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## الإهداء

إلى البطل القابع في سجون الاحتلال... أخي أحمد العارضة

إلى أبي وأمي وأخوتي وزوجي الأعزاء



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النص الكامل لقرار "لاهاي" بخصوص جدار الفصل العنصري

أكدت القضاة الـ14 في محكمة العدل الدولية في لاهاي أن بناء الجدار الفاصل هو انتهاك للقانون الدولي ووجهوا دعوة إلى "إسرائيل" لوقف بنائه وهدم المقاطع التي تم بناؤها. وجاء في التقرير النهائي لـ"محكمة لاهاي" "لقد انتهكت "إسرائيل" بناء الجدار الفاصل القانون الإنساني الدولي وقانون حقوق الإنسان بسبب المساس بحرية حركة المواطنين الفلسطينيين، وفي حقوقهم المتعلقة بمجال التربية والصحة."

وفي ما يلي نص القرار :

أ- "إنشاء الجدار الذي تقيمه إسرائيل، كقوة احتلال، في الأراضي الفلسطينية المحتلة، بما في ذلك داخل القدس الشرقية وما حوفا، وما يسانده من نظام يتناقض مع القانون الدولي.." (التصويت 14 مقابل 1).

ب- يلزم التقرير إسرائيل بإلغاء خروقاتها للقانون الدولي، كما أنها ملزمة بوقف أعمال بناء الجدار الذي يتم بناؤه في الأراضي الفلسطينية المحتلة من الآن فصاعدا، بما في ذلك داخل القدس الشرقية وما حوفا، كما أنها ملزمة من الآن فصاعدا بهدم البناء الذي تمت إقامته، كما أن عليها أن تراجع أو تبطل جميع القوانين والتعليمات المتعلقة بها. طبقا للبند 151 من هذا الرأي". (التصويت 14 مقابل 1)

ج- "إسرائيل ملزمة بإصلاح جميع الأضرار التي تسبب بها بناء الجدار في الأراضي الفلسطينية المحتلة، بما في ذلك داخل القدس الشرقية وما حوفا". (التصويت 14 مقابل 1)

د- "على جميع الدول أن تلتزم بعدم الاعتراف بالوضع غير الشرعي المترتب على بناء الجدار، وبعدم تقديم أي دعم أو مساعدة للإبقاء على الوضع الذي خلقه بناء الجدار. جميع الدول الأطراف في اتفاقية جنيف الرابعة المتعلقة بحماية المدنيين في وقت الحرب المؤرخة في 12 آب 1949 يقع عليهم إضافة إلى ذلك عند احترامهم لميثاق الأمم المتحدة والقانون الدولي الإنساني بضمان خضوع إسرائيل للقانون الدولي كما هو منصوص عليه في الاتفاقية". (التصويت 13 مقابل 2).

هـ- "على الأمم المتحدة و خاصة الجمعية العمومية ومجلس الأمن أن ينظروا في اتخاذ الإجراءات الإضافية اللازمة لإنهاء الوضع غير القانوني الناتج عن بناء الجدار وما سانده من نظام، آخذة بالحسبان استحقاق هذا الرأي الاستشاري". (التصويت 14 مقابل 1).

**An-Najah National University**  
**Faculty of Graduate Studies**

# **Israeli Apartheid Wall in International Law**

**Prepared by**  
**Reem Tayseer Al-Arda**

**Supervised by**  
**Dr. Basel Mansor**

*Submitted in Partial Fulfillment of the Requirements for the Degree of Master of Public Law, Faculty of Graduate Studies at An-Najah National University, Nablus, Palestine.*

*2005*

# **Israeli Apartheid Wall in International Law**

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## **Abstract**

My thesis deals with every complicated issue in Palestinians life that is, the wall which most of was constructed on the Palestinians lands. Before this in advanced chapter I have discussed the historical roofs of this wall to prove that it is not for fighting terrorism and explosive attacks inside Israel as Israel claims but the other real purposes are to creat anew accomplished fact and new boarders that might not be changed.

In the first chapter I have handled the legality of the wall which is the content of the subject where I present that the construction of the wall on the occupied Palestinian lands is against the inter national law and against all the International traditions and treaties especially the united National convention of human rights and any other related international agreements.

More over I handeted in this chapter the united Nations attitude towards the wall's issue especially (security council and General Assembly), I have deduced that General Assembly attitude is stronger and greater than that of the security council which always restricted the right of -veto-when the attitude is for the Palestinian national interest.

The second chapter is specialized to discuss the international attitudes towards the wall. I noticed an obvious difference among these attitudes, some of them agree, others disagree and third is a moderate. The states which have common interest, with Israel have attitude to those which sympathize with the Palestinians issue. I also found that the Arabic states attitude is no more than condemning and deluging and silence. But according to the Palestinian attitude which is the stronger because some issues that are directly related to the wall when they are positive or negative in terms of Israeli attitude towards the wall they are two attitudes one they agree the other disagree the idea to constrict the wall on the occupied Palestinians lands.

At third chapter I have dealt the role of international court of Justice in Lahai in terms of which was constructed on the occupied Palestinian lands. This role was very strong since it issued a resolution to destroy the built parts of this wall, to compensate for their damages because of the wall and to stop the constructing work and this means that the resolution is for the Palestinian interest. This resolution consists of 150 pages, but I didn't discuss it in details because of the resented number of pages of thesis. I mentioned only the most important points which demand from Israel to destroy the wall. In the same chapter I have discussed the authority of international court of Justice to issue such a solution in term of the wall or not because Israel and other states were against this court and they have

suspected in the court authority for many reasons imentroned them in details in third section of this chapter.

At the end of the third chapter I have discussed the political and legal importance of the resolution that issued by the international court of Justice which is considered as a victory to the Palestinian Nation.

In the concluding section I have discussed all my general deductions on all the aspect of thesis.