly with their condemnation of Iraq for supposedly having flouted UN resolutions, which were in any case far fewer than those directed against Israel and equally contentious. In September 2000, George W. Bush, speaking at the UN General Assembly, memorably said: “Are Security Council Resolutions to be honoured and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant?...We want the resolutions of the world’s most important multilateral body to be enforced.”

Bush and his main ally, Britain’s prime minister Tony Blair, claimed then that the failure to act on UN resolutions in relation to Iraq brought the UN into disrepute. According to them, Iraq’s flouting of the UN constituted a *causus belli* that legitimised the bombing of Iraq, the overthrow of its government and the subsequent occupation of the country. Israel’s flouting of resolution after resolution, on the other hand, was deemed irrelevant.

In the event, Bush and Blair went to war without the authority of the UN, while Chirac and Schröder refused to participate in the war against Iraq, also citing the authority of the UN. Now they have all come together to support Israel’s boycott of the UN’s International Court of Justice.

This is not the first time these countries have ignored the system of international conflict resolution put in place after World War II. While claiming to uphold the ICJ’s authority, the main imperialist powers have rejected it whenever it has cut across their own strategic interests. For example:

* In 1974, France refused to appear when Australia brought a case over France’s nuclear tests in the Pacific.

* In 1977, Argentina refused to accept a ruling that gave Chile possession of islands in the Beagle Channel. Only the intervention of the Pope prevented war.

* In 1984, the US walked out of a case brought against it by Nicaragua, which had complained about the activities of the US-supported Contra rebels, and said it would not comply with any ICJ ruling unless it suited US interests.

* China and Russia have never given their consent to be made a party to any case in the ICJ.

Thus, all the major powers have refused to submit to the ICJ unless it suits their interests to do so. In this way, international law is defined as a system created and controlled by the most powerful states for their own convenience. And Israel has concluded that it has a green light to do the same.

As far as the United States is concerned, the ICJ is treading on what is to all intents and purposes US territory and has no right to interfere in its sphere of influence. When it declared war on Iraq, the Bush administration made clear that it was not prepared to have its global ambitions contained within the framework of the UN and the other institutions set up in the aftermath of World War II to regulate international relations. And the European powers do not intend to oppose this development. As has been demonstrated by their support for Israel, they are prepared to make whatever efforts are necessary to placate the US and at the same time defend their own freedom to advance their predatory ambitions around the world without legal restraint.

The defence of basic democratic rights cannot be guaranteed by appealing to international law.

For decades after World War II, the received wisdom propagated by political leaders, the media and numerous academics was that the war and barbarism of the first half of the twentieth century were things of the past. Through enlightened policies, respect for national self-determination and the rule of law, including international conventions, and the mediation of the UN lay the road to peace and prosperity. Now all that has been ripped apart in favour of a policy of might makes right. The effective repudiation of international law and its administrative institutions heralds a new era of militarism, colonial adventures and oppression abroad, and a savage assault on the democratic rights of the working class at home.



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