

Attacks Against the World Court by Bush, Kerry, and Congress Reveal Growing Bipartisan Hostility to International Law

By Stephen Zunes | August 2004

On July 9, the International Court of Justice (ICJ) determined that the Israeli government's construction of a separation wall running through the occupied Palestinian West Bank was illegal. Among other things, the ICJ noted that the construction of the first 125 miles of the proposed 450-mile barrier "has involved the confiscation and destruction of Palestinian land and resources, the disruption of the lives of the thousands of protected civilians and the de facto annexation of large areas of territory." The court called on Israel to cease construction of the wall, to dismantle what has already been built in areas beyond Israel's internationally recognized border, and to compensate Palestinians who have suffered losses as a result of the wall's construction.

The vote was 14-1, a not-unexpected margin, given the overwhelming consensus of international legal experts regarding the responsibilities of occupying powers. The majority included the highly respected conservative British jurist, Rosalyn Higgins; the sole dissenter was the American judge, Thomas Buergenthal. The 57-page decision examined in detail the various arguments raised by the interested parties and was consistent with strictures set by the United Nations Charter, a series of UN Security Council resolutions, previous ICJ rulings, and relevant international treaties.

Despite the seemingly clear-cut nature of the ruling however, the Bush administration, Democratic presidential nominee John Kerry, and an overwhelming bipartisan majority of Congress have all gone on record denouncing the verdict. Never before has there been such a unified negative response by America's political leadership to a decision by the world's highest court.

This unprecedented reaction to an ICJ ruling is neither a moral commitment to the security of Israel nor an example of the power of the "Jewish lobby." It appears instead to be yet another indication of the growing bipartisan hostility to any legal restraints on the conduct of the United States and its allies beyond their borders, particularly in the Middle East. Both Republicans and Democrats have determined that any effort to raise legal questions regarding the actions of occupying powers must be forcefully challenged.

The United States and the World Court

The International Court of Justice has its origins in the Permanent International Court, established in The Hague in 1899. Since the founding of the United Nations in 1945, the ICJ—also known as the "World Court"—has functioned essentially as the judicial arm of the UN system. Designed to better enable nations to settle their disputes nonviolently based upon the rule of law, the ICJ has been used by Washington on a number of occasions over the years to advance U.S. foreign policy interests ranging from fishing disputes with Canada to the seizure of American hostages by Iran.

(The ICJ is a separate body from the International Criminal Court (ICC), also located in The Hague, which was established in 2002 to prosecute individuals for war crimes when national courts are unable or unwilling to do so. The United States has refused to ratify the ICC treaty, has pressured other nations to reject it as well, and has demanded special exemption from the ICC's authority.)

Despite America's strong legal tradition and its key role in the development of international humanitarian law and related international legal constructs, and despite the fact that the ICJ has more often than not ruled in favor of the United States and its allies, recent decades have seen increasing American hostility toward any legal constraints upon U.S. foreign policy. For example, in 1986, the ICJ—also in a 14-1 vote isolating the U.S. judge—called for the United States to cease its attacks against Nicaragua, both directly and through its proxy army of Nicaraguan exiles known as the FDN or Contras, who were notorious for their attacks against civilian targets.

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Moreover, the court ruled that the United States had to pay the Nicaraguan government over \$2 billion in compensation for the damage inflicted upon the country's civilian infrastructure. The Reagan administration refused to comply with either directive.

The Democrats' response to the ICJ verdict on Nicaragua was not much better: the Democratic-controlled Congress voted to continue to provide military and economic aid to the Contras. Even Massachusetts Senator John Kerry, who held hearings that uncovered the Contras' involvement in drug trafficking, voted to send the group \$20 million of additional aid following the World Court's decision. President Clinton, just like preceding and subsequent Republican presidents, also refused to compensate Nicaragua's debt-ridden government as ordered by the ICJ.

Similarly, in 1999, the World Court voted that the United States and other existing nuclear powers were legally bound by provisions of the Nuclear Nonproliferation Treaty—signed and ratified by the United States and all but a handful of the world's nations—to take serious steps to eliminate their nuclear arsenals. Continuing Clinton's recalcitrance, the current administration has refused to comply, and Congress continues to approve White House requests for funding the development and procurement of new and dangerous nuclear weapons systems.

