

# INTERNATIONAL CENTRE OF JUSTICE FOR PALESTINIANS

## SUBMISSION TO THE FOREIGN AFFAIRS COMMITTEE

### Written evidence from International Centre of Justice for Palestinians (IPC0020)

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International Centre of Justice for Palestinians (ICJP)<sup>1</sup> is an independent organisation of lawyers, academics and politicians that works to protect and support the rights of Palestinians. ICJP was established with the objective of seeking justice and accountability for Israel's longstanding, systematic violations of the rights of Palestinians under international law, including those which amount to international crimes.

ICJP supports and coordinates legal work being conducted in a number of jurisdictions and works to support international institutions. ICJP has been engaged in gathering primary witness evidence to a British criminal standard, which has been supplied to Scotland Yard's War Crimes Unit and to international institutions – principally, the investigations of the International Criminal Court (ICC) and for representations to the International Court of Justice (ICJ), particularly in reference to the case of the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel).<sup>2</sup> This primary evidence can be made available to the Foreign Affairs Committee upon request.

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1. In submitting to the Foreign Affairs Committee, ICJP restricts its subject matter to those obligations which the United Kingdom has already committed itself, both in terms of its international legal obligations and the dictates of domestic UK law. It is our assessment that these legal obligations provide the minimum baseline expectations for UK foreign policy. If they had been adhered to throughout the period from October 2023 to present, the UK's foreign policy objectives would have had a greater level of coherence; would have better safeguarded the rights of Palestinians; would have bolstered the international legal frameworks increasingly under threat; and could have contributed to the prevention of atrocities – or, at the very least, could have prevented UK complicity therein.
2. The below submission makes special reference to:
  - a. the Convention on the Prevention and Punishment of the Crime of Genocide (1948) [paragraphs 6-9, 18-23];
  - b. the rulings of the International Court of Justice [paragraphs 8, 15-16, 54-59];
  - c. the Rome Statute of the International Criminal Court (ICC) [paragraphs 24-30, 47, 49, 60];
  - d. the International Criminal Court Act 2001 (ICCA) [paragraphs 31-33]; and to
  - e. obligations under the Geneva Conventions and customary international law [paragraphs 11-13, 54-59].

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<sup>1</sup> International Centre of Justice for Palestinians (ICJP) website, available at: <https://www.icjpalestine.com/>.

<sup>2</sup> International Court of Justice, Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel). <https://www.icj-cij.org/case/192>

3. As shall be demonstrated, these treaties, laws and the rulings and activities of international courts generate obligations for UK policy which ICJP assesses are insufficiently adhered to, specifically in relation to the UK's:
  - a. military [paragraphs 12, 56];
  - b. arms export policy [paragraphs 12, 36-45];
  - c. criminal justice policy [paragraphs 31-33, 60];
  - d. business and trade policies [paragraphs 56-58];
  - e. and diplomatic policies, including its
    - i. engagements with Israel [paragraphs 5-6, 10-12, 16, 30, 41, 44, 53, 55, 59];
    - ii. role at the United Nations Security Council [paragraphs 15-16, 47, 50-53, 60]; and United Nations General Assembly [paragraph 52];
    - iii. and relationships with international courts [paragraphs 8, 15-16, 21-23, 26-30, 47-49, 54-60]

**What can – and should – the UK do, in cooperation with regional and international partners, to help bring about a ceasefire?**

4. In order to ensure that a ceasefire is reached and upheld, and that perpetrators of international law violations are held to account, the UK must begin with a fundamental reassessment of the nature of the war underway.
5. The assessment of the ICJP is that there can be no productive engagements seeking an end to the war in both the immediate and longer terms which do not firstly recognise genocide, or at the very least recognise the serious risk that genocide is being or will be committed. Stemming from this recognition, the UK must adhere to its legal obligations to prevent genocide and its customary international law obligation of the Responsibility to Protect.
6. In reference to the positive obligation of states to prevent genocide, the ICJ has clarified that the obligation and the duties to act arise “*at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed*”. A State may be found to violate “*its obligation to prevent even though it had no certainty, at the time when it should have acted, but failed to do so, that genocide was about to be committed or was under way*”<sup>3</sup> (emphasis added).
7. The UK's stated position is one which refuses to engage questions of prevention, despite the UK's international obligations. When questioned on Article 1 preventative obligations, Ministers have responded that “[it] is the UK's long-standing policy that any determination as to whether genocide has occurred is a matter for a competent national or international court, and not for governments or non-judicial bodies.”<sup>4</sup> The notion that a determinative judgement on the occurrence of genocide is required before preventative obligations are engaged is incoherent, and has no basis in law.

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<sup>3</sup> International Court of Justice, Case Concerning Application of The Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro), judgment of 26 February 2007, available at: <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf> , at para. 431-432.

<sup>4</sup> Hamish Falconer MP, Answer of 10<sup>th</sup> December 2024 in response to Written Question of 28<sup>th</sup> November 2024 ([UIN 16737](#)) Tabled by Richard Burgon MP

8. The knowledge threshold of a ‘serious risk that genocide will be committed’ was surpassed long ago. Almost one year ago, the ICJ ruled in the case of *South Africa v Israel* that “*that there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision*”, thereafter issuing provisional measures including that Israel ‘*take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and (d) imposing measures intended to prevent births within the group. The Court recalls that these acts fall within the scope of Article II of the Convention when they are committed with the intent to destroy in whole or in part a group as such. The Court further considers that Israel must ensure with immediate effect that its military forces do not commit any of the above-described acts.*’<sup>5</sup> In light of the ICJ’s provisional ruling, it is clearly the case that the knowledge threshold for the *risk* of genocide had been surpassed, thus triggering the UK’s preventative obligations.
9. Additional assessments of the genocidal nature of Israel’s war on Gaza have been issued by, amongst others, Amnesty International,<sup>6</sup> Human Rights Watch,<sup>7</sup> Médecins Sans Frontières,<sup>8</sup> by a United Nations Special Committee,<sup>9</sup> and by numerous genocide and holocaust scholars.<sup>10</sup>
10. Additionally, the UK must abide by the Responsibility to Protect doctrine which exists under customary international law and which generates a positive duty to prevent atrocity crimes<sup>11</sup>, and the duty under the Geneva Conventions, to prevent grave breaches of international law (even where it may not be directly responsible for those breaches). Enshrined in Common Article I of 1949 Geneva Conventions is the obligation that all states must ensure respect for international humanitarian law by parties to an armed conflict – this duty applies in “*all circumstances*”, including when a state engaged in armed conflict claims that it is acting in ‘self-defence’.

