



**CANADIAN MUSLIM
PUBLIC AFFAIRS
COUNCIL**

**CMPAC's Summary and Analysis of the International Court of Justice Advisory
Opinion: Legal Consequences of the Policies and Practices of Israel in the
Occupied Palestinian Territory**

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1.0 Executive Summary

The International Court of Justice (ICJ) rendered an [Advisory Opinion](#) on July 19, 2024, concerning Israel's policies in the Occupied Palestinian Territory, including the West Bank, East Jerusalem, and Gaza. The ICJ's findings unequivocally declare Israel's occupation as **unlawful**, rooted in violations of the Palestinian right to self-determination and numerous breaches of international humanitarian and human rights laws. Key violations identified include the establishment of settlements, construction of the separation barrier, and exploitation of Palestinian natural resources, constituting **apartheid** and contravening the Fourth Geneva Convention.

The ICJ underscores the responsibilities of UN member states, urging them to refrain from recognizing the illegal situation resulting from Israel's practices and to take measures to ensure compliance with international law. This could include diplomatic actions, and leveraging international accountability mechanisms. Canada, as a signatory to relevant treaties and a supporter of international law, faces a moral imperative to align its policies accordingly.

The Advisory Opinion also challenges the application of the IHRA definition of antisemitism. This suggests a need for clarity to distinguish legitimate criticism of Israel's actions, based on the Advisory Opinion, from antisemitic discourse. This reevaluation is crucial to uphold principles of justice and human rights while combatting genuine instances of antisemitism.

Furthermore, the ICJ's findings bolster pro-Palestinian student movements in Canada advocating for divestment from entities linked to the occupation. It provides a legal basis for their initiatives and emphasizes the ethical and legal obligations of Canadian universities to review their financial ties in light of international legal standards stemming out of the ICJ rulings and opinion.

In conclusion, the ICJ's Advisory Opinion presents a pivotal moment for Canada and the international community to uphold justice, human rights, and international law in addressing Israel's long standing illegal occupation of Palestinian territories. Immediate action is urged to implement diplomatic measures, economic sanctions, and support for Palestinian self-determination, ensuring Canada's leadership in promoting a just resolution for the Palestinians.

2.0 Analysis

The ICJ's Advisory Opinion provides a comprehensive legal framework for understanding the nature and consequences of Israel's occupation of Palestinian Territory. The determination that the occupation is unlawful sets a clear legal standard against which Israel's actions can be measured. This conclusion is significant not only for Palestine but for the international community, which is urged to take concrete steps to address the situation.

The identification of apartheid practices is particularly noteworthy, as it frames the occupation within the context of a serious international crime. This classification strengthens the call for accountability and reinforces the need for international action to end these practices. The emphasis on the prohibition of forcible transfer and settlement activity reaffirms long-standing principles of international humanitarian law, which seek to protect the rights of populations under occupation.

From a legal and policy perspective, the ICJ's opinion is a powerful reaffirmation of the principles of international law. It underscores the importance of adhering to international legal standards, particularly those enshrined in the United Nations Charter, the Fourth Geneva Convention, and international human rights treaties. Canada, as a signatory to these treaties and a supporter of international law, is obligated to abide by these legal principles. The opinion provides a clear legal basis for states, including Canada, to take action against violations such as those highlighted regarding Israel, through measures like sanctions, diplomatic actions, and support for international accountability mechanisms.

The ICJ's opinion also highlights the economic dimensions of the occupation, particularly the exploitation of natural resources. This aspect is critical, as it links the legal violations to broader issues of economic deprivation and development. By addressing these economic impacts, the ICJ underscores the holistic nature of the occupation's effects on Palestinian society.

The responsibilities of Canada and member states, as articulated by the ICJ, are crucial for translating legal principles into action. To uphold the rule of law, Canada is called upon to adhere to these principles. The call for non-recognition and the prohibition of assistance to the illegal situation are foundational elements of international law, obligating states like Canada to take diplomatic, economic, and legal measures. These measures can effectively pressure Israel to comply with its obligations under international law.

2.1 Israel's Illegal Occupation

The ICJ Advisory Opinion unequivocally declares that Israel's occupation of Palestinian territories, including the West Bank, East Jerusalem, and Gaza, constitutes an **illegal occupation** under international law. This determination is rooted in the violation of the Palestinian people's right to self-determination and numerous breaches of international humanitarian and human rights laws. The opinion emphasizes the prolonged and indefinite nature of the occupation, which has continued for over five decades without any legal justification. This enduring occupation has led to severe humanitarian crises, systemic discrimination, and widespread human rights abuses against Palestinians.