The Barrier and the Court Decision

The idea of a physical barrier between Israel and the new Palestinian state that would emerge from the occupied territories was originally promoted by Israeli moderates as a means of securing Israelis from attack after the withdrawal of Israel's occupation forces. What the right-wing government of Ariel Sharon has done, however, is to build most of the barrier not along Israel's recognized border, as originally proposed, but in a lengthy serpentine pattern through the occupied West Bank in order to incorporate illegal settlement blocs of Jewish colonists—along with large areas of Palestinian farmland—into Israel.

According to the Fourth Geneva Convention—which is binding upon its signatories—an occupying power is forbidden from transferring any parts of its civilian population into territories seized by military force. Furthermore, a series of UN Security Council resolutions (446, 452, 465, and 471) specifically call on Israel to withdraw from these settlements. Successive Israeli governments have refused to comply with these resolutions, however, and the United States has blocked the UN Security Council from enforcing them.

Within the next few years, depending on the final route chosen for the incomplete sections, the wall

could reduce Palestinian areas in the West Bank by half. The remaining Palestinian areas would be subdivided into a series of noncontiguous cantons, each of which would be surrounded by the barrier and land that would be unilaterally annexed to Israel. (Already, the Palestinian city of Qalqilya is surrounded on all sides by the wall.) At that point, Israel and the United States have indicated that they may be ready to recognize what's left of the West Bank and Gaza Strip as "an independent Palestinian state." This "state"—bearing a striking resemblance to the infamous Bantustans of apartheid South Africa—would amount to barely 10% of historical Palestine. Thus, the International Court of Justice ruled that the wall's construction violates the Palestinians' right to self-determination.

Bush Administration and Senator Kerry Both Criticize World Court

The Bush administration quickly challenged the World Court's authority by questioning whether international law should even be applied to Israeli-occupied territories. White House spokesman Scott McClellan stated, "We do not believe that it is the appropriate forum to resolve what is a political issue." Democratic presidential nominee John Kerry concurred, arguing: "It is not a matter for the ICJ. ... I do not believe that the ICJ should [have] even been considering this issue, given that they do not have jurisdiction."

Neither the incumbent administration nor its electoral challenger mentioned that the General Assembly voted to send the issue to the World Court only after the United States vetoed an otherwise-unanimous UN Security Council draft resolution last fall, declaring "that the construction by Israel, the occupying power, of a wall in the Occupied Territories departing from the armistice line of 1949 is illegal under relevant provisions of international law and must be ceased and reversed." In fact, Senator Kerry defended President Bush's decision "to oppose the resolution in the General Assembly and to convey this opinion to the ICJ."

The ICJ claimed jurisdiction partly because the United States had frustrated the Security Council from exercising its authority to address actions by Israel that it deemed constituted a "threat to international peace and security." The court reasserted the authority of the General Assembly to seek such an advisory opinion to rectify Washington's abuse of its veto power. Over the past 35 years, the United States has used its veto 79 times, almost half of them to block resolutions critical of Israeli violations of international law.

Reiterating the Bush administration's longstanding insistence that the occupier's interests have as much legitimacy as the welfare of those under occupation, John Danforth, U.S. ambassador to the United Nations, argued that addressing such legal issues as the wall "points away from a political solution to the Israeli-Palestinian conflict," since "the claims of each side must be accommodated." (As a U.S. senator in 1990, during Iraq's occupation of Kuwait, Danforth took just the opposite position, insisting that to address Iraqi land claims would be rewarding aggression, and arguing that international law should be strictly enforced "by all necessary means.")

Both Kerry and Bush stated that they were "deeply disappointed" by the World Court's ruling, but Kerry went on to claim that "Israel's fence is a legitimate response to terror that only exists in response to the wave of terror attacks against Israel. The fence is an important tool in Israel's fight against terrorism." At least President Bush was able to say: "I think the wall is a problem. It is very difficult to develop confidence between the Palestinians and the Israelis with a wall snaking through the West Bank."

Further cementing his position, Kerry joined 78 senators—including his running mate, Senator John Edwards of North Carolina—in signing a strongly worded letter to Kofi Annan criticizing the UN secretary general for backing the General Assembly's decision to ask the ICJ to consider the legal questions involved. In the letter, Kerry, Edwards, and their Senate colleagues declared that the wall was a justifiable and necessary defensive measure by Israel and that questioning Israel's policy cast doubt on the chief UN official's opposition to terrorism.