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<sup>5</sup> International Court of Justice, Order of 26<sup>th</sup> January 2024 in Case 192 - Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), available at: <https://www.icj-cij.org/node/203447>

<sup>6</sup> Amnesty International, 5<sup>th</sup> December 2024, [Amnesty International investigation concludes Israel is committing genocide against Palestinians in Gaza](#)

<sup>7</sup> Human Rights Watch, 19<sup>th</sup> December 2024, [‘Extermination and Acts of Genocide: Israel is Deliberately Depriving Palestinians in Gaza of Water’](#)

<sup>8</sup> Doctors Without Borders/Médecins Sans Frontières (MSF), 19<sup>th</sup> December 2024, [‘Life in the death trap that is Gaza’](#)

<sup>9</sup> United Nations General Assembly, 20<sup>th</sup> September 2024, [A/79/363: Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories](#), paragraph 69: *The developments in this report lead the Special Committee to conclude that the policies and practices of Israel during the reporting period are consistent with the characteristics of genocide.*

<sup>10</sup> See: Alene Bouranova, 5<sup>th</sup> June 2024, [‘Is Israel Committing Genocide in Gaza? New Report from BU School of Law’s International Human Rights Clinic Lays Out Case’](#), BU Today; and Amos Goldberg, 29<sup>th</sup> October 2024, [‘What is happening in Gaza is a genocide because Gaza does not exist anymore’](#), Le Monde

<sup>11</sup> For information, see UN Office on Genocide Prevention and the Responsibility to Protect, [‘About the Responsibility to Protect’](#)

11. Stemming from Common Article 1 are several external obligations placed upon third states, such as the United Kingdom and other States party to the Geneva Conventions.
12. Firstly, positive obligations: States must do everything reasonably in their power to prevent and bring such violations to an end, in particular by using their influence on a State Party to a conflict; and that the duty to ensure respect for the Geneva Conventions is particularly strong in the case of a partner in a joint operation. For example, a State Party's participation in the financing, equipping, arming or training of the armed forces of a Party to a conflict places it in a unique position to influence the behaviour of those forces, and thus to ensure respect for the Conventions.
13. Secondly, negative obligations: State parties cannot encourage, aid, or assist in violations of the Conventions by Parties to a conflict – this includes financial, material or other support in knowledge that such support will be used to commit violations of humanitarian law.
14. The UK's efforts to secure a ceasefire in Gaza must therefore be guided primarily by an understanding of the preventative duties which exist under international law, including a consideration of both positive obligations and negative obligations when deliberating on foreign policy approaches to Israel. Most significantly, the UK must do more to force compliance, by Israel, with the rulings of the ICJ – most notably that it cease all acts which involve “*killing members of the group*”, namely Palestinians.
15. The extent and nature of the UK's diplomatic efforts to secure a ceasefire are not entirely known to the public or to civil society groups, however in public pronouncements by Ministers there is a failure to demonstrate an understanding of the above-detailed nature of the war underway, or to ensure that the ICJ's rulings are adhered to. Specifically, contrary to an approach rooted in enforcement of the ICJ's provisional measures is the fallacy of thinking regarding Israel's commitment to ceasefire negotiations. It has been asserted by the then-Shadow Foreign Secretary, now Foreign Secretary, David Lammy asserted that “*Hamas has the power to stop the fighting*,”<sup>12</sup> met with agreement by then-Foreign Secretary Andrew Mitchell. The UK has, accordingly, demonstrated lacklustre positions at the UN Security Council – until recently abstaining on<sup>13</sup> UN Security Council (UNSC) resolutions in favour of an immediate ceasefire, including those arising after the ICJ issued its provisional measures<sup>14</sup>. The UK must reckon with the fact that, in their own words, many Israeli Ministers do not seek a permanent end to the war;<sup>15</sup> that the intention is apparent for entrenched military occupation of Gaza,<sup>16</sup> and that the practices engaged in by Israel run contrary to the rulings issued by the ICJ.

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<sup>12</sup> David Lammy MP and Andrew Mitchell MP, 30<sup>th</sup> April 2024, exchange in ‘[Middle East: Un Security Council, Vol. 749](#)’, UK Parliament: Hansard

<sup>13</sup> Sam Blewett, 9<sup>th</sup> December 2023, ‘[Britain abstains on UN vote demanding a ceasefire in Gaza](#)’, The Independent

<sup>14</sup> Save The Children, 20<sup>th</sup> February 2024, ‘[No Respite for Children and Families in Gaza as UN Security Council Ceasefire Resolution Fails to Pass](#)’

<sup>15</sup> Tia Goldberg and Samy Magdy, 24<sup>th</sup> June 2024, ‘[Netanyahu says he won't agree to a deal that ends the war in Gaza, testing the latest truce proposal](#)’, Associated Press, and Al Jazeera, 20<sup>th</sup> August 2024, ‘[Israel-Hamas ceasefire talks: a timeline of obstruction](#)’

<sup>16</sup> Mohaned Mustafa, 31<sup>st</sup> October 2024, ‘[The New Occupation of the Occupied Palestinian Territories](#)’, Arab Centre Washington DC

16. If a ceasefire agreement is indeed reached between Israel, Hamas, and any other armed militant groups operating in Gaza, then the UK must exert maximum diplomatic efforts to ensure that the terms of the ceasefire a) do not entrench unlawful occupation by Israel of Gaza and other parts of the occupied Palestinian territories (oPt) [see paragraphs 54 to 60], b) do not further disengage the rights of Palestinian people to self-determination, and c) are adhered to in good-faith by Israel – unlike, as appears to be the case, the terms of the recently agreed Israel-Hezbollah ceasefire.<sup>17</sup> Israel has an decades-long track-record for violations of ceasefire and UNSC-mandated disengagement agreements, with some of its actions amounting to violations of the principles of the UN Charter,<sup>18</sup> which must be held to account [see paragraphs 50, 59]. The UK Government has expressed its desire to achieve a permanent ceasefire. The longevity of a ceasefire can only be guaranteed if the underlying structural issues of entrenched unlawful occupation of the oPt are addressed and dismantled, and if Israel is brought into good-faith compliance with the principles of any agreement. Without such guarantees, the longevity of a ceasefire is severely undermined.

### **What can be learned from the record of UK Government policies to date?**

17. The record of UK government policy is one in which its international obligations have been treated with disregard. The below submission deals thematically with (non)adherence to the Genocide Convention, the Rome Statute, and Arms Trade Treaty, along with relevant equivalents within domestic UK statutes.

### **18. The Convention on the Prevention and Punishment of the Crime of Genocide (1948)**

19. As detailed in paragraphs 7 to 9, the United Kingdom has thus far eschewed engagement with the duties of prevention contained within the Genocide Convention. A determinative judgement in the case *South Africa v Israel* is not expected to be reached for some time: South Africa submitted its memorial (legal submission) in October 2024 - Israel's counter-memorial (response) is not due for submission until July 2025.<sup>19</sup> A focus, by the UK, on the eventual determinative judgement represents an abdication of preventative responsibilities in the present.

20. Beyond the issue of the UK's failure to meet its preventative obligations, ICJP assesses that there are a number of ways in which the UK's attempts to provide diplomatic cover for Israel's actions have, regrettably, undermined the political power of the Genocide Convention.

