

LEGAL STUDIES

World Order

In relation to one world order case study, assess the role of both legal and non-legal measures in resolving conflict and encouraging cooperation.

Chosen Case Study: **Israeli West Bank Barrier**

The almost age old conflict between Israel and the Palestinian People has been predominantly ineffectively reviewed by a multitude of legal and non-legal instruments, such as the United Nations, International Court of Justice, Israeli Supreme Court, the media and human right organisations, such as Amnesty International, Hamoked Centre for the Defence of the Individual and the Association for Civil Rights in Israel. Despite continual peace talks, declarations and negotiations there has never been, as of yet, a proper resolution to the near-constant conflict.

In June 2003, the conflict was again exacerbated when Israel began building a massive 670-kilometre wall in an attempt to prevent terrorists (particularly suicide bombers) entering Israel from the West Bank region of the Palestinian Territory. Despite Israel's claims that there has been an immediate 90% decrease in suicide bombings¹ there is much controversy, both in support and opposition, surrounding the legality of the fence from both legal and non-legal measures. Israel is claiming the wall and its route are solely for "security measures" however as 5%-8% of the barrier is still within the West Bank and does not adhere to the Green Line² many international consultants and Palestinians feel that the barrier precluded any future negotiations or peace talks in the future. This would be an enormously negative action, as there can never be world order without communication and cooperation.

Since its establishment, the United Nations has been valued as the most influential international body for the resolution of conflicts and encouraging cooperation between member nation-states, however it has had a relatively minor impact on situation in the Middle East. In an unusually fast response to the Israeli West Bank barrier, the UN Security Council tried to implement a resolution against the Wall's legality; just four months after construction began. However the United States, a longstanding ally of Israel, immediately vetoed any further action, justifying its actions by stating that the resolution did not condemn terrorist attacks made by Palestinian groups. Therefore the Israeli-Palestinian conflict has once again highlighted the need for international law reform in the UN decision making process as the five permanent Security Council countries are repeatedly using their power of veto for their own political and economic interests. Israel's alliance with USA significantly suggests that international law is ineffective in achieving justice for Palestine.

However, this issue reappeared in the General Assembly, one week later, where a similar, non-binding resolution ES-10/13 was overwhelmingly passed by the international community. The resolution said the barrier was "in contradiction to international law", and demanded that Israel "stop and reverse" its construction. Nevertheless this has seemed to have had no effect either upon the resolution of the conflict or cooperation as Israel has claimed that the UN has no legal jurisdiction

¹ According to the Israeli Ministry of Defence. Article: The Anti Terrorist Fence and the International Court of Justice 09/07/2004 <http://www.seamzone.mod.gov.il/Pages/ENG/news.htm#news49>

² The Green Line refers to the 1967 border created by the 6 Day War cease-fire line, effectively separating the Israelis from Palestinians in the West Bank.

and thus the Resolution was a mere “farce.”³ Therefore, the United Nations is here seen as having no sway in bringing about conflict resolution, or even cooperation and thus not fulfilling its role as the only world federation charged with world order.

Whilst playing an important symbolic role in conflict resolution, the weaknesses of the International Court of Justice’s unenforceable rulings are highlighted in the Israeli West Bank barrier case. Beginning in February 2004, the ICJ passed judgment on Israel’s defensive actions; however they were only in the form of an ‘Advisory Opinion’ as Palestine is not a nation-state and thus cannot bring other nation-states to the ICJ. As the ruling will have no legal standing, there will not be a proper conflict resolution. Therefore this shows a power imbalance between Israel and the Palestinians as Israel has the legal advantage of state sovereignty as they are a globally recognised nation-state.

Once the ICJ handed down its ruling, calling the barrier “tantamount to de facto annexation” which “inhibited Palestinian’s self-determination” the Israeli government unsurprisingly used its state sovereignty to not undergo the recommended actions. Therefore the ICJ ruling was ineffectual in its enforceability however, like the UN resolution; it did increase awareness of the world order conflict.

Non-legal measures such as the media and non-government organisations generally have a very limited role in providing conflict resolution and/or encouraging cooperation; however in this instance, Israeli Human Rights organisations have had a large impact in placating the situation. Amnesty International has raised global awareness of this issue by showcasing the experiences of some of the worst-affected civilians living close to the barrier (or in some cases, where the wall now stands) and has publically condemned the Israeli government for its human rights breaches. Whilst this could have led to enough international pressure to remove the wall, it has been inadequate to date, as the conflict remains.

However, the *Hamoked Centre for the Defence of the Individual* and the *Association for Civil Right in Israel* have proven very effective in pioneering the way to final conflict resolution as it led directly to a ruling in the Israeli Supreme Court. Therefore this non-legal measure has been invaluable to the development of world order and also reflected the area’s values regarding the barrier.

Finally, the Israeli Supreme Court has produced a quality outcome in trying to resolve the conflict as they have the jurisdiction to enforce their rulings. The Supreme Court has twice reviewed the West Bank Barrier (2004 and 2005) and ordered the Israeli Government to alter 30km of the route of the barrier to minimise its negative impacts on Palestinians. Hence this shows a valuation of the balance between individual and community rights as the Court officially stated that “freedom should not impinge upon the residents’ standard of living.”⁴ Thus Israel is using its own sovereignty to address the conflict in inequality between Israel and Palestinians.

Therefore, as legal and non-legal instruments are completely ineffectual in resolving conflict or even encouraging in the vast majority of world order cases, the results in the Israeli West Bank Barrier are comparatively effective. However Middle Eastern region is still in the midst of conflict with devastating periodical outbreaks, as legal instruments such as the UN and ICJ are unsuccessful in encouraging sufficient cooperation for the chance of a conflict resolution. Thus whilst non-legal means like non-government organisations, such as *Hamoked Centre for the Defence of the Individual* and the *Association for Civil Right in Israel* have successfully made leeway into the resolution of conflict in the West Bank border by pressuring the Israeli Supreme Court to review the Wall, the overall hostilities do not appear to be appeased in the near future by either legal nor non-legal means. Thus world order is not being achieved in the long term in Israel and the Occupied Palestinian Territory.

³ Israel's representative to the U.N. called the proceedings a "humiliating farce."

⁴ Once I have internet again ☺

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