The Israeli settlement activities within these territories are a clear violation of Article 49 of the Fourth Geneva Convention, which prohibits an occupying power from transferring its civilian population into the occupied area. These settlements not only alter the demographic composition of the territory but also result in the confiscation and expropriation of Palestinian land and resources. This exploitation of natural resources by Israel further entrenches the occupation and deprives Palestinians of their economic rights and prospects. The systematic expansion of settlements and the construction of barriers have fragmented Palestinian territories, making the establishment of a contiguous and viable Palestinian state increasingly difficult.

Moreover, the ICJ underscores the legal implications of the forced displacement of Palestinians, which constitutes a grave breach of international law, including the Rome Statute of the International Criminal Court. This displacement is frequently accompanied by the demolition of homes and infrastructure, effectively stripping Palestinians of their livelihoods and cultural heritage. The

cumulative effect of these policies and practices is to render the occupation not just a temporary military arrangement but a pervasive system of control that undermines the very foundation of Palestinian society and its potential for self-governance.

2.2 Nature of Israeli Policies as Institutionalized Apartheid

The ICJ Advisory Opinion identifies practices by Israel that amount to apartheid, as defined under international law, as inhumane acts committed for the purpose of establishing and maintaining domination by one racial group over another and systematically oppressing them. This classification is based on a detailed examination of Israel's laws and policies, which institutionalize racial segregation and discrimination against Palestinians.

The advisory opinion highlights several key areas where apartheid is evident. Discriminatory legislation, such as the Nation-State Law, explicitly enshrines Jewish supremacy and marginalizes non-Jewish citizens, particularly a legal framework restricts Palestinians' access to resources, services, and opportunities, creating a tiered system of citizenship and rights. The residence permit policy, which severely limits Palestinians' ability to live and work in certain areas, is another example of institutionalized discrimination that segregates and subjugates the Palestinian population.

Forced displacement is another critical aspect of Israel's apartheid practices. The demolition of Palestinian homes, often justified on dubious legal grounds such as lack of building permits, results in the uprooting of families and communities, perpetuating a cycle of instability and poverty. These demolitions are not isolated incidents but part of a broader strategy to accelerate the Judaization of areas with significant Palestinian populations, thereby altering the demographic balance in favor of Jewish settlers. This systematic effort to change the demographic landscape undermines the Palestinian presence and erodes their cultural and historical ties to the land.

The ICJ also points to the systematic violence and repression faced by Palestinians, both from Israeli security forces and settlers. This violence is often met with impunity, reinforcing a climate of fear and coercion. Such actions are designed to suppress resistance and ensure compliance with the occupation, further entrenching the apartheid system. The cumulative impact of these measures is the creation of a fragmented and disenfranchised Palestinian society, deprived of its rights and subjected to pervasive state-sanctioned discrimination.

2.3 International Legal Obligations of UN Member States

The ICJ underscores the responsibilities of other states in addressing Israel's illegal actions. States have a duty under international law to not recognize the illegal situation resulting from Israel's policies and practices and to ensure that they do not aid or assist in maintaining this unlawful situation. This means that countries must refrain from actions that could be interpreted as support for the occupation, such as trade with Israeli settlements or military cooperation with Israeli forces involved in the occupation.

Furthermore, the ICJ calls on states to take proactive measures to promote compliance with international law. This can include imposing sanctions, supporting international accountability mechanisms such as the International Criminal Court, and exerting diplomatic pressure on Israel to

comply with its legal obligations. For Canada, this means reassessing its policies and actions concerning Israel and ensuring that they align with the principles of international law and justice. Canada's historical support for a two-state solution and its commitment to human rights necessitate a firm stance against the ongoing violations perpetrated by the occupation.

Canada, as a member of the international community, has a moral and legal obligation to support efforts to end the occupation and promote a just and lasting peace in the region. This includes recognizing the right of the Palestinian people to self-determination and taking steps to address the humanitarian crisis caused by the occupation. By changing its foreign policy in alignment with international legal norms, Canada can contribute to a more equitable and just resolution for the Palestinian people.