21. On the 27<sup>th</sup> January 2024, when responding to the initial ruling of the ICJ and its issuing of provisional measures, a Foreign, Commonwealth & Development Office (FCDO) spokesperson stated that “*We respect the role and independence of the ICJ. However, we have stated that we have considerable concerns about this case, which is not helpful in the goal of achieving a sustainable ceasefire.*”<sup>20</sup> Such a declaration, that the ruling of the

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<sup>17</sup> Imad K. Harb, 10<sup>th</sup> December 2024, [‘Israel’s Violations of the Ceasefire with Hezbollah Threaten to Undo It’](#), Arab Centre Washington DC

<sup>18</sup> Saul Takahashi, 28<sup>th</sup> October 2024, [‘The Need for Accountability: Israel Must Be Expelled From the United Nations’](#), Law For Palestine

<sup>19</sup> United Nations General Assembly, 1<sup>st</sup> August 2024, [A/79/4 Report of the International Court of Justice](#) [p52]

<sup>20</sup> UK Foreign, Commonwealth & Development Office, 27<sup>th</sup> January 2024, [‘International Court of Justice interim ruling on South Africa vs Israel: FCDO Statement’](#)



ICJ on the matter of violations of the Genocide Convention could be considered ‘not helpful’ politically, clearly undermines the role and independence of the ICJ – which the UK professes to respect. Furthermore, the statement on the ruling of the ICJ goes onto note that “*Our view is that Israel’s actions in Gaza cannot be described as a genocide, which is why we thought South Africa’s decision to bring the case was **wrong and provocative***” (emphasis added).

22. This approach, deriding accusations of genocide while failing to engage in the substantive legal matter of alleged breaches of the Genocide Convention, has continued under the Labour government of July 4<sup>th</sup> onwards. Numerous statements made by Ministers, in either cynicism or naivety, have undermined the principles of the Genocide Convention and betrayed the obligations of UK adherence thereto.
23. It is particularly concerning that current Foreign Secretary David Lammy informed the Commons Chamber on 28<sup>th</sup> October 2024 of his belief that allegations that the term genocide was used “*when millions of people lost their lives in crises like Rwanda, the Second World War and the Holocaust and the way that [‘genocide’] is being used now undermines the seriousness of that term*”.<sup>21</sup> These comments have drawn widespread condemnation, from dozens of Non-Governmental Organisations (NGOs)<sup>22</sup> and from genocide scholars.<sup>23</sup> Lammy’s account represents not only an erroneous attention to detail regarding numerical scale in the case of Rwanda, but also a fundamental misunderstanding of the nature of crime of genocide. These remarks undermine UK foreign policy and must be rejected – particularly the unqualifiable introduction of a numerical threshold into the question of determination of genocidal acts and practices. It has no basis in law, but it also introduces a worrying dehumanising element to discourse, which contradicts British values. As highlighted by one Parliamentarian, there is a “*concerning inconsistency*” between Lammy’s assessment of the inappropriateness of the term genocide when applied to Gaza and the UK’s interpretation of the Genocide Convention articulated in its intervention in *Gambia v Myanmar*.<sup>24</sup> When given the opportunity to clarify whether Foreign Secretary Lammy’s assessment is that of the UK government, Prime Minister Keir Starmer refused to issue a correction, stating that “*It would be wise to start a question like that by a reference to what happened in October of last year. I am well aware of the definition of genocide, and that is why I have never described this or referred to it as genocide.*”<sup>25</sup> The inconsistencies in application between cases, and the ahistorical, non-legal misinterpretation of the Genocide Convention employed to discredit its applicability to Gaza, leads to the conclusion that the UK intends to maintain a state of impunity for Israel when accused of the gravest of crimes.

#### 24. **The Rome Statute (1998) and International Criminal Court Act (2001)**

25. In much a similar fashion, the UK’s failure to endorse the investigation and subsequent action taken by the ICC has undermined the efficacy of that Court. Despite regular pronouncements of the government that it respects the Court’s authority and

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<sup>21</sup> The National, 28<sup>th</sup> October 2024, [‘David Lammy: Calling Gaza a ‘genocide’ undermines the term’](#), YouTube

<sup>22</sup> Global Centre for the Responsibility to Protect, 5<sup>th</sup> November 2024, [‘Statement on Foreign Secretary Rt Hon David Lammy MP’s discussion of the term genocide in relation to Palestine and Gaza’](#)

<sup>23</sup> Sondos Asem, 18<sup>th</sup> November 2024, [‘Top genocide scholar calls Starmer and Lammy ‘hypocrites’ over Gaza stance’](#), Middle East Eye

<sup>24</sup> Chris Law MP, 2<sup>nd</sup> December 2024, [Letter to David Lammy MP](#), Twitter/X

<sup>25</sup> Keir Starmer MP, 13<sup>th</sup> November 2024, in [‘Engagements, Vol. 756’](#), UK Parliament: Hansard

independence, this is demonstrably not the case:

26. Pre-dating the period under primary consideration (October 2023 to present), the UK government refused to accept ICC jurisdiction to investigate crimes potentially committed by Israelis in Palestinian territory. Then-Prime Minister Boris Johnson stating in April 2021: “*We oppose the ICC’s investigation into war crimes in Palestine. We do not accept that the ICC has jurisdiction in this instance, given that Israel is not a party to the Statute of Rome and Palestine is not a sovereign state. This investigation gives the impression of being a partial and prejudicial attack on a friend and ally of the UK’s.*”<sup>26</sup>
27. The UK will have understood the ICC’s jurisdiction over crimes committed in the State of Palestine was well established – regardless of the UK’s own interpretation of the territorial challenges entailed by its non-recognition of Palestine. As outlined by ICJP and the Centre for Human Rights Law, SOAS University of London in our joint submission to the Court, the question of ICC jurisdiction over crimes committed in the State of Palestine has been long-established, following Palestine’s accession to the UN General Assembly as a non-member observer state in November 2012, Palestine’s lodging of an instrument of accession to the Rome Statute in January 2015, and the Court’s subsequent determination of jurisdiction in April of that year<sup>27</sup>. These same conclusions were reached by the ICC in its rejection of Israel’s challenge to the jurisdiction of the Court.<sup>28</sup>
28. Prime Minister Johnson’s dismissal of the Court’s authority was issued in April 2021. The UK at the time failed to engage with the substantive legal matters determined by the Court – particularly that determination made two months prior by the Court’s Pre-Trial Chamber, finding “*exhaustive*” support that Palestine is “*State Party to the Statute, and, as a result, a ‘State’ for the purposes of article 12(2)(a)*” which has “*the right to exercise its prerogatives under the Statute and be treated as any other State Party would.*”<sup>29</sup> In confirming the scope of the Court’s jurisdiction, it was reiterated that “*disputed borders have never prevented a State from becoming a State Party to the Statute and, as such, cannot prevent the Court from exercising its jurisdiction.*”<sup>30</sup>
29. The UK’s attempts to dispute the established jurisdictional determinations of the Court returned with catastrophic effect following the Chief Prosecutor of the ICC’s announcement of application for arrest warrants against Israeli Prime Minister Benjamin Netanyahu and former Defence Minister Yoav Gallant in May 2024. The UK’s submission of *Amicus Curiae* observations on the 27<sup>th</sup> June 2024, bringing into question

