

Beyond the “occupation”: States’ obligations to stop the genocide and dismantle the Israeli colonial-apartheid regime

In its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the International Court of Justice (ICJ) reaffirmed the illegality of “Israel’s prolonged occupation”, arising from the Israeli regime’s denial of the Palestinian people’s right to self-determination and its systematic violations of other peremptory norms, including the prohibition of apartheid. Accordingly, third states are under binding legal obligations to neither recognize, support, nor render aid or assistance to this unlawful situation, and to actively cooperate to bring it to an end.

However, not only have third states failed to bring an end to “Israel’s prolonged occupation,” as required by the ICJ’s Advisory Opinion—they have also failed to prevent and halt the ongoing genocide in the Gaza Strip, in breach of their obligations under the Genocide Convention, and have taken no meaningful steps to dismantle the broader Israeli colonial-apartheid regime imposed across all of historic Palestine. Instead, their continued military (I), economic (II) and political (III) support to the Israeli regime amounts to complicity in its crimes and other violations of international law, inconsistent with their duties under the International Law Commission’s [Articles on State Responsibility](#) and other applicable legal frameworks.

They effectively have:

- Continued arms transfers and military cooperation with the Israeli regime amid ongoing atrocities, including genocide—contravening the provisions of public international law, including the Arms Trade Treaty, and of international humanitarian law; (I)
- Expanded or sustained trade relations, not only in support of colony expansion, but also through broader economic cooperation that underpins the Israeli regime’s broader structures of domination—including in sectors such as surveillance, agriculture, infrastructure/construction, and tech and academic cooperation; (II)
- Failed to implement accountability mechanisms such as sanctions, asset freezes, and diplomatic or institutional measures (e.g. suspensions from international bodies); and/or actively undermined such mechanisms, including by blocking collective action through Security Council vetoes. (III)
- And actively contributed to the dismantling and obstruction of humanitarian relief mechanisms (IV), including by suspending funding to UNRWA in violation of the ICJ’s binding orders, legitimizing coercive aid structures such as the US-Israeli so called “Gaza Humanitarian Foundation” (GHF), and enabling starvation and displacement as tools of warfare—thus crossing the threshold from passive complicity to direct participation in internationally wrongful acts. (IV)

While the illegality of the occupation has been the subject of consistent legal findings by UN bodies and experts over decades—and was recently affirmed by the ICJ’s Advisory Opinion—third state obligations extend further and include bringing an end to the broader Israeli colonial-apartheid regime across historic Palestine, as well as taking all necessary measures to prevent and punish the ongoing genocide in Gaza.

Preliminary notes:

- Marginalizing Genocide: The ICJ's Omission of Gaza

While the ICJ's 2024 Advisory Opinion marks a significant reaffirmation of the illegality of the Israeli regime's occupation, it suffers from a [grave omission](#): the Court declined to assess the ongoing genocide in Gaza. By stating that the General Assembly's request "does not include Israeli conduct in the Gaza Strip," the Court excluded the most visible and catastrophic violations of international law from its analysis.

This decision distorts the object and purpose of the advisory request, which explicitly asked the Court to examine "Israel's *ongoing* policies and practices". The genocide in Gaza is not an isolated aberration—it is one of the most extreme manifestations of the Israeli broader regime of colonization, forced displacement, and apartheid. While the Court acknowledged the need to assess 'ongoing' practices, its reliance on the date of the UN referral (December 2022) to exclude acts committed after October 2023 constitutes avoidance and a failure to appropriately address the unfolding genocide, which clearly qualifies as one of "Israel's *ongoing* policies and practices."

Failing to examine genocide weakens the legal basis upon which third states must act, particularly under the Genocide Convention, and other *jus cogens* norms. It detaches Gaza's destruction from the wider regime enabling it, and obscures the structural nature of "Israel's" internationally wrongful acts. This legal decontextualization risks enabling further atrocity and undermines the credibility of international justice. **The genocide in Gaza must be understood not as a separate crime, but as a culmination of the political, financial and military support provided by third states, as well as the impunity granted to the Israeli regime's system of domination rooted in forced displacement and transfer, colonization and apartheid that transcends the geographic and temporal scopes of the oPt.**

Third states must respond by integrating Gaza into their legal and political analysis, recognizing that their obligations under the Genocide Convention are triggered, not by advisory opinions, but by the commission or risk of genocide itself.