2.4 Reevaluating the use of IHRA Definition

The IHRA (International Holocaust Remembrance Alliance) definition of antisemitism has been widely adopted to combat hate and discrimination against Jews. While this definition claims to protect Jewish communities from bigotry, its inclusion of certain criticisms of Israel as potential examples of antisemitism has led to significant controversy and misuse. The ICJ Advisory Opinion critically challenges the validity of this aspect of the IHRA definition, particularly in light of Israel's illegal occupation and apartheid practices.

The ICJ's findings provide substantial evidence of Israel's systematic violations of international law, including the illegal occupation of Palestinian territories and the implementation of policies that amount to apartheid. By conflating legitimate criticism of these actions with antisemitism, the IHRA definition undermines the ability of individuals and organizations to advocate for Palestinian rights and hold Israel accountable for its breaches of international law. The advisory opinion clearly indicates that such criticism is not rooted in antisemitic intent but rather in a legitimate pursuit of justice and human rights.

The advisory opinion emphasizes that the occupation and apartheid practices have led to widespread human rights abuses, including forced displacement, discriminatory laws, and systemic violence against Palestinians. These actions warrant robust international scrutiny and criticism. However, the IHRA definition, as currently interpreted, risks labeling these necessary critiques as antisemitic, thereby stifling essential discourse and advocacy. This conflation not only misrepresents the nature of the criticism but also detracts from genuine efforts to combat real antisemitism, which should be focused on bigotry and prejudice against Jews as a religious and ethnic group.

Canada, as a signatory to various international human rights treaties and a member of the global community committed to upholding justice, has a responsibility to ensure that its policies and definitions reflect these principles. Adopting a definition of antisemitism that suppresses valid criticism of state practices, especially those deemed illegal by international judicial bodies, contradicts these commitments. The ICJ's findings necessitate a reevaluation of the IHRA definition to ensure it does not inadvertently shield violations of international law from scrutiny.

A more precise and nuanced definition is required - one that distinguishes between genuine antisemitism and legitimate political critique. Such a definition should explicitly recognize the

difference between antisemitism and criticism of a state's actions, especially when those actions involve significant human rights violations. By doing so, Canada can ensure that its stance on antisemitism remains robust and effective while also supporting the principles of justice and accountability in international law.

In light of the ICJ's findings, it is imperative for Canada to reassess its adoption of the IHRA definition. The current definition, as applied, risks conflating necessary and justified criticism of Israel's illegal practices with hate speech, thereby undermining the very principles of justice and human rights that Canada seeks to uphold. Adopting a more balanced and clear definition will enhance Canada's role in promoting human rights and ensure that efforts to combat antisemitism do not inadvertently silence critical voices advocating for justice and equality in the Israeli-Palestinian conflict.

2.5 Pro-Palestinian Student Movements in Canada

The ICJ's Advisory Opinion on Israel's actions in Palestinian territories also has profound implications for pro-Palestinian student movements across Canada, particularly regarding their advocacy for divestment from entities associated with the occupation. The ICJ's unequivocal declaration of Israel's occupation as unlawful and its identification of practices tantamount to apartheid provide a robust legal foundation for these movements. This legal framework not only legitimizes student initiatives calling for divestment but also underscores the ethical imperative for Canadian universities to reconsider their investments and partnerships linked to activities in the Occupied Palestinian Territory.

The ICJ's classification of Israel's actions as apartheid underscores the severity of the situation, framing it as a systemic oppression that demands international attention and action. This legal standing bolsters the arguments of student activists, who contend that maintaining financial ties with entities involved in the occupation perpetuates human rights abuses and violates international law, as affirmed by the ICJ's findings.

Moreover, the ICJ's call for states to refrain from recognizing the illegal situation resulting from Israel's practices resonates deeply with these student movements. It obligates Canadian institutions to review their investments and divest from any entities linked to the occupation emphasizing that such actions are rooted in upholding international law and human rights rather than being motivated by anti-Semitism.

Canadian university administrators now face heightened pressure to align their institutional investments with ethical considerations and international legal standards articulated by the ICJ. This includes reassessing partnerships and funding sources that could contribute to or benefit from Israel's unlawful practices in Palestinian territories. By doing so, universities can respond to the calls from student activists and contribute to a campus environment that upholds principles of justice and respects human rights on a global scale.