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<sup>26</sup> Conservative Friends of Israel, 13<sup>th</sup> April 2024, [‘Prime Minister Boris Johnson has confirmed UK’s opposition to ICC investigation \[...\]’](#), X/Twitter

<sup>27</sup> International Criminal Court, 6<sup>th</sup> August 2024, [‘Amicus Curiae Observations from the International Centre of Justice for Palestinians and the Centre for Human Rights Law, SOAS University of London’](#) [pp. 3-4]

<sup>28</sup> International Criminal Court, 21<sup>st</sup> November 2024, [‘Decision on Israel’s challenge to the jurisdiction of the Court pursuant to article 19\(2\) of the Rome Statute’](#)

<sup>29</sup> International Criminal Court, 5<sup>th</sup> February 2021, [‘Situation in the State of Palestine, Decision on the ‘Prosecution request pursuant to article 19\(3\) for a ruling on the Court’s territorial jurisdiction in Palestine’](#), ICC-01/18-143, [para. 118] stating: “*the Chamber finds that the Court’s territorial jurisdiction in the Situation in Palestine extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.*”

<sup>30</sup> International Criminal Court, 5<sup>th</sup> February 2021, [‘Situation in the State of Palestine, Decision on the ‘Prosecution request pursuant to article 19\(3\) for a ruling on the Court’s territorial jurisdiction in Palestine’](#), ICC-01/18-143 [para. 112]

the established basis of ICC jurisdiction in the State of Palestine, opened the door to a litany of further *Amicus* submissions creating “*unjustified delays*,”<sup>31</sup> effectively postponing by months the Pre-Trial Chamber’s assessment and eventual issuing of arrest warrants. Legal representatives of victims say these submissions, commenced by the UK’s observations, caused unnecessary delay in holding perpetrators accountable for crimes against millions of Palestinians amid ongoing mass atrocities in Gaza.<sup>32</sup> Other observers suggested that the consideration of jurisdictional challenges at the arrest warrants stage could encourage the commencement of a precedent that “*encourages states to use procedural tactics to delay or obstruct the Court’s work*”.<sup>33</sup>

30. The UK’s objections to the application for arrest warrants were withdrawn on 6<sup>th</sup> August. By this point, serious damage had been already created by inappropriate interference with the Court’s processes and authority, while opening the door for objections, observations, and interference by other states and organisations. It is a relief that this action was reversed, but it is not the case that all negative consequences were fully mitigated by its reversal.
31. Additionally, the policies of the UK as regards the ICC must also be considered in light of their adherence on a domestic level. The UK’s incorporation of the Rome Statute into domestic legislation via the International Criminal Court Act 2001 (ICCA) obligates the Government to arrest and surrender any ICC suspect to the Court (ICCA s. 4(1) and 5(1)). The UK is obliged both by the Rome Statute (Article 59) and the ICCA (s.3) to arrest any person subject to an ICC arrest warrant; the ICCA furthermore obliges the UK to bring that person before a competent court (s.4). The British Government’s failure to comply with the obligation of cooperation, including cooperation in the arrest and transfer of suspects, can lead to legal proceedings before the ICC. (Rome Statute, Art. 87(7)). The UK has failed to confirm, unequivocally, that it would comply with these responsibilities, being accused of “*hiding behind vague ‘domestic processes’ to avoid clearly saying that it will arrest Netanyahu should he enter the UK, as is the UK’s legal duty*”.<sup>34</sup>
32. The ICCA also obliges proactive investigation of those suspected of breaches of the ICCA, regardless of the status of that individuals in relation to any ongoing or potential investigation by the ICC in The Hague. ICJP retains concerns that this legislation has been allowed to fall into dormancy, and that the UK is failing to adhere to its responsibilities to investigate and potentially prosecute those who may be criminally liable for acts which the UK government has, itself, deemed to be violations of international humanitarian law by Israeli military forces. Those potentially liable for investigation under the ICCA includes Israeli officials that may travel to the UK; Israeli or dual British-Israeli nationals that have served in the Israeli military and are present in or returning to the UK, as well as individuals and entities that may be complicit in war crimes through their actions of aiding, abetting, providing material support or otherwise facilitating the commission of Israeli war crimes.

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<sup>31</sup> Jasmin Johurun Nessa, 11<sup>th</sup> October 2024, ‘[Delays, Interference, and Espionage: The ICC’s Struggle with Arrest Warrants in the Situation in the State of Palestine](#)’, OpinioJuris

<sup>32</sup> Souheir Edelbi, 2<sup>nd</sup> September 2024, ‘[“State of Exception”: Judicial Discretion and the Amicus Curiae Mechanism in the ICC’s Palestine Proceedings](#)’, OpinioJuris

<sup>33</sup> International Criminal Court, 6<sup>th</sup> August 2024, ‘[Amicus Curiae Observations by Law for Palestine](#)’ [p.5]

<sup>34</sup> Amnesty International, 22<sup>nd</sup> November 2024, ‘[UK: government is hiding behind ‘domestic processes’ on Netanyahu arrest – legal expert](#)’



33. It is gravely concerning that the UK has issued special mission immunity to Israeli government and military figures, protecting them from investigation, and possible arrest and prosecution, for commission or facilitation of acts which fall under the purview of the ICCA 2001.<sup>35</sup> The UK must investigate dual British-Israeli nationals who have served in the Israeli military, or who have volunteered in supporting roles, wherein there is a possibility that they have been actively involved in war crimes. All international crimes which fall under the purview of the ICC are, simultaneously, domestic crimes in the UK by virtue of the ICCA (s.50), and those suspected of violations of ICCA crimes must be investigated, and potentially arrested and prosecuted, by UK authorities (ICCA s.51 and s.53).
34. Taken in sum, the above (particularly paragraphs 26 to 30) also has a deleterious effect on the role of the ICC in deterring war crimes. The interventions and equivocations on the part of the British government have led to an impression of exception for Israel, that its officials will be granted immunity from prosecution and will benefit from interventions made to prevent their investigation and/or arrest. This is clearly not conducive to upholding the rule of law, nor is it beneficial in deterring the commission of further crimes.
35. **The Arms Trade Treaty** (2014) and the UK's Strategic Export Controls
36. The United Kingdom ratified the Arms Trade Treaty in April 2014. Article 6(3) of that Treaty prohibits States from authorising the transfer of arms in the knowledge that those arms or items Article 6.3 of which “*could be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party*”.<sup>36</sup> Article 7(1) obliges the assessment of the risk that these items be used to commit or facilitate serious violations of international human rights law or international humanitarian law, prohibiting their export if the exporting State Party (the UK) determines that this risk is overriding.
37. Likewise, the UK's own domestic regulatory framework, the Strategic Export Controls, prohibits arms exports where there is a clear risk that they might be used to violate the UK's obligations under international law (Criterion 1) or in the violation of human rights (C. 2b) and violations of international humanitarian law (IHL) (C. 2c).<sup>37</sup>
38. Assessments of the risk that violations of international humanitarian law be committed with UK-exported arms or items are reportedly undertaken on an ongoing basis – but the determination of risks has only changed at one point, at or before the announcement of the 2<sup>nd</sup> September 2024 that approximately 8.6% of arms export licenses would be suspended and the remaining 91.4% would not. Therefore, UK policies to-date can be assessed in two periods – before 2<sup>nd</sup> September and then following.
39. Under the Conservative government, it was maintained that that arms exports to Israel are lawful as Israel has not violated international law. In December 2023, former Foreign

