

International Court of Justice (ICJ): Israeli occupation of Palestinian lands is 'unlawful' and breaches laws concerning apartheid

Tuesday 23 July 2024, by [HEARST Katherine](#), [MULLA Imran](#) (Date first published: 19 July 2024).

Top UN court says Israel's decades-long occupation of Palestinian territories should be brought to an end 'as rapidly as possible'

Judge and President of the International Court of Justice, Nawaf Salam, delivers a non-binding ruling on the legal consequences of the Israeli occupation of the West Bank and East Jerusalem at the ICJ in The Hague on 19 July 2024 (AFP)

The International Court of Justice (ICJ) issued an advisory opinion on Friday which found that [Israel's](#) decades-long occupation of the [Palestinian](#) territories was "unlawful", and that its "near-complete separation" of people in the occupied West Bank breached international laws concerning "racial segregation" and "apartheid."

Delivering the court's findings, ICJ President Nawaf Salam said that Israel must make reparations to Palestinians for damages caused by its occupation, adding that the UN Security Council, the General Assembly and all states have an obligation to not recognise Israel's occupation as legal.

"The sustained abuse [by] Israel of its position as an occupying power through annexation and an assertion of permanent control over the occupied Palestinian territory and continued frustration of the right of the Palestinian people to self-determination violates fundamental principles of international law and renders Israel's presence in the occupied Palestinian territory unlawful," Salam said, reading the findings of the 15-judge panel.

He added that Israel's policies and practices in the occupied West Bank and East Jerusalem amounted to the annexation of large parts of these territories and that the court finds Israel systematically discriminates against Palestinians in the occupied territory.

"A number of participants have argued that Israel's policies and practices in the Occupied Palestinian Territory amount to segregation or apartheid, in breach of Article 3 of CERD [Committee on the Elimination of Racial Discrimination]," he said.

"Article 3 of CERD provides as follows: 'States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction'. This provision refers to two particularly severe forms of racial discrimination: racial segregation and apartheid," he said.

"The court observes that Israel's legislation and measures serve to maintain a near-complete separation in the West Bank and East Jerusalem between the settler and Palestinian communities.

"For this reason the court considers that Israel's legislation and measures constitute a breach of

Article 3 of Cerd,” he added.

Friday’s decision follows a request in December 2022 by the United Nations General Assembly for the court to give its view on Israel’s policies and practices towards the Palestinians and on the legal status of the 57-year-long occupation of Palestinian lands.

Among other comments, he said that the “transfer by Israel of settlers” to the occupied territories was contrary to the Geneva Convention, adding that Israel’s occupation of natural resources is “inconsistent with Palestinians right to sovereignty over natural resources”.

The advisory opinion has no binding force but carries significant legal and moral authority, and could increase pressure on Israel over its assault on Gaza.

Salam said, in reference to objections raised to the court being asked to deliver the ruling, that there were “no compelling reasons for it to decline”.

He added that the West Bank, East Jerusalem and Gaza were considered a single unit under international law and rejected the arguments put forth by Israel that it was no longer occupying Gaza because of the removal of settlers in 2005.

Israeli Prime Minister Benjamin Netanyahu condemned the court’s decision as “false,” adding that the Jewish people do not “occupy their own land”.

Israel’s foreign ministry rejected the opinion as “fundamentally wrong” and “detached from reality.”

Meanwhile, Israel’s far-right national security minister, Itamar Ben Gvir denounced the court as “antisemitic,” and reiterated calls for annexing of the West Bank.

The UK’s Foreign Commonwealth and Development spokesperson told Middle East Eye that foreign secretary David Lammy, who has recently [visited](#) Israel and the Occupied Territories, was clear “that the UK is strongly opposed to the expansion of illegal settlements and rising settler violence.”

“This government is committed to a negotiated two-State solution which can deliver a safe and secure Israel alongside a viable and sovereign Palestinian state,” the spokesperson added.

Ayoub Khan, independent MP for Birmingham Perry Barr, told MEE that the UK government should respect the ICJ’s findings and “apply pressure of sanctions if Israel fails to abide by the international rule of law.”

Independent MP for Blackburn Adnan Hussain said the ICJ’s advisory opinion is a “historic moment for international justice, and confirms what the Palestinians, legal scholars and human rights community have been saying all along”.

He called for governments around the world, including the UK, to divest from “trade with occupied territories considered illegal under international law”.

In February, the [court heard submissions](#) from 52 countries and three international organisations, more than in any other case since the ICJ’s establishment in 1945. The vast majority of them argued that the occupation is illegal and urging the court to declare it as such.

This development coincides with a separate case brought by South Africa to the ICJ, accusing Israel of committing genocide in the enclave.

In January, the ICJ ordered Israel to prevent genocidal acts against Palestinians in Gaza, allow more humanitarian aid to enter and preserve evidence of violations.

However, humanitarian organisations have repeatedly criticised Israel's aid restrictions, as famine threatens the area.

Israel has been occupying what is recognised under international law as Palestinian land since the 1967 war.

East Jerusalem, the West Bank and Gaza all fall under this category, and the separate legal systems, construction of settlements and acts of violence meted out against Palestinian residents are all key factors that will be considered in the hearings.

This is the second advisory opinion delivered by the world court since 2004, when it issued a [landmark opinion](#) on the legality of Israel's construction of a wall in occupied Palestine. The court decided that the wall, often referred to by Palestinians and rights group as the "apartheid wall", was illegal and should be destroyed.

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- Middle East Eye. Published date: 19 July 2024 15:04 BST | Last update: 3 days 21 hours ago: <https://www.middleeasteye.net/news/icj-delivers-landmark-opinion-57-year-israeli-occupation>