

## **UK Obligations Flowing from the ICJ Advisory Opinion on Israel's Occupation of the Palestinian Territory**

### **I. Overview of International Court of Justice Advisory Opinion**

On 19 July 2024, the International Court of Justice (ICJ) delivered the Advisory Opinion: *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. As an authoritative judgement on relevant treaties and provisions of international law, the Advisory Opinion serves to clarify the legal responsibilities of Israel, other States (including the UK), and the United Nations.

The Advisory Opinion makes clear that Israel's continued presence, including its military occupation and settlements, in the occupied Palestinian territory (oPt) (the West Bank, Gaza and East Jerusalem) is unlawful and must be brought to an end as rapidly as possible.<sup>1</sup> The Court further found that Israel has violated the United Nations (UN) Convention on the Elimination of All Forms of Racial Discrimination's prohibition on racial segregation and apartheid.<sup>2</sup>

In this Advisory Opinion, the ICJ went on to explain that the international obligations violated by Israel are *erga omnes* – meaning that they violate rights that apply to all – and that *all* Member States of the UN therefore have a legal interest in the protection of these rights.<sup>3</sup>

The Court went on to specify the steps that Member States must take in order to meet the legal obligation to end Israel's illegal presence in the oPt and to bring about the realisation of Palestinians' right to self-determination. Each Member State must:<sup>4</sup>

- not recognise nor render aid or assistance to Israel's unlawful presence in the oPt;
- abstain from entering into economic or trade dealings with Israel concerning the oPt or parts thereof which may entrench its unlawful presence in the territory;
- take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the oPt; and
- abstain, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of Israel's illegal presence in the oPt.

In essence, the ICJ has made clear that States' must take concrete action to bring *their own* policies in line with international law as regards Palestinian self-determination, and to cease contributing to Israel's unlawful presence in the oPt. States must also refrain from any unconditional financial, economic, military or technological aid to Israel, and must punish such violations in accordance with the relevant treaties to which they are parties.<sup>5</sup>

### **II. The UK's Obligations Flowing from the ICJ's Advisory Opinion**

The ICJ's Advisory Opinion clarifies obligations for the United Kingdom (UK) as a UN Member State and a permanent member of the UN Security Council. A non-exhaustive list of the UK's obligations that flow from the Advisory Opinion is detailed below.

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<sup>1</sup> International Court of Justice (19 July 2024), Advisory Opinion: [Legal Consequences Arising From the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem](#), para. 267.

<sup>2</sup> ICJ Advisory Opinion, para. 229 (discussing Israel's violation of UN Convention on the Elimination of All Forms of Racial Discrimination, Art. 3).

<sup>3</sup> ICJ Advisory Opinion (18 September 2024) para. 274-75. See also, Office of the UN High Commission for Human Rights, [UN experts warn international order on a knife's edge, urge States to comply with ICJ Advisory Opinion](#).

<sup>4</sup> ICJ Advisory Opinion, para. 278.

<sup>5</sup> ICJ Advisory Opinion (19 July 2024), [Declaration of President Salam](#).

A. The UK ‘must not recognise nor render aid or assistance to Israel’s unlawful presence in the oPt’

- i. **Total and immediate arms ban:** In September 2024, the UK government suspended only 30 out of approximately 350 arms export licenses to Israel – according to the government this represents all those that are currently being used in Israel’s assault on Gaza.<sup>6</sup> The UK government continues to approve exports of F-35 fight jet components, which are a key tool of Israel’s genocide in Gaza.<sup>7</sup> In September, over three dozen United Nations Experts and Special Rapporteurs relayed that this obligation requires member states to halt *“all arms agreements, imports, exports and transfers, including of dual-use items that could be used against the Palestinian population under occupation.”*<sup>8</sup> In order to meet its legal obligations, the UK must impose an immediate and total ban on arms export licenses.
- ii. **End military surveillance partnership:** British military planes have been conducting surveillance flights over Gaza since at least December 2023.<sup>9</sup> The UK Ministry of Defence and the Foreign Office have refused to clarify whether intelligence collected from these flights is being shared with the Israeli government, or with the International Criminal Court (ICC), the UK has also failed to provide what due diligence steps have been taken if such intelligence sharing has actually taken place. For the UK to meet its legal obligations, any intelligence gathering or military partnerships between the British government and Israel must cease so long as those partnerships further Israel’s unlawful presence in the oPt. The UK, as a State Party to the Rome Statute, is also obligated to share intelligence with the ICC, which may be relevant to the Court’s ongoing investigation in the State of Palestine.<sup>10</sup>
- iii. **Regulate private sector complicity:** The UK government is under an obligation to regulate British-listed or domiciled companies that may be providing aid or assistance to Israel’s unlawful occupation. There are credible reports, for example, that BP—a British multinational oil and gas company—has provided Israel with a significant amount of crude oil since at least October 2023.<sup>11</sup> This oil may be refined into jet fuel that is being used in attacks in Gaza.<sup>12</sup> On behalf of Palestinian victims of Israel’s bombing of Gaza, ICJP are undertaking legal action against BP – alleging complicity in fuelling ongoing violations of international law and human rights in Gaza.<sup>13</sup> The UK government has an obligation to investigate and regulate the private sector’s relationship with Israel so that British companies are not complicit in Israel’s rights violations that have been outlined by the ICJ.