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<sup>35</sup> Imran Mulla, 12<sup>th</sup> December 2024, '[UK gave Israeli army chief special immunity on secret trip where he met attorney general](#)', Middle East Eye

<sup>36</sup> United Nations, [The Arms Trade Treaty](#)

<sup>37</sup> Brooke-Holland, L. (30th November 2023). '[Research Briefing: UK amends its criteria for arms exports](#)', Commons Library

Secretary Lord Cameron asserted that there was no clear risk present that items exported to the Israel Defense Forces (IDF) might be used to commit or facilitate a serious violation of international humanitarian law (IHL).<sup>38</sup> By the date of Cameron's statement, at least 19,667 Palestinians in Gaza had been killed.<sup>39</sup> The Foreign Office's IHL assessment stated that, despite the difficulties in accessing information on decision-making by the Israeli military, "*the volume of strikes, total death toll, as well as proportion of those who are children raise serious concerns [about IHL compliance]*."<sup>40</sup> It has also been reported, including by the then-Chair of the Foreign Affairs Committee Alicia Kearns, that subsequent legal advice concluded that there is indeed a risk that violations of IHL be committed using UK-exported arms or items, and that the Foreign Office had assessed that Israel has indeed broken international humanitarian law.<sup>41</sup> Foreign Office sources have also reported to media that legal assessments concluding that Israel *had* breached IHL were "*sat on*" by the Foreign Office and by then-Foreign Secretary Cameron in particular.<sup>42</sup> Between October 2023 and June 2024, the UK in fact issued over 100 new export licenses for arms sales to Israel.<sup>43</sup>

40. The policy of the UK government on the legality of arms exports to Israel changed only on 2<sup>nd</sup> September 2024. Reporting to Parliament, Foreign Secretary Lammy announced the completion of the Labour government's review into International Humanitarian Law compliance by Israel, finding a risk existed that violations of IHL were being committed using UK-exported arms or items, resulting in the suspension of export licenses for 'around 30' of approximately 350 active export licenses for Israel,<sup>44</sup> and 30 of 90 of those for the Israeli military specifically<sup>45</sup>. Those suspended include "*licences for equipment that we assess is for use in the current conflict in Gaza, such as important components that go into military aircraft, including fighter aircraft, helicopters and drones, as well as items that facilitate ground targeting*", exempting those components for F-35 aircraft which are exported to Israel indirectly via the global spare parts pool.
41. There are outstanding concerns with a number of elements of the existing policy determination, in place since September. Firstly, regarding the stringency of the suspension, there appear to be several extant gaps in coverage. The UK has stated its assessment that none of the remaining parts for direct export to Israel have the potential to be used in Gaza, meaning that the UK maintains export of arms and items - including parts for fighter aircraft under the assumption that these are to be used in training aircraft alone.<sup>46</sup> It is unclear how the UK Government is able to guarantee with absolute certainty

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<sup>38</sup> High Court of Justice, 12<sup>th</sup> January 2024, '[The King \(on the Application of Al-Haq\) v Secretary of State for Business and Trade, Summary Grounds of the Secretary of State](#)' [p1]

<sup>39</sup> Emma Graham-Harrison and Julian Borger, 19<sup>th</sup> December 2024, '[Palestinian death toll in Gaza nears 20,000 with nearly 2 million people displaced](#)', The Guardian

<sup>40</sup> High Court of Justice, 12<sup>th</sup> January 2024, '[The King \(on the Application of Al-Haq\) v Secretary of State for Business and Trade, Summary Grounds of the Secretary of State](#)' [p11]

<sup>41</sup> Toby Helm, 30<sup>th</sup> March 2024, '[UK government lawyers say Israel is breaking international law, claims top Tory in leaked recording](#)', The Guardian

<sup>42</sup> Patrick Wintour and Kiran Stacey, 3<sup>rd</sup> September 2024, '[David Cameron say on advice that there was breach of law in Gaza, officials say](#)', The Guardian

<sup>43</sup> UK Department for Business and Trade, 10<sup>th</sup> December 2024, '[Transparency data, Israel export licensing data: 31 May 2024](#)'

<sup>44</sup> David Lammy MP, 2<sup>nd</sup> September 2024, '[Middle East Update, Vol. 753](#)', UK Parliament: Hansard

<sup>45</sup> George Allison, 2<sup>nd</sup> September 2024, '[Britain suspends some arms exports to Israel](#)', UK Defence Journal

<sup>46</sup> John McEvoy, 13<sup>th</sup> November 2024, '[UK exported parts for Israeli Air Force after suspending arms sales](#)', Declassified UK

that these spare parts are exclusively used in training aircraft. The UK Government must provide clarity on how it is able to ensure this is the case.

42. Most significantly, the UK continues to supply spare parts for Israel's fleet of F-35 fighter aircraft, central to Israel's onslaughts against Gaza.<sup>47</sup> The government justifies its continued export of F-35 components to the global spare parts pool with reference to the pursuit of international peace and security, specifically the question of any jeopardy created elsewhere in the world if the 'global pool' of parts were disrupted, but uncertainty remains as to the extent of the suggested logistical impossibility of a suspension for end-use in Israel alone<sup>48</sup>. It is also not a legitimate justification for reneging on international obligations as detailed in (paragraphs 36 to 38), which must be adhered to regardless of strategic foreign policy objectives that may arise from the supply of F-35 components to other countries.
43. Finally, ICJP's primary concern with the position that the government has reached is the perception that the assessment itself was conducted on a partial basis. It seems entirely inconceivable that the review was unable to conclusively determine whether violations of international humanitarian law have occurred within Israel's conduct of hostilities in Gaza itself. The review has been summarised by Middle East Minister Hamish Falconer as having "*assessed IHL compliance across three areas: humanitarian provision and access, treatment of detainees and the conduct of the military campaign. The review found possible breaches of IHL in the areas of humanitarian access and in the treatment of detainees. The lack of sufficient verifiable evidence meant that we could not determine whether possible breaches of IHL in the conduct of the campaign had been committed*".<sup>49</sup>
44. This statement, contained in longer form in the assessment summary itself,<sup>50</sup> raises several issues. Firstly, regarding the question of 'sufficient verifiable evidence', the assessment states that this issue arises "*due to the opaque and contested information environment in Gaza and the challenges of accessing the specific and sensitive information necessary from Israel, such as intended targets and anticipated civilian harm.*" If a refusal to provide information on the part of the importing country, Israel, gives grounds for the exporting country, the UK, to refuse to conclude that IHL breaches have occurred, then this would create a dangerous precedent in which importing countries may simply refuse to comply with information requests in order to maintain their imports of UK-made arms or items. It is an unsustainable position. Secondly, it is difficult to conceive of why this information barrier relates only to the conduct of hostilities: as regards Israel's treatment of detainees: Israel has prevented all external visitations, and barred access from the International Committee of the Red Cross since October 2023<sup>51</sup> – making the UK reliant on much the same manner of evidence which it deems