- Beyond the 'Occupied' Palestinian Territory: The Fragmented Legal Lens of the ICJ

In addition to excluding the genocide in Gaza, the Court's Advisory Opinion adopts, although in line with the question posed by the General Assembly, a [fragmented legal lens](#) confined to the Palestinian territory occupied since 1967. This temporal and territorial framing reflects the limitations of the request, rather than the full scope of violations requiring international action.

This constrained lens marginalizes the broader Palestinian struggle, while obscuring the unified character of the Israeli colonial-apartheid regime. Indeed, the Court's exclusive focus on the occupied Palestinian territory (West Bank, including East Jerusalem, and the Gaza Strip) excludes the institutionalized subjugation of Palestinians in 1948 Palestine, and the forced displacement of over 65 percent of the Palestinian people, as well as the denial of their right of return—all core elements of the Israeli colonial-apartheid regime.

Legal scholars, UN experts, and Palestinian civil society have long affirmed that apartheid is not confined to the oPt but constitutes a unified regime that governs the lives of Palestinians across fragmented geographies. Fragmentation—legal, territorial, and political—is itself a tool of domination, sustaining the three pillars of the Israeli regime: forced displacement and transfer, colonization, and apartheid. Therefore, any legal framework that limits its analysis to the oPt reinforces that fragmentation, fails to reflect the integrated nature of Israeli policies and practices across all of historic Palestine, and ultimately legitimizes and enables the regime's continued existence (as a colonial-apartheid regime.)

While the ICJ's limited temporal and geographic scope is an acknowledged constraint of the advisory procedure, shaped by the General Assembly's narrowly framed request, this submission's primary concern lies elsewhere. The central issue is that third states continue to invoke such a limited framing to restrict their own legal obligations exclusively to the 1967

occupation alone. In doing so, they evade the broader measures required under international law to dismantle the full colonial-apartheid regime imposed on the Palestinian people throughout historic Palestine.

Third states must stop hiding behind this fragmented legal framing and act in accordance with their full obligations under international law. Duties of non-recognition, non-assistance, and cooperation to bring unlawful situations to an end apply beyond illegal occupation. **A meaningful legal response must encompass [reparations](#)—foremost the right of return**, which lies at the heart of Palestinian self-determination and redress—as well as the dismantling of all structures sustaining apartheid, colonization, and displacement.

I. Military Complicity in Genocide, Colonization and Apartheid

While the ICJ reaffirmed the illegality of “Israel’s occupation,” third states have not only failed to uphold their duty to end it—they have materially facilitated its continuation through military support.

Since October 2023, the Israeli genocide on the Gaza Strip has consisted of mass bombardments, starvation, [forced displacement](#), and the systematic destruction of civilian life and infrastructure. This campaign has been facilitated by weapons, intelligence, and logistical infrastructure provided by third states. Despite the ICJ’s ruling on the plausibility of genocide in January 2024, major arms exporters—notably the U.S., U.K., and Germany—have deepened military cooperation, enabling the commission of genocide, war crimes and crimes against humanity.

Military cooperation—including joint exercises, training programs, and intelligence sharing—is not confined to enabling the genocide in the Gaza Strip. It sustains the broader regime of colonization and apartheid. Arms, surveillance technologies, drones, and crowd-control weapons are used across the West Bank and within 1948 Palestine to maintain a system of racial domination and territorial control. These tools are integral to enforcing the wider [Israeli forced displacement](#), segregation, and repression across all of historic Palestine. **Third states must therefore recognize that their military assistance maintains, not just the ‘occupation,’ but a structure of apartheid and colonization imposed from the river to the sea.** They must cease all forms of military cooperation that sustain this regime, in compliance with their legal obligations to prevent serious breaches of peremptory norms, including genocide and apartheid.

II. Economic Complicity: Profiting from Apartheid

International law prohibits states from aiding or assisting regimes that violate peremptory norms, including the prohibitions of apartheid, genocide and the denial of self-determination. Yet, third states continue to sustain the Israeli regime through economic relations that entrench its three pillars: forcible transfer, colonization and apartheid.

These economic relations extend far beyond the Palestinian territory occupied in 1967 and colonized thereafter. **The entire Israeli economy is structured around, and profits from, the systems of domination of Palestinian land and life**—whether through agricultural exports from colonies, the global marketing of surveillance technologies developed through the repression of Palestinians, or the exploitation of natural resources. Trade agreements, investment flows, and research partnerships generate revenue and legitimacy for these practices, directly contributing to the maintenance of this system.