B. The UK must abstain from entering into economic or trade dealings with Israel concerning the oPt which may entrench Israel’s unlawful presence

- i. **Ban import of illegal settlement products:** The UK’s current trade agreement with Israel allows products

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<sup>6</sup> FCDO, DBT (2 September 2024), [UK suspends around 30 arms export licences to Israel for use in Gaza over International Humanitarian Law concerns](#).

<sup>7</sup> Action on Armed Violence (2 September 2024), [UK-made F-35 components linked to civilian casualties in Gaza strikes new evidence suggests](#) (2 September 2024); ICJP, [Partial ban on arms sales to Israel: Israel’s violations of international law finally recognised, but this ban is too little and too late](#).

<sup>8</sup> United Nations Human Rights Office of the High Commissioner (18 September 2024) [UN experts warn international order on a knife’s edge, urge States to comply with ICJ Advisory Opinion](#).

<sup>9</sup> See, Declassified UK (8 May 2024), [Revealed: UK Military Has Flown 200 Spy Missions Over Gaza In Support Of Israel](#); ICJP (30 May 2024), [ICJP Seeks Urgent Clarification from FCDO & MoD on British Spy Planes over Gaza](#).

<sup>10</sup> ICJP (30 May 2024), [ICJP Seeks Urgent Clarification from FCDO & MoD on British Spy Planes over Gaza](#).

<sup>11</sup> Oil Change International (August 2024), [Behind the Barrel: New Insights into the Countries and Companies Behind Israel’s Fuel Supply](#); ICJP (30 September 2024), [BP’s Oil Supplies to Israel: Fueling War Crimes? Urgent Clarification Requested](#).

<sup>12</sup> Transnational Institute (9 September 2024), [Pipeline to Genocide: BP’s oil route to Israel](#).

<sup>13</sup> The Guardian (23 December 2024), [Gaza war victims take legal action against BP over oil supply to Israel](#)

from illegal Israeli settlements in the oPt to enter the UK.<sup>14</sup> Despite long-standing UK government policy that these settlements are illegal,<sup>15</sup> the UK has continued to allow settlement products to reach British consumers. In 2009, the UK Department for Food and Rural Affairs issued non-binding guidance that products imported from illegal settlements and sold in the UK should be labelled as 'Israeli settlement produce.'<sup>16</sup> Merely labelling settlement goods is insufficient.<sup>17</sup> This policy is at odds with the legal obligation of non-recognition created by the ICJ. Further, it amounts to aiding and assisting in the maintenance of the unlawful situation because such imports help sustain Israel's settlement economy that is predicated on the displacement and forcible transfer of Palestinians.<sup>18</sup> As such, any trade agreement with Israel must unequivocally ban the import of settlement products.

