

BDS *National Committee* (BNC)

The Jerusalem Light Railway Project: Effects and Legal Implications

Construction on the Jerusalem Light Railway (JLR) began in 2006 with the pretext of, “brining immediate relief to traffic congestion” and “revitalizing the center of Jerusalem”. The project, slated for completion in 2010, is a public-private initiative that purports not to carry any political objectives or intention but instead serves to improve the public transportation system throughout the Jerusalem Municipality.

The often stated position of the JLR’s stakeholders appears to fall in stark contrast with public statements which call to question the project’s underlying motives. Upon approving the project, former Israeli Prime Minister Ariel Sharon stated that, “anything that can be done to strengthen Jerusalem, construct it, expand it, and sustain it for eternity as the capital of the Jewish people and the united capital of the state of Israel, should be done.”

Such comments trigger a mounting anxiety amongst Jerusalem’s Palestinian population and international observers alike, and demonstrate that the apolitical rhetoric is merely a disingenuous attempt to cloak the overarching impetus driving the facilitation of the JLR.

When one moves beyond the dialogue it becomes apparent through the initiation of construction, and the project’s implications upon completion, that numerous concerns under international law exist. Beyond the legal ramifications however, the JLR has brought untold hardship and burden to the lives of Jerusalem’s occupied Palestinian population.

The Impact of the Light Rail

Perhaps the most blatant effect of construction relates to the confiscation of land by Israeli authorities who deem such actions necessary for the facilitation of the JLR. Such policies began as early as 2001 when the Palestinian residents of the Shu’fat neighborhood began to receive notices to this effect. To date, a total of 75 dunams of land have been confiscated in the name of the light rail. The direct effects on the lives of Palestinian residents of East Jerusalem are immeasurable.

Noise and air pollution adversely effects residential neighbourhoods while lowering their quality of life but the lasting ramifications of such side-effects may not be fully know for generations to come.

Ongoing construction, unbearable congestion and traffic jams, and perpetual delays increase economic hardships on the Palestinian population who in many cases watch as the construction of the rail usurps or hinders their daily means of subsistence.

While daily inconveniences are often perceived as an inevitable feature of large scale urban renewal, inconveniences that also carry similar effects on Jewish neighbourhoods in West Jerusalem, it must not be forgotten that effects of such actions in East Jerusalem are occurring on land that is undeniably under Israeli occupation. The confiscation of land that has allowed for the facilitation of the light rail project is strictly forbidden under Article 53 of the Fourth

Geneva Convention that states, “any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.”

Creation of a “United City”

When former Prime Minister Sharon approved construction plans he spoke of Jerusalem as the united capital of the State of Israel.

The operation of the future light railway system will serve as a further step towards the facilitation of Israel's claim to sovereignty over Jerusalem. By providing direct access to the Ne'eV Ya'akov, Pisgat Ze'ev, and French Hill settlements the main illegal settlements will finally be linked with the center and western part of the City. The adverse effects of this will serve to diminishing any chance of East Jerusalem becoming the future capital of a Palestinian state under a two-state solution.

Beyond the political ramifications of such action, Article 49(6) of the Fourth Geneva Convention states that “[t]he Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” Israel's principal role in the project constitutes a flagrant violation of Article 49(6), which under both the Rome Statue of the International Criminal Court and customary international law, amounts to a war crime.

Corporate Complicity and the call to Boycott

Both French (Veolia, Alstom) and Israeli (Ashtrom, Polar Investments, Harel Insurance) companies operating under the CityPass umbrella are responsible for the financing, construction, and operation of the railway system. Although these companies seem to be profit-driven actors with no interest in the political ramifications of the JLR they still face responsibility under international law for knowingly aiding and abetting the potential commission of a war crime against a civilian population.

International boycotts and lobbying efforts have been employed with a degree of success. After continuous negative press, the cancelation of contracts in Europe, and pending legal proceedings in France, Veolia, has withdrawn from the CityPass consortium, however the Israeli company Dan Bus Cooperative appears poised to take their place.

Recommendations

In light of the above it is clear that the JLR carries grave political, economic, and legal ramifications which go far beyond the stated objective of “relieving traffic congestion” and “revitalizing the center of Jerusalem”. The initiation of construction has created untold and immeasurable hardships on the lives of occupied East Jerusalem's Palestinian population, while the completion of this project will further move towards solidifying Israeli's claim to sovereignty over Jerusalem as the “united capital”.

The National Committee for Boycott, Divestment and Sanction calls upon:

- 1) The International Community, the High Contracting Parties to the Geneva Conventions of 1949 to fulfill their obligations under common Article 1, to respect and ensure respect for the provisions of the Conventions under all circumstances by taking appropriate measures to compel Israel to abide by its obligations under international humanitarian law;

- 2) Private companies involved in the railway construction to cease their respective contributions to the implementation of the JLR project in occupied East Jerusalem, which is facilitating Israel's population transfer into the occupied Palestinian territory, an action that amounts to a war crime, and renders private corporations involved criminally liable.
- 3) The Arab states, in particular Saudi Arabia, who have awarded Alstom a 1.8 Billion dollar contract to build the Haramain Express between Mecca and Medina, to cease such ties.

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