Efforts by some states to limit economic measures to colonies in the oPt are not only insufficient—they are legally flawed. The Israeli economy is deeply integrated; all sectors are implicated in sustaining colonization and apartheid. **A narrow geographic focus misrepresents the structural unity of the regime and deflects from the legal obligation to reject it in its entirety.**

Economic complicity must therefore be addressed holistically. Third states must terminate trade, investment, and cooperation with Israeli institutions and corporations implicated in colonization,

expropriation, and repression—whether in the West Bank, Gaza, or 1948 Palestine. **Piecemeal measures limited to the oPt fail to confront the full scope of the Israeli regime** and only serve to normalize and entrench it.

III. Political Complicity: Shielding a Criminal Regime

Third states have not merely failed to act. They have actively shielded “Israel” from accountability. This includes:

- Vetoing UN Security Council resolutions;
- Attacking the credibility of the ICJ and ICC, including efforts to discredit South Africa’s genocide case;
- Delegitimizing initiatives to prosecute Israeli officials under universal jurisdiction;
- Signing bilateral agreements that enshrine support for the Israeli regime while undermining international law.

These actions are not neutral—they are deliberate strategies to protect a regime committing genocide, war crimes and crimes against humanity. Indeed, in the wake of the Israeli genocide on Gaza in October 2023, third states rushed to justify mass killings, displacement, and starvation under the doctrine of self-defense. This invocation of Article 51 of the UN Charter is not only without legal basis—given that an occupying power cannot invoke self-defense against a population under its control—it also forms part of a broader narrative strategy to manufacture public consent for Israeli crimes.

This weaponization of legal and political discourse extends beyond the Gaza Strip. The consistent framing of Palestinian resistance —armed or unarmed— as “terrorism,” while presenting Israeli violence as defensive, reinforces a racialized hierarchy of humanity that sustains apartheid across all parts of historic Palestine. This narrative manipulation is itself a form of political complicity in the broader Israeli regime of domination.

Further, political complicity extends to [domestic repression of solidarity](#), criminalization of boycott movements, and conflation of advocacy, and mobilization for Palestinian rights and liberation, with antisemitism or support to terrorism. These tactics stifle the internationally recognized right to resist colonial domination and apartheid, and reinforce the Israeli regime’s impunity.

Third states must therefore end their political complicity and cease shielding the Israeli regime from accountability—not only to uphold the rights of the Palestinian people, but to protect the integrity of the international order, which their selective application of international law continues to erode.

IV. Complicity through Defunding, Obstruction, Weaponization and Delegitimization of Humanitarian Relief (IV)

As BADIL and other human rights organizations have extensively documented, third states— most prominently the United States, Germany, the United Kingdom, and others —have been fully aware of the Israeli regime’s weaponization of aid and the deliberate infliction of starvation and slow death as methods of warfare in Gaza. This awareness is established not only through public statements from Israeli officials and international organizations, but also through the binding provisional measures issued by the International Court of Justice (ICJ) in the genocide case brought by South Africa.

Despite this knowledge, several states withheld or suspended funding to UNRWA, Gaza’s primary humanitarian lifeline, in response to unverified Israeli allegations regarding staff involvement in the 7 October operations. These decisions were taken without due process or investigation, and in direct violation of the ICJ’s order to ensure the provision of humanitarian aid. As detailed in BADIL’s paper,

these actions materially contributed to mass suffering, catastrophic food insecurity, and the collapse of vital services in Gaza. They further enabled the Israeli regime's broader objective of dismantling the UN-led aid system and replacing it with a militarized, US-Israeli controlled mechanism: the Gaza Humanitarian Foundation (GHF).

The establishment of the GHF—a [formerly](#) Swiss-registered organization run by American military and private security contractors in coordination with Israeli forces—represents a profound violation of the principles of neutrality, humanity, and independence that govern humanitarian relief under international law. As noted by UN officials and humanitarian agencies, the GHF has not alleviated suffering, but instead facilitated forced displacement, the continued denial of aid, and the regime-sanctioned targeting/mass killing of Palestinians at aid distribution sites.