In summary, the ICJ's Advisory Opinion provides a critical legal framework that not only condemns Israel's occupation but also galvanizes student-led movements in Canada to advocate for meaningful divestment strategies. This momentum not only strengthens their calls for accountability

and justice but also reinforces broader international efforts aimed at ending the occupation and ensuring the rights and dignity of the Palestinian people are upheld.

3.0 Demands from the Canadian Government

Based on the ICJ's Advisory Opinion and the foregoing analysis, the Canadian Muslim Public Affairs Council (CMPAC) calls on the Government of Canada to take the following actions **immediately**:

1. **Official Position of Israel's Presence in Palestinian Territories:** Canada must officially declare that Israel's occupation of Palestinian territories, including the West Bank, East Jerusalem, and Gaza, is illegal and that it will not recognize Israeli authority over these territories. This includes issuing a formal statement from the Prime Minister's Office and the Department of Global Affairs, clearly articulating Canada's position against the occupation and apartheid practices.
2. **Diplomatic Measures:** Canada must implement diplomatic measures, including the reduction of diplomatic ties and the imposition of sanctions, to pressure Israel to end its unlawful occupation and comply with international law. This could be done by recalling ambassadors or downgrading the level of diplomatic representation between Canada and Israel. Official communications and interactions with Israeli diplomatic representatives should also be limited. Additionally, Canada should impose trade and economic sanctions, such as tariffs or quotas on certain goods, and restrict Canadian businesses from engaging with Israeli entities involved in activities contrary to international law. Military cooperation agreements should be suspended, including joint exercises and sales of military equipment. A full two-way arms embargo must also be immediately enacted. The Minister of Foreign Affairs should initiate these revisions and provide a timeline for implementation.
3. **Economic Sanctions:** Canada must impose economic sanctions on Israeli companies and individuals, targeting sectors and entities directly involved in the illegal occupation and settlement activities. This includes freezing assets, restricting travel, and prohibiting Canadian companies from engaging in business with these entities. The Department of Finance and the Canadian Border Services Agency should enforce these sanctions.
4. **Support for International Accountability:** Canada should actively support efforts and initiatives at international forums, including the United Nations, aimed at holding Israel accountable for its violations of international law. This includes voting in favor of resolutions condemning the occupation, supporting investigations by the International Criminal Court, and providing financial and logistical support to UN missions in the occupied territories. The Canadian delegation to the UN should lead these efforts.
5. **Investigation and Prosecution:** Canada must establish a task force within the Department of Justice to investigate and prosecute individuals and entities within its jurisdiction that are complicit in Israel's violations of international law. This includes individuals who have served in the Israeli Defense Forces (IDF) or aided in military actions that contravene international law. The task force should collaborate with international legal bodies and Palestinian organizations to gather evidence and pursue legal action against perpetrators of such

violations. This initiative should be independent, transparent, thorough, and guided by international legal standards to ensure accountability and justice.

6. **Support for Palestinian Self-Determination:** Canada must actively support the right of the Palestinian people to self-determination, including recognizing the State of Palestine and supporting its membership in international organizations such as the United Nations and the International Criminal Court. The Prime Minister should make a formal declaration recognizing Palestinian statehood, and the Department of Global Affairs should facilitate Palestine's participation in international forums.
7. **Respect and Protect Freedom of Assembly:** Canada must recognize and safeguard the rights of pro-Palestinian student movements to peacefully protest and maintain encampments on university campuses. Canada should ensure that these movements are free from any form of suppression or interference that undermines their legitimate advocacy for divestment from entities involved in the illegal occupation of Palestinian territories. This includes refraining from any actions that intimidate or obstruct their right to assemble and express dissent, as protected under international human rights norms and affirmed by the ICJ's emphasis on the freedoms essential to democratic societies.

4.0 Concluding Remarks

CMPAC firmly believes that the ICJ's Advisory Opinion presents a historic opportunity for Canada and other UN member states to reassess their positions and actions regarding Israel's occupation of Palestinian territories and to take a principled stand in support of justice, human rights, and international law. CMPAC urges the Canadian government to take immediate steps to implement the detailed measures outlined above and to align its policies with international law and justice. By addressing the illegal occupation, apartheid practices, and reassessing the IHRA definition, Canada can play a pivotal role in ending the illegal occupation of Palestine and ensuring that the rights of the Palestinian people are upheld. Canada must act immediately and lead by example in promoting peace, justice, and the rule of law.