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<sup>47</sup> Action on Armed Violence, 2<sup>nd</sup> September 2024, '[UK-made F-35 components linked to civilian casualties in Gaza strikes new evidence suggests](#)'; and ICJP, 2<sup>nd</sup> September 2024, '[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>48</sup> See contributions of Andy McDonald MP and Liam Byrne MP, 16<sup>th</sup> December 2024, in '[Israel and Palestine, Vol. 759](#)', UK Parliament: Hansard

<sup>49</sup> Hamish Falconer MP, Answer of the 15<sup>th</sup> October to a Written Question tabled the 8<sup>th</sup> October ([UIN 7719](#)) by Andrew Mitchell MP

<sup>50</sup> UK Foreign, Commonwealth & Development Office, 2<sup>nd</sup> September 2024, '[Policy Paper: Summary of the IHL process, decision, and the factors taken into account](#)'

<sup>51</sup> Patrick Wintour, 16<sup>th</sup> May 2024, '[Red Cross and Foreign Office to discuss plan to visit Palestinians in Israeli detention](#)', The Guardian

insufficiently suitable for reaching a conclusion on the conduct of hostilities. There has been no explanation for such inconsistencies in approaches to methodology regarding information gathering during its assessments of IHL violations. However, on a more overarching basis, it is unacceptable that the government's position is that they require Israeli confirmation on intended targets before reaching a conclusion that the innumerate attacks on hospitals,<sup>52</sup> the dropping of 2,000lb 'bunker buster' bombs on tents,<sup>53</sup> the destruction of almost the entirety of Gaza's built infrastructure,<sup>54</sup> and the targeted killing of children<sup>55</sup>, among other atrocities, would breach IHL. On this basis, ICJP assesses that the assessment has been partial and insufficient.

45. It must also be noted that, as of 31<sup>st</sup> December 2024, it will have been 180 days since the last IHL assessment was put before Parliament. The assessment reported on 2<sup>nd</sup> September took 60 days to compile, publish, and act upon, if commencing on day one of the Labour government as reported.

### **How can the UK assure the resilience of efforts to bring about a lasting peace at a time of uncertainty caused by conflicts elsewhere and changes in leadership in the international community?**

46. Taking the above-detailed points in sum, it is ICJP's position that the UK's foreign policy efforts to bring about peace, must first and foremost be rooted in concern for adherence to international law – both in terms of the UK using its foreign policy to ensure that Israel adheres to international law, and also ensuring international law adherence by the UK itself.
47. As regards changes in leadership in the international community, it appears likely that the foreign policy positions of the United States under the Trump administration will increase the cleavage, already present, between those States which value international law and those States which don't. Even under the existing Biden administration, the US has launched attacks on the ICC and on the ICJ,<sup>56</sup> has refused to reinstate funding to UNRWA,<sup>57</sup> and has vetoed numerous UNSC resolutions pertaining to ceasefire demands and international law adherence.<sup>58</sup> There is already a cleavage between British and

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<sup>52</sup> UN Office of High Commissioner for Human Rights, 10<sup>th</sup> October 2024, '[UN Commission finds war crimes and crimes against humanity in Israeli attacks on Gaza health facilities and treatment of detainees, hostages](#)'

<sup>53</sup> Mohammed Salem and Nidal Al-Mughrabi, 10<sup>th</sup> September 2024, '[Dozens killed, wounded in Israeli strikes on Gaza tent camp](#)', Reuters

<sup>54</sup> Including destruction to or damage of at least 66% of built structures, over 80% of roads, 70% of water and sanitation plants: Joseph Krauss and Sarah El Deeb, 9<sup>th</sup> October 2024, '[Gaza is in ruins after Israel's yearlong offensive. Rebuilding may take decades](#)', Associated Press

<sup>55</sup> Marcus White, 13<sup>th</sup> November 2024, '[Gaza surgeon describes drones targeting children](#)', BBC News; and Chris McGreal, 2<sup>nd</sup> April 2024, '["Not a normal war": doctors say children have been targeted by Israeli snipers in Gaza](#)', The Guardian

<sup>56</sup> Molly Quell, 2<sup>nd</sup> December 2024, '[International Criminal Court chief lashes out at U.S. and Russia over threats and accusations](#)', PBS News; and Ethan Mayer-Rich and Molly Pasquarella, 16<sup>th</sup> January 2024, '[US Officials Discredit ICJ Genocide Case Against Israel](#)', Arab Center Washington DC

<sup>57</sup> Human Rights Watch, 18<sup>th</sup> July 2024, US, UK outliers in Holding Back UNRWA funding. <https://www.hrw.org/news/2024/07/18/gaza-us-uk-outliers-holding-back-unrwa-funding>

<sup>58</sup> Amnesty International, 26<sup>th</sup> February 2024, '[Israel defying ICJ ruling to prevent genocide by failing to allow adequate humanitarian aid to reach Gaza](#)'; and United Nations, 5<sup>th</sup> March 2024, '[Veto of Security Council Resolution Calling for Ceasefire in Gaza Emboldens Israel to Continue Crimes against Palestinian People, Speakers Tell General Assembly](#)'

American understandings of international law, but this cleavage may soon deepen. Reports suggest that the incoming administration intends to recognise Israeli sovereignty over part or all of the oPt.<sup>59</sup> During the previous Trump administration, his ‘peace’ plan for the region called for the termination of UNRWA assistance to the Palestinian population, which goes further than both the Biden Administration and the previous UK Government position of ‘pausing’ funding, and the plan also called for the denial of the right to return for Palestinian refugees from the Nakba in 1948 and the 1967 War.<sup>60</sup>

48. The reason for concern is that documentation suggests that the UK is reliant on the US in determining some of its policies adopted in relation to Israel and Palestine. Relating back to paragraphs 35 to 40, disclosures at the High Court of Justice detail that the UK’s exemption of F-35 parts in its assessment of IHL was reached with central consideration to “*the risk to the US/UK relationship.*”<sup>61</sup>
49. If the UK is, as is regularly asserted, committed to respect for international law and the authority of international courts, the only way to ensure the resilience of its efforts and the coherence of its foreign policy is to pursue it independently of US interests. Respect for the so-called ‘special relationship’ and for the interests of allies must not be prioritised ahead of British interests, including adherence to international law. The UK is a Party to the Arms Trade Treaty, never ratified in the US; the UK is Party to the Rome Statute, unlike the US; the UK would consider any move towards annexation of Palestinian territory as unlawful,<sup>62</sup> unlike, it seems, the incoming US administration. The differences in context must be recognised and it cannot be taken as a given that US interests will align with UK interests.
50. The question of the UK’s positions at the UNSC are of central importance. The UK has a unique role to play in preserving the international legal order given its role as a permanent member on the UNSC. Since 7 October 2023, Israel’s consistent military targeting of UN infrastructure and personnel have included the killing of over 200 UN staff in Gaza,<sup>63</sup> the regular bombings of UNRWA-run schools<sup>64</sup>, and attacks on UNIFIL troops in Lebanon – all clear violations of the immunities and privileges guaranteed by the UN Charter (Articles 104 and 105).<sup>65</sup> Article 4 of UN Charter states that membership is open to all “*peace loving states which accept the obligations*” in the Charter. Included amongst those obligations is the obligation, stipulated in Article 25 of the Charter, to “*accept and carry out*” the decisions of the Security Council. Article 6 of the Charter states that a member state that “*has persistently violated the Principles contained in the present Charter may be expelled ... by the General Assembly upon the recommendation of the Security Council.*” There is no explicit text in Article 6 limiting its application to violations of Article 25, and it is certainly arguable that Israel’s long-standing violations of the principles of the UN, particularly the “*principle of equal rights and self-determination*” (Charter Article 1.2, enumerating the purposes of the organization) of the Palestinian

