UNITED NATIONS

Press Release

UN EXPERTS MARK ANNIVERSARY OF ICJ "WALL OPINION" CALL ON ISRAEL TO HALT CONSTRUCTION OF THE WALL

The eight undersigned Special Procedures mandate holders of the United Nations Commission on Human Rights issued this appeal shortly after the one-year anniversary of the International Court of Justice (ICJ) Advisory Opinion ("Wall opinion"), concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory:

The International Court of Justice (ICJ) in its 9 July 2004 advisory opinion held, inter alia, that the construction of a Wall in the Occupied Palestinian Territory is illegal; that Israel should dismantle the wall; that Israel should pay reparation to those individuals who had suffered as a consequence of the construction of the wall; and that the United Nations should consider what action to take, in accordance with the Opinion, to ensure compliance with the Opinion. In August 2004, in resolution ES-10/15 the General Assembly called upon Israel and other parties to comply with their legal obligations as mentioned in the Opinion. Further to that resolution, the Secretary-General is taking steps to compile a register of the persons who have suffered as a result of the construction of the wall.

However, neither the General Assembly nor the Security Council have considered the Opinion since.

In large measure it seems that the ICJ's Opinion has been ignored in favour of negotiations conducted in terms of the Road Map process. The exact nature of these negotiations is unclear but it seems that they are not premised on compliance with the Opinion of the ICJ. They seem to accept the continued presence of some settlements, which were found by the ICJ to be unlawful,

and by necessary implication the continued existence of some parts of the wall in Palestinian territory. In short, there seems to be an incompatibility between the Road Map negotiations and the Court's Opinion that should be of concern to the United Nations which is also a party to the Quartet. The United Nations clearly cannot make itself a party to negotiations that are not based on the Opinion of its own judicial body.

The Special Procedures mandate holders would like to express their concern at the fact that the wall violates Israel's obligations under international human rights law, including the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discriminations against Women and the Convention on the Rights of the Child. The wall particularly violates freedom of movement, as well as the rights to adequate housing, food, family life, education and health. Furthermore, the wall violates important norms of international humanitarian law prohibiting the annexation of occupied territory, the establishment of settlements, the confiscation of private land and the forcible transfer of people. The disproportionately severe impact of the wall on women and children is also a grave concern that calls for immediate action.

On this, the first-year anniversary of the ICJ Wall Opinion, the Special Rapporteurs would like to:

- affirm that the continued construction of the wall constitutes a violation of Israel's human rights obligations;
- call upon Israel to stop construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle the structure therein situated, and to repeal or render ineffective all legislative and regulatory acts relating thereto;
- call upon Israel to make reparation for all damage caused by the construction of the wall;
- remind States that they are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction;
- draw attention to the fact that every effort should be made to ensure that the United Nations, operating within the Quartet and engaged in the Road Map process, does its utmost to ensure compliance with the ICJ Opinion and fulfils its role in upholding international human rights standards;
- call on the United Nations Commission on Human Rights to act on this matter.

Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, Prof. John Dugard.*

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living *Mr. Miloon Kothari*

Special Rapporteur on violence against women, its causes and consequences *Ms. Yakin Erturk*

Special Rapporteur on the right to education *Mr. Vernor Munoz Villalobos*

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health *Mr. Paul Hunt*

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance *Mr. Doudou Diène*

Chairperson, Rapporteur, Working Group on arbitrary detention *Ms. Leila Zerrougui*

Special Rapporteur on trafficking in persons, especially in women and children *Ms. Sigma Huda*