The Congressional Reaction

On July 15, the House of Representatives—by an overwhelming 361-45 majority—voted to deplore the World Court's decision. Underscoring bipartisan support on Capitol Hill for the White House challenge to the UN system, a large majority of congressional Democrats joined their Republican colleagues in commending President Bush for "his leadership in marshalling opposition to the misuse of the ICJ..."

On July 20, an even stronger Senate resolution was introduced by Republican Senator Gordon Smith of Oregon, "supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence." This bipartisan Senate resolution, effectively endorsing Israel's colonization drive in the occupied

territories, quickly collected 34 co-sponsors, including Republicans Trent Lott of Mississippi, Orrin Hatch of Utah, Rick Santorum of Pennsylvania, and George Voinovich of Ohio as well as Democrats Hilary Rodham Clinton of New York, Evan Bayh of Indiana, Patty Murray of Washington, Barbara Boxer of California, and Ron Wyden of Oregon.

One of the leading co-sponsors of the House resolution was California Congressman Tom Lantos, the ranking Democrat on the House International Relations Committee, who called the ICJ ruling "a perversion of justice." (As an indicator of the cynical view with which members of Congress treat human rights issues, Lantos has been repeatedly elected chair of the House of Representatives' "Human Rights Caucus.")

Congressional opposition to the World Court decision centered on several dubious assertions:

An Allegation that the Ruling Interferes with Israel's Right to Self-Defense:

In its ruling, the International Court of Justice acknowledged the tragic realities that "Israel has to face numerous indiscriminate and deadly acts of violence against its civilian population" and that the Jewish state "has the right, indeed the duty, to respond in order to protect the lives of its citizens." The court recognized, however, that such security measures "are bound nonetheless to remain in conformity with applicable international law."

In other words, Israel—like any country—has the right to build a wall, a fence, a moat, or anything else along its borders to protect itself. The World Court even recognized a number of UN resolutions specifically reiterating Israel's right to defend its borders. The basis of the court's ruling against the Israeli policy is that the jurists were "not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives..." Since the barrier was not following Israel's borders, the court simply confirmed the widespread assumption in Israel and elsewhere that the wall was being built for political reasons rather than security reasons and was therefore illegal.

The proposed Senate resolution cites the successful precedent of a security fence "in Gaza [which] has proved effective at reducing the number of terrorist attacks." However, senators are ignoring the fact that the Gaza barrier—unlike the wall in the West Bank—is built along the recognized border between Israel and the Gaza Strip and therefore is not considered illegal by the World Court ruling.

Despite the ICJ's clear distinction between a government's legal right to build a protective barrier along its border for self-defense and the construction

of a barrier within the occupied territory of another nation in a manner that effectively expands the boundaries of the occupying power, the bipartisan House resolution called the court's decision an "attempt to infringe upon Israel's right to self-defense." Typical of remarks by leading House Democrats, New York Congressman Eliot Engel, a senior member of the House International Relations Committee Subcommittee on the Middle East, falsely claimed that the ruling totally ignored Israel's right to defend its citizens. Similarly, Nevada Democrat Shelley Berkley asserted that the advisory opinion was done "solely for the narrow purpose of condemning the State of Israel for its effort to protect its innocent citizens from suicide bombers." Democratic Senator Hilary Rodham Clinton declared, "It makes no sense for the United Nations to vehemently oppose a fence which is a nonviolent response to terrorism rather than opposing terrorism itself."

Indiana Republican Mark Souder went further, charging that "the ruling declares that Israel has no right whatsoever to defend itself, protect its people, or to live at peace." Souder added: "The International Court of Justice has ruled that they would prefer a Middle East without Israel. They would rather see a democratic state... disappear from the face of the Earth."

Many Israelis, however, argue that constructing the wall inside occupied territory actually decreases Israel's safety. For example, several prominent military and security officers have spoken out against Sharon's policy, forming groups like the Council for Peace and Security to challenge the barrier's route, which is projected to be at least three and a half times as long as Israel's internationally recognized border with the West Bank. Avraham Shalom, former head of Israel's security division, Shin Bet, said that the wall "creates hatred, it expropriates land and annexes hundred of thousands of Palestinians to the state of Israel. The result is that the fence achieves the exact opposite of what was intended."