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<sup>59</sup> Reuters, 11<sup>th</sup> November 2024, ‘[Far-right minister calls for Israeli sovereignty in West Bank in 2025](#)’

<sup>60</sup> Al Jazeera, 29<sup>th</sup> January 2020, What does Trump’s plan propose for Palestinian territories? <https://www.aljazeera.com/news/2020/1/29/what-does-trumps-plan-propose-for-palestinian-territories>

<sup>61</sup> Al-Haq, 4<sup>th</sup> December 2024, ‘[UK Government Forced to Make New Decision on F-35 Exports](#)’

<sup>62</sup> Hamish Falconer MP, 14<sup>th</sup> November 2024, [post on Twitter/X](#)

<sup>63</sup> Michelle Nichols, 11<sup>th</sup> September 2024, ‘[UN chief says lack of accountability on UN staff killings in Gaza ‘unacceptable’](#)’, Reuters

<sup>64</sup> UNRWA, 9<sup>th</sup> September 2024, ‘[Education Under Attack](#)’

<sup>65</sup> United Nations Charter, 1945, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>



people, already provide ample grounds for expulsion under Article 6. Nevertheless, Article 25 provides more clear reasoning that the UN must act.

51. Israel has for decades serially violated UNSC resolutions. Even putting aside the UNSC resolutions adopted since 7 October 2023, Israel has refused to comply with more than two dozen UNSC resolutions on OPT since 1967. The relentless Israeli colonization of the West Bank, for example, violates numerous UNSC resolutions, including Resolution 242 (1967), which “[emphasizes] the inadmissibility of the acquisition of territory by war”;<sup>66</sup> language which, by and large, is repeated in numerous further resolutions (see e.g. 252 (1968); 267 (1969); 271 (1969); 298 (1971); 478 (1980); 681 (1990); and 2324 (2016). Likewise, Israel’s unilateral annexation of East Jerusalem openly violates numerous UNSC Resolutions, such as Resolution 252 (1968); 267 (1969); 271 (1969); 298 (1971); 476 (1980); 478 (1980); 672 (1990) and 2324 (2016). Resolution 252 states in no unclear terms that “all legislative and administrative measures taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status”<sup>67</sup>. Resolution 446 states that “establishing settlements in the Palestinian ... territories occupied since 1967 have no legal validity”<sup>68</sup>, language that was repeated by the UNSC most recently in Resolution 2334 (2016)<sup>69</sup>. No member state has ever been expelled from the UN. However, the organization came very close in the case of South Africa – a case with obvious parallels to that of Israel. The direct trigger for the debate at the UN regarding the expulsion of South Africa was not only the growing international opprobrium towards South African apartheid, but also its continuing occupation of Namibia – an occupation recognized by the ICJ as unlawful, as in the case of the Israeli occupation of the OPT [see UNSC Resolution 269].
52. Furthermore, though United Nations General Assembly (UNGA) Resolutions are not binding in the manner that UNSC Resolutions are, Israel’s serial violations of UNGA Resolutions for decades are further examples of Israel’s failure to comply with the consensus of the wider international community, which the UNGA is representative of, as the core body of UN State Parties. In this sense, despite changes in leadership within the international community, there are many cases of UNGA Resolutions passed with significant majorities that Israel has also violated. Regardless of changes in leadership amongst some UN members, a step-change from the UK and other parties is necessary if we are to see adherence to UNGA resolutions, including those passed recently such as the Resolution of the 17<sup>th</sup> September 2024 that demands that Israel “brings to an end without delay its unlawful presence” in the oPt.<sup>70</sup>
53. There is a pressing need to hold Israel accountable, not only for its longstanding violations of international law, but specifically for its longstanding refusal to abide by its Charter obligations. In the face of this recalcitrance, the UN must move towards expelling Israel from the organization, not only because the UN exists to uphold international law, but also to maintain the UN’s integrity as an organization. The persistent, open violations by Israel of binding UNSC resolutions cannot continue without accountability or

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<sup>66</sup> United Nations Digital Library, [Resolution 242](#), adopted 22<sup>nd</sup> November 1967

<sup>67</sup> United Nations Digital Library, [Resolution 252](#), adopted 21<sup>st</sup> May 1968

<sup>68</sup> United Nations Digital Library, [Resolution 446](#), adopted 22<sup>nd</sup> March 1979

<sup>69</sup> United Nations Digital Library, [Resolution 2334](#), adopted 23<sup>rd</sup> December 2016

<sup>70</sup> Vibhu Mishra, 18 September 2024, UN General Assembly demands Israel end ‘unlawful presence’ in Occupied Palestinian Territory, UN News. <https://news.un.org/en/story/2024/09/1154496>

punishment.

54. Turning, lastly, to the question of a long-reaching view to peace and security in the region, partly but not least-of-all in relation to the question of a ‘two-state solution’, it must be acknowledged that no long-term peace settlement is possible if the illegal occupation of Palestine is permitted to continue. The illegality of Israel’s ongoing military occupation has been settled;<sup>71</sup> the ICJ issued an advisory opinion in July 2024 that concluded “*that Israel’s continued presence in the Occupied Palestinian Territory is illegal[;]the Court considers that such presence constitutes a wrongful act entailing its international responsibility. It is a wrongful act of a continuing character which has been brought about by Israel’s violations, through its policies and practices, of the prohibition on the acquisition of territory by force and the right to self-determination of the Palestinian people. Consequently, Israel has an obligation to bring an end to its presence in the Occupied Palestinian Territory as rapidly as possible.*”
55. The Advisory Opinion also determined a number of legal consequences for other States, many of which the United Kingdom is currently not acting in adherence to. It must also be noted that, as of December 2024, the UK has failed to publish its response to the Advisory Opinion nor detailed the steps to be taken to bring the UK into compliance therewith. Each Member State must: not recognise nor render aid or assistance to Israel’s unlawful presence in the oPt (paragraph 56 below); 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 (paragraph 57 below); take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the oPt (paragraph 58 below); and abstain, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of Israel’s illegal presence in the oPt (paragraph 59).<sup>72</sup> 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 (paragraph 60 below).<sup>73</sup>
56. The UK must take urgent action to bring its policies into compliance with these legal obligations. The responsibility not to recognise nor render aid or assistance to Israel’s illegal presence in the oPt relates back to the need to prevent the export of arms or military items to Israel [see paragraphs 35 to 40], while also obliging the UK to cease its military partnerships and co-operation with the Israeli military – not least its provision of aerial surveillance support for Israel’s military presence in Gaza, irrespective of the UK’s intended usage of that information by Israeli forces.<sup>74</sup> Additionally, the UK is obliged to ensure that British-listed or domiciled companies are not 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, via the Baku-Tbilisi-Ceyhan pipeline.<sup>75</sup> This oil

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<sup>71</sup> ICJ Advisory Opinion, para. 267. 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](#) (18 September 2024).