The financial and political support and protection offered by the US government to the GHF, combined with its indefinite suspension of funding to UNRWA, moves its conduct from passive complicity to direct participation in internationally wrongful acts. Other states that have failed to actively denounce and dismantle this mechanism—and that have not resumed full support to UN humanitarian infrastructure—are in violation of their obligation to act.

Third states have therefore knowingly contributed to the Israeli regime's internationally wrongful acts and international crimes, including genocide, by aiding or assisting the dismantling of lawful humanitarian infrastructure, enabling starvation as a method of warfare, and legitimizing coercive aid mechanisms designed to displace and subjugate the Palestinian people. This conduct constitutes active complicity, as defined under Article 16 of the International Law Commission's Articles on State Responsibility (ARSIWA) and must be brought to an end in accordance with third states' obligations not to recognize, aid, or assist the maintenance of this unlawful regime—especially where violations of *jus cogens* norms are at stake.

RECOMMENDATIONS

What Third States Must Do: End Complicity with the Israeli Regime

In light of their binding legal obligations under international law—and the ICJ's reaffirmation of "Israel's" serious breaches of peremptory norms—third states must immediately and comprehensively cease their support for the Israeli colonial-apartheid regime. This includes ending complicity not only in the unlawful occupation of the oPt, but in the overarching structure of forced displacement and transfer, apartheid, and colonization enforced by the Israeli regime over the Palestinian people as a whole in historic Palestine and in exile.

Further, targeted sanctions against [individuals](#) do not address the core problem: the Israeli regime's entire colonial-apartheid architecture must be confronted and dismantled. This requires a [comprehensive sanctions](#) regime that includes not only individual measures, but also collective and structural ones. Entities—whether public or private—owned or controlled, directly or indirectly, by the Israeli regime must be blacklisted, and Israeli companies and institutions complicit in maintaining the colonial regime must face disinvestment and exclusion from international contracts and funding.

1. Military Complicity

- Impose a comprehensive arms embargo on the Israeli regime.
- Suspend military cooperation, including intelligence-sharing and joint training.
- End military subsidies and public funding to arms manufacturers supplying the Israeli regime.
- Enforce end-use monitoring of military exports.
- Support international investigations into foreign-supplied weapons used in international crimes.

2. Economic Complicity

- Suspend trade and investment agreements with the Israeli regime until full compliance with international law.
- Prohibit trade in goods and services linked to colonization or apartheid.
- Divest from companies and institutions involved in the Israeli colonial-apartheid regime and its genocide.
- Enact corporate due diligence laws mandating disengagement from colonization and apartheid-linked activities.
- Impose sanctions on Israeli officials and entities responsible for international crimes.
- Expand international databases and accountability mechanisms beyond settlements.
- Reject symbolic or partial measures, such as settlement-only boycotts, which obscure the unified structure of the Israeli colonial-apartheid regime.

3. Political Complicity

- End all diplomatic cover and misuse of veto power that shield Israeli crimes.
- Publicly recognize the illegality of the Israeli regime across historic Palestine.
- Withdraw from agreements that normalize apartheid and colonization.
- Support UN and international mechanisms addressing apartheid and genocide.
- Activate universal jurisdiction and support new accountability structures (e.g., a renewed UN Committee Against Apartheid).

Conclusion

This consolidated action plan is not aspirational. It reflects not only legal imperatives, but the minimum steps required for states to meet their obligations and end their complicity, including dismantling a colonial-apartheid regime that international law dictates must be brought to an end.

Despite the ICJ's findings, third states continue to ignore their obligations. Not only have they failed to end the Israeli illegal occupation, their complicity, through both actions and omissions, has played a central role in sustaining and entrenching its colonial-apartheid regime across historic Palestine. Worse, they have enabled a genocide in the Gaza Strip, through their continued and increasing military, economic and political support.

In light of the unprecedented scale of atrocities, the question facing the international community should not be limited to what measures states have taken to end the Israeli regime's unlawful occupation, but must encompass what steps they have taken—or failed to take—to dismantle the broader colonial-apartheid regime and what actions or omissions they have engaged in that violate their legal obligations. The reality is that the answer to both those questions is the same: the vast majority of states have not only failed to act (to end the illegal “occupation” and its associated regime), but through their actions, they have deepened their complicity in a multitude of Israeli crimes, including genocide. **Failure to act decisively now will not only further entrench Israeli crimes, it will mark a collapse of the very system of law and protection the international community has pledged to uphold.**