Similarly, as Aharon Barak, the Israeli Supreme Court chief justice, wrote regarding a recent case brought before him: "Only a separation fence built on a base of law will grant security to the state and its citizens. Only a separation route based on the path of law will lead to the security so yearned for."

The Charge that the ICJ has an Ideological Bias Against Israel:

Members of Congress from both parties have claimed that the World Court ruling was not based on well-recognized legal precedents but was instead an ideological attack on the state of Israel. For example, the Senate resolution expresses the concern that "the International Court of Justice is politicized and

critical of Israel." It notes, "The United States, Korea, and India have constructed security fences to separate such countries from territories or other countries for the security of their citizens." On the House floor, Representative Engel claimed that the International Court of Justice was demanding "one standard for Israel and one standard for everybody else," since the court had not ruled on security fences erected by Saudi Arabia, India, and Turkey.

Such comparisons fail to note that the other barriers, unlike Israel's, were placed along internationally recognized borders and were therefore not the subject of legal challenge. Rather than displaying a bias against Israel, the World Court has actually been quite consistent: In the only other two advisory opinions issued by the ICJ involving occupied territories (South African-occupied Namibia in 1972 and Moroccan-occupied Western Sahara in 1975), the court also decided against the occupying powers.

The Discrediting of Human Rights Reports:

In a recent document, Amnesty International noted, "This fence/wall is having devastating economic and social consequences on the daily lives of hundreds of thousands of Palestinians, separating families and communities from each other and from their land and water—their most crucial assets." Reports from the World Bank, the United Nations, the Red Cross, and local human rights groups have documented in detail the barrier's harmful impact on local populations, such as separating farmers from their fields, children from their schools, workers from their jobs, patients from medical care, and families from each other. Last fall, Human Rights Watch unsuccessfully lobbied President Bush to deduct the cost of the wall's construction inside occupied territories from the recently approved \$9 billion U.S. loan guarantee to Israel, observing that as the barrier's route snakes through the West Bank, it "is having a profound impact on the ability of the Palestinian residents to exercise fundamental human rights."

In an effort to discredit these reputable human rights groups, the Senate resolution contests their assertions that the route chosen for the wall has a negative impact on the civilian population under Israeli occupation, declaring that "the Government of Israel takes into account the need to minimize the confiscation of Palestinian land and the imposition of hardship on the Palestinian people." The ICJ, however, confirmed the findings of the human rights groups, determining that Israel was indeed violating the Geneva Conventions' proscription against occupying powers unnecessarily interfering with the subjected population's rights to property, access to education and health care, and normal economic activity.

The Senate's resolution also claims that Israel's barrier is a "proportional response to the campaign of terrorism by Palestinian militants." This contrasts, ironically, with a recent decision by Israel's Supreme Court ordering the Israeli government to re-route a section of the wall bisecting some Palestinian towns, because the "relationship between the injury to the local inhabitants and the security benefit from the contraction of the Separation Fence along the route, as determined by the military officer, is not proportionate."

A Denial that the West Bank Is Occupied Territory:

Questions regarding the legality of Israel's practices in the West Bank fall under United Nations jurisdiction, because the West Bank—seized by the Israeli military in the 1967 war—constitutes occupied territory and is therefore covered by certain international legal conventions that do not apply to domestic matters. This helps explain why various UN bodies have been more critical of Israeli violations of international humanitarian law than of comparable human rights abuses by autocratic Arab governments. The operable legal distinction is that Israel is an occupying power, while neighboring Arab states are not. The only way to claim—as Senator Kerry and others have—that the UN does not have jurisdiction is to deny that Israel's incursion and territorial control constitute an occupation.

Indeed, if approved, the Senate resolution against the World Court decision will be the first time either house of Congress has passed a resolution that refers to the West Bank not as occupied territories but as "disputed" territories. This distinction is important for two reasons: the word "disputed" implies that the claims of the West Bank's Israeli conquerors are as legitimate as the claims of Palestinians who have lived on the land for centuries, and disputed territories—unlike occupied territories—are not covered by the Fourth Geneva Convention and many other international legal statutes.