- ii. **Suspend trade agreement with Israel:** The UK is obligated to suspend its existing trade agreement with Israel as well as ongoing negotiations over a free trade agreement pending a proper and thorough review of human rights implications,<sup>19</sup> in-line with the ICJ's Advisory Opinion. Not only is a continued trade relationship with Israel helping maintain its unlawful presence in the oPt, but suspending this agreement will have a significant coercive effect in pushing the Israeli government to end its continued unlawful occupation of the oPt.
- C. The UK must take steps to prevent trade or investment with Israel that assist in maintaining the unlawful occupation in the oPt
- i. **Prohibit British companies from operating in illegal settlements:** The UK government must pass legislation that prevents British companies from directly or indirectly operating, trading, or investing in Israel's illegal settlements, or contributing to their maintenance and/or expansion. The Office of the UN High Commissioner for Human Rights maintains a list of companies involved in illegal Israeli settlements. Three British companies: J.C. Bamford Excavators, Opodo, and Greenkote, are included in the current iteration of that list.<sup>20</sup> In order to meet its legal obligations, the UK government must prohibit these companies from continued involvement with illegal settlements. The UK must further investigate all other British companies, beyond those identified by the UN, that are involved in illegal settlements and take legislative action to prohibit these companies from profiting from violations of Palestinians' human rights.
  - ii. **Rescind status and tax-benefits of complicit UK charities:** The UK government has an obligation to enforce regulatory regimes, including through the British charity regulator, to ensure that UK-registered charities are not raising funds for organisations or projects in Israel that entrench the unlawful occupation. Complaints

<sup>14</sup> Department for International Trade (July 2022), [UK-Israel Free Trade Agreement: Strategic Approach](#).

<sup>15</sup> See, for example, Hansard (23 March 2023), [Minister of State, Department of Business and Trade](#) ("The UK has a clear position on Israeli settlements in the Occupied Palestinian Territories: they are illegal under international law and constitute an obstacle to peace and the two-state solution. As set out in Foreign, Commonwealth and Development Office guidance on overseas business risk, there are clear risks to UK businesses related to economic and financial activities in the settlements and we do not encourage or offer support to such activity."); FCDO (19 September 2024), [The expansion of Israeli settlements in the West Bank is wholly unacceptable and illegal: UK statement at the UN Security Council](#).

<sup>16</sup> See, The Guardian (10 December 2009), [UK issues new guidance on labelling of food from illegal West Bank settlements](#).

<sup>17</sup> UN General Assembly (13 September 2024), Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory, [A/ES-10/L.31/Rev.1](#), para. 5(b).

<sup>18</sup> See, generally, Lawyers for Palestinian Human Rights (20 September 2024), [UK charities letter to UK government: Reviewing trade relations with Israel to ensure full compliance with the UK's international legal obligations and uphold respect for human rights](#).

<sup>19</sup> See, Ibid.; Amnesty International UK (May 2022), [UK-Israel Free Trade Agreement – responding to human rights concerns in keeping with UK's obligations and policies](#).

<sup>20</sup> Office of the UN High Commissioner for Human Rights (30 June 2023), [OHCHR update of database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem](#).

about JNF UK, for example, have shown that the charity's projects have been involved in the displacement of Palestinians and the dispossession of Palestinian lands.<sup>21</sup> Complaints have also been lodged with the Charity Commission for England and Wales regarding charities that have transferred UK donations, including Gift Aid donations, to Israeli organisations that are providing the Israeli military with tactical gear,<sup>22</sup> and blocking humanitarian aid from entering Gaza.<sup>23</sup> These activities are not only in direct contravention of the ICJ's Advisory Opinion, but also violate UK charity law. The British government must put in place stricter policies and empower the charity regulator to take decisive action against such organisations, including stripping them of charity status in the UK.

- iii. **Ensure British investments are not complicit:** The UK government must also regulate pension, sovereign and other investment funds, universities and financial institutions to ensure that they are not engaging in commercial or non-commercial activities with Israel or its complicit institutions that further entrench the unlawful occupation. For example, the government does not provide university endowments with clear guidance about investing in companies operating in illegal Israeli settlements and many British higher education institutions maintain such investments.<sup>24</sup> These investments are plainly illegal under the ICJ's Advisory Opinion because they assist in maintaining the unlawful occupation. As such, the British government is required to regulate these investments activities.
- D. The UK must abstain from recognising Israel's illegal presence in the oPt, including through diplomatic missions
  - i. **Impose targeted sanctions against state actors:** The UK has imposed targeted human rights sanctions against individual Israeli settlers and settler organisations that are perpetrating violence against Palestinians.<sup>25</sup> Targeted sanctions are most effective as a political and foreign policy tool when they target the most influential actors. For sanctions to coerce behaviour change and deter future violations of the ICJ's Advisory Opinion, they must not only target individual settlers, but also state-level actors—individual politicians and political institutions—that explicitly or implicitly green light illegal settlements in the oPt.
  - ii. **End diplomatic relations:** In order to fully comply with the ICJ's Advisory Opinion, the UK government should end diplomatic relations with Israel until it ceases its unlawful occupation of the oPt as well as its settlement enterprise, annexation, persecution, racial segregation and apartheid against Palestinians. Such diplomatic censure will further isolate Israel from the international community until it begins complying with international law.
  - iii. **Support UN processes to enforce the ICJ's Advisory Opinion:** The UK must support UN General Assembly resolutions that adopt the ICJ's findings. Thus far however, the UK has failed to do so. On 18 September 2024, the UN General Assembly voted overwhelmingly in favour of adopting a resolution that stems from the ICJ's Advisory Opinion and demands Israel "brings to an end without delay its unlawful presence" in the oPt.<sup>26</sup> The UK abstained<sup>27</sup> – a direct violation of its obligations stemming from the ICJ's Advisory Opinion. Further, as a