<sup>72</sup> ICJ Advisory Opinion, para. 278.

<sup>73</sup> ICJ Advisory Opinion, [Declaration of President Salam](#) (19 July 2024).

<sup>74</sup> See, Declassified UK, [REVEALED: UK MILITARY HAS FLOWN 200 SPY MISSIONS OVER GAZA IN SUPPORT OF ISRAEL](#) (8 May 2024); ICJP, [ICJP Seeks Urgent Clarification from FCDO & MoD on British Spy Planes over Gaza](#) (30 May 2024).

<sup>75</sup> Oil Change International, [Behind the Barrel: New Insights into the Countries and Companies Behind Israel’s Fuel Supply](#) (August 2024); ICJP, [BP’s Oil Supplies to Israel: Fueling War Crimes? Urgent Clarification](#)

may have been refined into jet fuel that is being used in attacks in Gaza.<sup>76</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.

57. Regarding the obligation to abstain from entering into economic or trade dealings with Israel which may entrench Israel's unlawful presence in the oPt, the UK must prohibit the import of goods produced in Israel's illegal settlements, acknowledging that such imports help to sustain Israel's illegal settlement economy that is predicated on the displacement and forcible transfer of Palestinians.<sup>77</sup> The UK must suspend negotiations for a Free Trade Agreement (FTA) with Israel, pending a proper and thorough review of human rights implications and implications for compliance with the ICJ's Advisory Opinion.
58. In order to prevent trade or investment with Israel which may assist in maintaining the unlawful occupation of the oPt, the UK must prohibit British companies from operating in illegal settlements. This may include a full legislative prohibition on business involvement in settlements, and an investigation as to which British companies are currently implicated in illegal settlement business activities. As a starting point, three British companies (J.C. Bamford Excavators, Opodo, and Greenkote) are named in the current iteration of the Office of the UN High Commissioner for Human Rights' list of companies involved in illegal settlements.<sup>78</sup> The UK must also tackle the commission or facilitation of illegal acts in the oPt by UK-registered charities. Complaints 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>79</sup> Complaints have also been lodged with the Charity Commission for England and Wales regarding charities that have transferred UK donations, including UK-taxpayer funded Gift Aid donations, to Israeli organisations that are providing the Israeli military with tactical gear,<sup>80</sup> and blocking humanitarian aid from entering Gaza.<sup>81</sup> The FCDO must work with the Charity Commission on such matters. The UK government must also regulate pension, sovereign, and other investment funds to ensure that they are not engaging in commercial or non-commercial activities with Israel or institutions complicit in Israel's unlawful occupation.
59. The UK must take a number of steps to ensure that it abstains from recognising Israel's illegal presence in the oPt, including through diplomatic missions. The UK must take steps to support UN processes which look to enforce the ICJ's advisory opinion, which it

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[Requested](#) (30 September 2024).

<sup>76</sup> Transnational Institute, [Pipeline to Genocide: BP's oil route to Israel](#) (9 September 2024).

<sup>77</sup> See, generally, Lawyers for Palestinian Human Rights, [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](#) (20 September 2024).

<sup>78</sup> Office of the UN High Commissioner for Human Rights, [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](#) (30 June 2023).

<sup>79</sup> ICJP, [ICJP calls on Attorney General to revoke charity status for British-based group involved in funding illegal Israeli settlements and Israeli military](#) (21 August 2024); The Canary, [Action taken to revoke charity status of JNF UK – greenwashers of apartheid and funders of land theft](#) (20 September 2024).

<sup>80</sup> Middle East Eye, [UK: Jewish charity under scrutiny over donations for Israeli soldiers](#) (4 September 2024).

<sup>81</sup> ICJP, [UK Charity facilitating donations and Gift Aid to fund destruction of humanitarian aid heading to Gaza: Charity Commission must investigate](#) (29 May 2024).

has thus far failed to take. 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>82</sup> The UK abstained<sup>83</sup> – a direct violation of its obligations stemming from the ICJ’s Advisory Opinion. Further, as a permanent member of the UNSC, the UK has an important role to play in enforcing the ICJ’s Advisory Opinion. Under Articles 5<sup>84</sup> and 6 of the UN Charter,<sup>85</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>86</sup> and the Fourth Geneva Convention, the UK should support it. Further diplomatic action includes targeted sanctions against state actors in Israel, extended in scope beyond the limited sanctions thus-far imposed under the Global Human Rights Sanctions regime – which have targeted individual Israeli settlers and settler organisations.<sup>87</sup> 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— including individual politicians and political institutions—that explicitly or implicitly green light illegal settlements in the oPt. There is a wealth of publicly available information about senior Israeli ministers who have provided verbal endorsement and resources to support illegal Israeli settlements.

60. Lastly, the UK’s obligations under the ICJ Advisory Ruling must relate directly back to the UK’s relationship to the ICC, which 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>88</sup> Therefore, as a State Party to the Rome Statute of the ICC, the UK must support the ICC’s efforts to investigate and prosecute crimes related to Israel’s unlawful occupation of the oPt, including crimes of apartheid,<sup>89</sup> genocide<sup>90</sup> and crimes related to illegal settlements.<sup>91</sup> Such support includes the UK’s commitment to arresting and surrendering individuals who are subject to arrest warrants by the ICC, rather than provide them with political immunity, and should also include the provision of information that may assist the ICC in conducting investigations against suspected war criminals. The UK should further support the independence of the ICC and

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<sup>82</sup> UN General Assembly, *Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory*, [A/ES-10/L.31/Rev.1](#) (13 September 2024).

<sup>83</sup> FCDO, [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](#) (18 September 2024).

<sup>84</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>85</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>86</sup> See, for example, UN Security Council, Resolution 2334, [S/RES/2334](#) (23 December 2016).

<sup>87</sup> FCDO, [UK sanctions extremist settlers in the West Bank](#) (12 February 2024); FCDO, [UK sanctions extremist groups and individuals for settler violence in the West Bank](#) (3 May 2024).

<sup>88</sup> ICJ Advisory Opinion, [Declaration of President Salam](#) (19 July 2024).

<sup>89</sup> ICC, [Rome Statute](#), Art. 7(1)(j).

<sup>90</sup> ICC, [Rome Statute](#), Art. 6.

<sup>91</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).

protect the Court against attacks or political pressure as it conducts its investigation into the Situation in the State of Palestine.

*24<sup>th</sup> December 2024*