The Senate resolution contends that the request by the UN General Assembly for a legal opinion by the ICJ referred to "the security fence being constructed by Israel to prevent Palestinian terrorists from entering Israel." In reality, the UN request said nothing regarding security measures preventing terrorists from entering Israel. Instead, the document refers only to the legal consequences arising from "the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory..." Moreover, the UN statement refers to the secretary-general's most recent report on the occupation, which reiterates the longstanding international consensus that Occupied Palestinian Territory refers only to the parts of Palestine seized by Israel in the 1967 War, not to any part of Israel itself.

Congressional leaders insist, however, that to refer to the West Bank as occupied territory is somehow blasphemous. In describing a recent trip to the West Bank, House Majority Leader Tom DeLay remarked, "I did not see occupied territory; I saw Israel." Republican Senator James Inhofe of Oklahoma simply stated his conviction that Israel alone "has a right to the land... because God said so." Mike Pence, house deputy assistant majority leader, declared that when the World Court "described Israel as an occupying power in Occupied Palestinian Territory, it was most assuredly a dark day and a day of disgrace for the International Court of Justice."

If the West Bank is seen as part of Israel and not as occupied territory, then any legal dispute there should simply be a matter for the Israeli courts, not the World Court. Senator Kerry, for example, has argued that any legal challenges to the route of the wall should go through the Israeli judiciary, "and we should respect that process" rather than referring the issue to international forums.

However, the World Court went on record in its recent 14-1 decision that the West Bank, including East Jerusalem, is indeed occupied territory. Even Thomas Buergenthal, the American judge who cast the lone negative vote (largely on procedural grounds), acknowledged that the Palestinians were under occupation and had the right to self-determination, that Israel was obligated to adhere to international humanitarian law, and that he had "serious doubt" that routing a wall to protect West Bank settlements would qualify as "legitimate self-defense." Furthermore, the Israeli Supreme Court has acknowledged that Israel holds the West Bank "in belligerent occupation" and that "the law of belligerent occupation... imposes conditions" on the authority of the military, even in areas related to security.

Why the Anti-ICJ Reaction?

It is not new for the American right-wing, in an effort to discredit the UN system, to fabricate outlandish charges against the world body, such as the popular conspiracy theory floated in the 1990s that the UN was on the verge of taking over the United States with its fleet of black helicopters in order to impose a world government. What is new is the willingness of Democrats to similarly fabricate claims of malfeasance.

It appears that both congressional Republicans and Democrats deliberately misrepresented the position of the International Court of Justice in order to so discredit the United Nations system in the public consciousness that Americans will no longer object to the United States or its allies violating UN rulings. Israeli

professor and human rights leader Jeff Halper, while celebrating the World Court verdict, expressed his concerns that “delegitimizing the ICJ, human rights, and international law has fundamental implications for other struggles as well.” But what prompted this unprecedented bipartisan hostility toward the World Court?

The Desire to Maintain U.S. Control of the Israeli-Palestinian “Peace Process”

One explanation for the anti-ICJ reaction is that the World Court seems to threaten the U.S. role as the sole arbiter of the Israeli-Palestinian peace process. The White House insists that the U.S.-led peace process should be the appropriate venue to discuss the Israeli wall, stating that “this is an issue that should be resolved through the process that has been put in place.” The Bush administration, in essence, is arguing that even the most blatant violations of the Fourth Geneva Convention by an occupying power should not be subjected to any independent legal review but can only be addressed through the voluntary cooperation of the occupying power.

The ICJ did recognize—and spoke positively about—the existence of a U.S.-led Israeli-Palestinian peace process based upon the “Road Map.” But the court emphasized that any peace agreement had to be made “on the basis of international law.”

So far, the Road Map does not appear to include any consideration of international law. For example, during a decade of U.S.-brokered peace process, Palestinians have watched the number of settlers in the West Bank more than double. Understandably, they are skeptical that their international right to freedom from colonization will ever be enforced.

The expansion of illegal Israeli settlements and of the special highways—reserved for Jews only—connecting them has resulted in the confiscation of large tracts of Palestinian property, dividing the West Bank into a patchwork arrangement whereby settler holdings encircle Palestinian population centers. The security barrier being built by Israel in the occupied West Bank is designed so that it incorporates most of these settlement blocs and divides Palestinian communities from one another.