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<sup>21</sup> ICJP (21 August 2024), [ICJP calls on Attorney General to revoke charity status for British-based group involved in funding illegal Israeli settlements and Israeli military](#);

<sup>22</sup> Middle East Eye (4 September 2024), [UK: Jewish charity under scrutiny over donations for Israeli soldiers](#).

<sup>23</sup> ICJP (29 May 2024), [UK Charity facilitating donations and Gift Aid to fund destruction of humanitarian aid heading to Gaza: Charity Commission must investigate](#).

<sup>24</sup> ICJP (1 May 2024), [82 British universities alerted of potential criminal complicity over Israeli investments](#); Palestine Solidarity Campaign (updated August 2022), [University Complicity Database](#).

<sup>25</sup> FCDO (12 February 2024), [UK sanctions extremist settlers in the West Bank](#); FCDO (3 May 2024), [UK sanctions extremist groups and individuals for settler violence in the West Bank](#).

<sup>26</sup> UN General Assembly (13 September 2024), [Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory](#), [A/ES-10/L.31/Rev.1](#).

<sup>27</sup> FCDO (18 September 2024), [The UK's explanation of vote on the UN General Assembly resolution on the ICJ's Advisory Opinion on Israel's presence in the Occupied Palestinian Territories](#).

permanent member of the UN Security Council (UNSC), the UK has an important role to play in enforcing the ICJ's Advisory Opinion. Under Articles 5<sup>28</sup> and 6 of the UN Charter,<sup>29</sup> the UNSC can unseat a UN Member State for non-compliance with UNSC resolutions and other violations. If such action is invoked against Israel for its continued defiance of the ICJ's Advisory Opinion, UNSC resolutions on annexation,<sup>30</sup> and the Fourth Geneva Convention, the UK should support it.

- iv. **Support the ICC's investigation in the State of Palestine:** The ICJ's Advisory Opinion, which clarifies the law regarding Israel's continued unlawful occupation of the oPt, relates to several Rome Statute crimes. The ICC serves as a critical accountability mechanism for individuals, rather than States, who have violated international law. The ICJ's Advisory Opinion obligates States to punish violations outlined by the Court in accordance with relevant treaties to which States are parties.<sup>31</sup> Therefore, the UK must support the ICC's efforts to investigate and prosecute crimes related to Israel's unlawful occupation of the oPt, including apartheid,<sup>32</sup> genocide<sup>33</sup> and crimes related to illegal settlements.<sup>34</sup> The UK should further support the independence of the ICC and protect the Court against attacks or political pressure as it conducts its investigation into the Situation in the State of Palestine.

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<sup>28</sup> Article 5 of the [UN Charter](#) states: "A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council."

<sup>29</sup> Article 6 of the [UN Charter](#) states: "A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council."

<sup>30</sup> See, for example, UN Security Council (23 December 2016), Resolution 2334, [S/RES/2334](#).

<sup>31</sup> ICJ Advisory Opinion (19 July 2024), [Declaration of President Salam](#).

<sup>32</sup> ICC, [Rome Statute](#), Art. 7(1)(j).

<sup>33</sup> ICC, [Rome Statute](#), Art. 6.

<sup>34</sup> For example, ICC, [Rome Statute](#), Articles 7(1)(d) (Deportation of forcible transfer of population as a crime against humanity); 7(1)(h) (Persecution as a crime against humanity); 8(2)(a)(vii) (Unlawful deportation or transfer as a war crime).