ICJP
International Centre of Justice for Palestinians

October 2025
Briefing 411
press@icjpalestine.com

Legal opportunities post-UK Recognition of Palestine

Background

In September 2025, the United Kingdom announced its official recognition of Palestinian statehood, 108 years after the Balfour Declaration. While it was cruelly overdue, official state recognition by the UK opens windows of opportunity to advocate for the strengthening of Palestinian sovereignty, especially via legal routes. This briefing highlights the Foreign Enlistment Act of 1870 and the International Court of Justice Advisory Opinion of July 2024, both offering domestic legal routes to pursue justice for the State of Palestine from a UK position. To read more about ICJP's Foreign Enlistment Act case, click here.

Foreign Enlistment Act 1870: context post-recognition

Section 4 of the UK's Foreign Enlistment Act 1870 (33 & 34 Vict. c. 90) makes it an offence for a British subject to accept any engagement in 'the military or naval service' of a foreign state which is at war with a friendly state. In September 2025, the UK Government announced official recognition of the State of Palestine, a state that the UK is at peace with.[1]

All offences under the Foreign Enlistment Act are triable on indictment and punishable with a maximum of two years imprisonment. There is no time limit to the bringing of proceedings under the Act.

The Act thus enables for the prosecution of British and dual national British-Israeli citizens who served in the Israeli Defence Forces (IDF) during Israel's ongoing genocide in Gaza from October 2023 onwards. Non-resident dual-national Israelis and British citizens who are non-resident in Israel have no legal obligations to serve in the IDF, and any individual who has enlisted and served in Israel's genocide in Gaza has done so on a voluntary basis.[2]

The threshold for prosecution was met in 2015 when Palestine became a State Party to the Rome Statute, reaffirmed by a decision by the Pre-Trial Chamber of the International Criminal Court on 5 February 2021.[3] The UK's recognition of Palestinian statehood only further strengthens the case for applying the Foreign Enlistment Act to British and dual-national citizens complicit in Israel's campaign of genocide. The previous government used non-recognition of Palestine as an erroneous legal argument to dismiss the application of the Foreign Enlistment Act.[4] Regardless, such legal arguments are no longer relevant following UK recognition of Palestine.

ICJP's Foreign Enlistment Act case

On 20 October 2025, ICJP, acting as a private prosecutor, filed an application for a court summons to prosecute a dual national British-Israeli citizen who is alleged to have committed the offence of

[1] Foreign Enlistment Act 1870, Section 4
[2] ICJP (23 October 2025), ICJP applies for a court summons to privately prosecute a Brit who joined Israel Defence Forces in violation of the Foreign Enlistment Act
[3] International Court of Justice (1 April 2015), *Situation in the State of Palestine*
[4] Andrew Mitchell (17 January 2024), Israel and Ukraine: British Nationals Abroad. Foreign, Commonwealth and Development Office. UIN 8748.

enlisting in the service of a foreign state contrary to Section 4 of the Foreign Enlistment Act. ICJP's preliminary investigations indicate that a number of UK nationals may have travelled abroad to fight with the IDF, or provided material support, in potential breach of the Act. These individuals include both British citizens and dual-national British-Israeli citizens.[5]

The case intends to hold suspected war criminals accountable within domestic jurisdiction for offences that they have committed outside of the UK. As ICJP's legal team proceeds with the application, it is crucial that the case receives political and public support, increasing awareness of the law's applicability, and pressure on the current UK Government to start taking immediate domestic actions to hold war criminals involved in Israel's genocide to account.

International Court of Justice Advisory Opinion, July 2024: illegal settlements and corporate complicity

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.[6] 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 reaffirmed that Israel's continued presence, including its military occupation and settlements, in the occupied Palestinian territory (oPt) is unlawful and must be brought to an end as rapidly as possible. 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.[7]

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.

The Advisory Opinion was initiated in December 2022 and therefore has no bearing on Israel's actions towards Gaza, rather towards the entrenched illegal occupation of the oPt.

The UK's legal obligations

The ICJ reaffirmed in July 2024 that Israel's occupation of the oPt is unlawful and must end immediately – and that Israel's actions are in violation of the prohibition of racial segregation and apartheid. Importantly, the ICJ stated that all countries must not provide assistance to Israel's illegal occupation of the Palestinian territory which includes taking "steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel."[8]

---

[5] ICJP (23 October 2025), ICJP applies for a court summons to privately prosecute a Brit who joined Israel Defence Forces in violation of the Foreign Enlistment Act

[6] International Court of Justice (19 July), *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*

[7] International Court of Justice (19 July 2024) Advisory Opinion, para. 229 (discussing Israel's violation of UN Convention on the Elimination of All Forms of Racial Discrimination, Art. 3)

[8] ICJP et. al (23 April 2025) Trade Sanctions Against Israel

Separately, in January 2024 the ICJ issued provisional measures for Israel, ordering that Palestinians in the occupied Gaza Strip be protected from the risk of genocide. As a result, the UK has had a positive obligation to take measures to prevent genocide. With the obligation considered commensurate with the state's capacity to influence Israel, the UK's close trade relations with Israel should be considered an important source of leverage that enhance the UK's obligation to act.[9]

The UK Government has long recognised the illegality of Israel's settlements but taken no meaningful actions to help bring them to an end. The UK has sanctioned four Israeli settlers as well as seven settlement entities but left untouched the government infrastructure and ministers who promote, sustain and expand settlements, as well as 700,000 other settlers.[10]

Contrary to its obligations under international law, the UK has in effect condoned Israel's occupation and settlements. By continuing to permit trade with and investment in settlements, to sell arms and materials crucial for the occupation, and to fail to sanction those responsible for illegal acts, the UK is likely violating its obligation not to "render aid or assistance in maintaining the situation created by Israel's illegal presence in the Occupied Palestinian Territory".[11]

UK recognition of the State of Palestine further emphasises the illegal status of Israeli settlements under international law. The UK must do everything in its power to end the incongruence between its recognition of Palestine and its action and inaction that means that Israel is able to maintain its illegal occupation of the oPt. Instead, the UK should review trade agreements, issue further sanctions on Israel and consider adopting legislation to ban trade with illegal settlements.

Existing legislative frameworks to ban trade and investment in illegal Israeli settlements can be found in the original draft of the Irish Occupied Territories Bill that bans Irish trade with settlement goods and services.[12]

ICJP recommends:

The UK Government must:

1. Publicly state that settlements are illegal and must be dismantled.
2. Prohibit trade with and investment in settlement businesses as well as sectors of Israel's economy which may entrench the illegal occupation; and suspend its existing trade agreement with Israel.
3. Ban all UK sales to Israel of arms and materials crucial to the illegal occupation.
4. Identify and prosecute British or dual-national British-Israeli citizens complicit in Israeli war crimes committed in Gaza.
5. Support the application of the Foreign Enlistment Act 1870 to individuals who served in the Israeli Defence Forces throughout Israel's genocide in Gaza.

[9] ICJP et. al (23 April 2025) Trade Sanctions Against Israel
[10] War on Want et. al (28 March 2025), The devastating harms of Israel's settlements and the UK's obligation to help dismantle them
[11] ICJ Advisory Opinion, para. 278.
[12] Houses of the Oireachtas (24 January 2018), Control of Economic Activity (Occupied Territories) Bill 2018