And now, using logic that also employs an encirclement strategy, both President Bush and Senator Kerry have gone on record as saying that Israel should not have to withdraw from most of the West Bank lands taken to support illegal Israeli settlements, since there are new “demographic realities on the ground”—namely, the construction of these selfsame illegal settlements. In June, the House of Representatives passed a resolution defending Sharon’s refusal to withdraw from most of the occupied territories using similar logic.

Manifesting a bipartisan consensus, there were only nine dissenting votes in the 435-member body. The 2004 Democratic Party platform, approved by an overwhelming majority in July at the convention in Boston, contains similar language.

The anti-ICJ House resolution warns other countries not to try to encourage the application of international law in arenas that the United States considers under its purview. Indeed, the resolution “cautions members of the international community that they risk a strongly negative impact on their relationship with the people and Government of the United States should they use the ICJ’s advisory judgment as an excuse to interfere” with the U.S.-managed peace process.

Similarly, the Senate’s resolution insists that, on matters such as the legality of the barrier, the Oslo Accords—signed between Israel, the Palestinians, and the United States in 1993—insist that “all disputes between the parties be settled by direct negotiations or agreed-upon methods.” Taking this issue to the World Court, according to the Senate resolution, violates the Oslo Accords requirement that none of the parties take any unilateral initiatives that would prejudice the outcome of the peace process.

The Senate resolution fails to note, however, that successive Israeli governments—with U.S. backing—have repeatedly prejudiced the outcome of the peace process through their ongoing construction of illegal settlements in the occupied territories and other unilateral initiatives. Moreover, the Sharon government has long declared that it no longer feels bound by any of the provisions of the Oslo Accords.

Furthermore, Israel—again, with U.S. support—has refused to return to the negotiating table to meet with the Palestinians on any substantive issues for nearly three and a half years. Indeed, construction of the wall began *after* Israel broke off negotiations, so the Palestinians have not even had a chance to negotiate about it. In addition, most of the settlements that the wall is built to separate from the local Palestinian population have been established since the start of the Israeli-Palestinian negotiations resulting from the 1993 Oslo Accords.

What is upsetting to Bush, Kerry, and Congress is that the ICJ ruled that all nations “are under an obligation not to recognize the illegal situation arising from the construction of the wall, and not to render aid or assistance in maintaining that situation.” Unchallenged, this ruling would prevent the United States from recognizing Israel’s planned annexation of West Bank lands and could even threaten U.S. financial and military support for the occupation.

The Palestinians recognize that they have very little leverage regarding the occupation. Having expelled

most Palestinians from their homeland more than 50 years ago, Israel occupies most of what remains of Palestine, has placed Palestinian towns and cities under siege, and launches periodic air strikes and armed incursions into populated Palestinian areas at will. This power imbalance is further exacerbated by the fact that the occupying authorities continue to receive unconditional, large-scale military, economic, and diplomatic support from the world's sole remaining superpower.

In desperation, frustration, and anger, some Palestinians have responded by launching terrorist attacks against Israeli civilians, a course of action that is both morally reprehensible and politically counterproductive. Other Palestinians contend that their cause is advanced more successfully by taking a legal and nonviolent route by going to the International Court of Justice.

Sadly, this internationally backed effort by moderate Palestinians to advance their struggle for self-determination nonviolently through the rule of law has been met by an overwhelmingly negative bipartisan reaction from the United States, which controls the Israeli-Palestinian "peace process." As a result, the appeal of Palestinian extremists advocating violence is likely to grow.

Challenging the Threat of International Law

Speaking broadly, the attacks on the integrity of the World Court ruling by the Bush administration, the Democratic contender for the White House, and an overwhelming bipartisan majority of Congress, appear to be part of an ongoing effort—further exemplified by the overwhelming bipartisan vote in support of the illegal U.S. invasion of Iraq—to undermine and discredit the United Nations system. International law and intergovernmental organizations are seen by both Republicans and Democrats as interfering with the prerogatives of the U.S. government and its allies in strategically important areas like the Middle East. Given the overwhelming military dominance of the United States globally (and allies such as Israel regionally), international legal institutions are among the few potential restraints on the unfettered exertion of American power.

