



*Permanent Mission of*  
**Malaysia**  
to the United Nations

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Statement by H.E. Mr. Hamidon Ali  
Permanent Representative of Malaysia to the United Nations  
at The Resumed Tenth Emergency Special Session of the General Assembly "Illegal  
Israeli actions in occupied East Jerusalem and the rest of the Occupied Palestinian  
Territory" On The Establishment of The United Nations Register of Damage Caused by  
The Construction of The Wall in The Occupied Palestinian Territory  
New York, 15 December 2006

Madam President,

Let me first of all thank you Madam President for convening this very important meeting. We last met more than two years ago where among others we had requested the Secretary-General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion of the International Court of Justice of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem. Though we are slightly dismayed that it had taken quite sometime for this register to be established, we nonetheless wish to express our appreciation to the Secretary-General for his effort to provide the institutional framework for the establishment this register as contained in his report A/ES-10/361.

2. Before I proceed further, my delegation wishes to associate ourselves with the statements delivered by the distinguished representatives of Cuba, on behalf of the Non-Aligned Movement. My delegation would also like to endorse the statement delivered by the distinguished Permanent Observer of Palestine.

Madam President,

3. The International Court of Justice, the principal judicial organ of the United Nations, through its advisory opinion on 9 July 2004, concluded that by the construction of the Wall in the Occupied Palestinian Territory, Israel had violated various international law obligations incumbent upon it and since the construction of the Wall entailed the requisition and destruction of homes, businesses and agricultural holdings, "Israel has the obligation to make reparation for the damage caused to all the natural and legal persons concerned" (paragraph 152 of the advisory opinion). It further stated in paragraph 153, and I quote:

*“Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall’s construction.”*

Madam President,

4. The advisory opinion of the ICJ is very clear. There should not be any doubt in anyone’s mind on the obligation and responsibility of Israel to either return those land or properties seized for purposes of construction in the Occupied Palestinian Territory, or otherwise compensate those affected for the damaged suffered.

5. But despite this, more than two years since the ICJ’s advisory opinion was issued, we continue to witness the total disregard by Israel on their obligation and responsibility on this matter. What is even of more concern is that Israel continues with its intransigent behaviour by totally ignoring the advisory and maintains its selfless attitude by continuing to construct the Wall and its policy of strangulating the Palestinian of their economic well being.

6. It has been well acknowledged that the Wall has brought anything but more hardship and despair to the Palestinians, as if the constant harassment, violence and military attacks are not enough. The Wall impacted on the lives of more than half a million Palestinians living within one kilometre of the Wall. The impact of the Wall and settlement activities on Palestinian agriculture continues to be substantial. Its construction has led to the confiscation of more than 273,000 hectares (270 sq. km) of the West Bank’s most fertile land, representing about 15 per cent of all West Bank agricultural land, and loss of control over 49 Palestinian water wells. In addition to this, the destruction of physical infrastructures left 22 per cent of the West Bank areas surrounding the Wall without road and water networks, and nearly 50 per cent of the residents without access to health services.

7. Where the Wall has been constructed, Palestinians face economic hardship from being restricted from or not being able to reach their land to harvest crops, graze animals or earn a living. Residents have also been cut off from schools, universities and specialized medical care. The damage caused by the destruction of land and property for the Wall’s construction will take many years to recover. It will hinder Palestinian development, if and when a political solution is found.

8. Sadly, the Wall is the most visible sign of the transformation of the Occupied Palestinian Territory into a vast open-air prison. Its construction remains as a

dangerous dimension that has acutely undermined the humanitarian and human rights situation of those living under Israeli occupation. The Wall has impacted and will continue to impact in an adverse manner the social fabric of Palestinian communities and their daily life.

Madam President,

9. My delegation had highlighted the effect of the Wall on the lives of the Palestinian to show that the impact goes beyond that of just economy. The hardship that the Palestinians face daily for so many years is immeasurable and could not in any way be quantified in terms of monetary value. This notwithstanding, the establishment of the Register of Damage is indeed very timely and important. It would provide a technical, fact-finding process of listing or recording the fact and type of the damage caused as a result of the construction of the Wall. There needs to be an immediate monitoring of the damages that have been caused by Israel on the Palestinians. The Register would be able to play this role and provide a comprehensive record of the damage caused to all natural and legal persons concerned as a result of the construction of the Wall by Israel.

10. For far too long the hardship and predicaments of the Palestinians have never been recorded and journalised in a proper register under the administration of the United Nations. It is only right and proper that we begin to do so now, so that it will forever be in the annals of history of the injustice that had been inflicted on the Palestinians by Israel. We must make earnest efforts to ensure that the Palestinians will not be denied this right, and we must realize the Register of Damage including the setting up of its office at the earliest possible.

11. We call on Member States, parties involved and relevant UN agencies to extend their support and cooperation to the office of the Register of Damages. Such support and cooperation will ensure the successful implementation of the Register. The Register must be more than just a "shopping list". It must be a well-prepared and substantiated document that will enable the affected people to be compensated for their losses and for the restitution of their land and properties.

Madam President,

12. Israel is accountable and responsible for the entire predicament and hardship of the Palestinians consequent to the construction of the Wall. There could be no valid excuse for Israel to justify its actions. The UN Secretary-General in one of his report to the General Assembly stated, "...I (Secretary-General) acknowledge and recognize Israel's right and duty to protect its people against terrorist attacks. However, that duty should not be carried out in a way that is in contradiction to international law".

13. The international community should not allow Israel to continue to ignore with impunity the advisory opinion of the ICJ and the various Security Council and General Assembly resolutions. It has full obligations and responsibility in making reparations for all the damages caused by the Wall. It must immediately stop the construction of the

Wall, dismantle and remove the completed sections of the Wall. We urge the international community and in particular, this august Assembly, to ensure that Israel act immediately in this regard. This Assembly is also duty bound to ensure that the lives and livelihood of the Palestinians are secured. The draft resolution A/ES-10/L.20 on the “Establishment of the United Nations Register of Damage caused by the construction of the Wall in the Occupied Palestinian Territory” before us is intended towards that end. We call on this Assembly to adopt the resolution.

I thank you, Madam President.