As a result, the bipartisan attacks against the ICJ should not be seen simply as "pro-Israel" sentiment, particularly in light of the long-term detrimental impact on Israeli security if Israel continues its current policies. Instead, Washington's unified hostility must be viewed as part of a broader effort to undermine international law in order to give the United States freer rein in pursuing its policy objectives overseas.

For example, Democratic Congressman Gene Green of Texas claimed that the ICJ ruling "sets dangerous precedents in international law that hinder and

impede United States anti-terrorism efforts." In reality, the ruling has no bearing on legitimate anti-terrorism efforts, but it may have implications regarding the legality of certain U.S. actions committed in the *name* of anti-terrorism. For example, a nearly unanimous congressional vote last year declared that the U.S. invasion of Iraq was a legitimate part of the ongoing "war on terrorism."

In its far-reaching decision, the World Court made a definitive ruling that member states of binding treaties, conventions, and charters—such as the Fourth Geneva Convention and the United Nations charter—are obliged to ensure that other member states live up to their legal obligations under those agreements. Specifically, the court insisted that every country that is party to the Fourth Geneva Convention must "ensure compliance by Israel with international humanitarian law as embodied in that Convention."

This is what the Bush administration, the Kerry-Edwards ticket, and an overwhelming bipartisan majority in Congress, are so upset about: any such strict and uniform application of international law would interfere with U.S. policy objectives in the region, which rely heavily on the use of military force, including conquest and occupation. This is why any attempt to enforce international humanitarian law must be met by slander, condemnation, and other attacks against the credibility of the international organizations daring to suggest that the United States and its allies are not somehow exempt from such legal obligations.

In its ruling, the ICJ also determined that "the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall." Not surprisingly, however, President Bush has promised to veto any UN Security Council resolution based upon the World Court's ruling. The United States was also one of just six countries (five of which are dependent on U.S. economic aid) in the 191-member General Assembly to vote against a resolution upholding the ICJ decision.

Indeed, the Senate's resolution specifically urges the administration "to vote against any further United Nations action that could delay or prevent the construction of the security fence and to engage in a diplomatic campaign to persuade other countries to do the same." Should the Senate resolution pass, it will effectively put the United States on record that, despite the nearly unanimous World Court decision to the contrary, parties to international agreements are *not* bound to abide by or enforce agreement provisions.

Given that the World Court enjoined the United States and other signatories to “ensure compliance by Israel with international humanitarian law,” any refusal by the United States government, which—as Israel’s primary military, economic and diplomatic supporter—is in the best position to “ensure compliance,” places the United States in violation of the World Court, just like Israel. However, just as the Bush administration—backed by Senator Kerry and both houses of Congress—chose to ignore the UN Charter by invading Iraq, it appears that these same U.S. leaders are quite willing to ignore the world’s highest court.

In essence, this wholesale bipartisan rejection of international law stems from the way in which U.S. backing of the expansionist agenda of the Israeli right wing has merged—under the banner of the “war on terrorism”—with the growing militarization of U.S. Middle East policy, exemplified by the invasion and occupation of Iraq. Indeed, the Bush administration, with strong backing from both parties in Congress, is now engaging in what the Israeli newspaper *Haaretz* has referred to as the “Sharonization of U.S. Policy.”

Even if Washington were to adopt a principled and law-based policy toward the Israeli-Palestinian conflict, how could Bush or Kerry criticize Israel for its occupation while maintaining the U.S. occupation of Iraq? How could Bush or Kerry criticize the widespread Israeli maltreatment of Palestinian prisoners when U.S. abuses against Iraqis rank even worse? How could Bush or Kerry criticize the killing of Palestinian civilians by Israeli occupation forces while American occupation forces exact an even higher death toll among Iraqi civilians? How could Bush or Kerry criticize Israel’s violations of international law given the manifold violations committed by the United States in its invasion and occupation of Iraq?

In conclusion, the recent attacks against the World Court by both Republicans and Democrats are not

simply an endorsement of the dangerous and illegal policies of a right-wing ally. They are, in effect, a declaration of empire—a brazen assertion that the United States and its allies are somehow exempt from longstanding and respected international legal institutions. If such a declaration goes unchallenged, the Palestinians will certainly not be the only ones who will suffer.

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