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# What has the ICJ said about Israel's occupation of West Bank and East Jerusalem?

The International Court of Justice (ICJ) said on July 19 that Israel's occupation of the West Bank and East Jerusalem violates international law and its presence in Palestinian territories should end "as soon as possible."

Written by [Alind Chauhan](#)

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The International Court of Justice (ICJ), the United Nations' principal judicial organ, said on July 19 that Israel's presence in Palestinian territories should come to an end "as soon as possible". (Photo - Wikimedia Commons)

The International Court of Justice (ICJ), the United Nations' principal judicial organ, said on July 19 that Israel's occupation of the West Bank and East Jerusalem violated international law, and its presence in Palestinian territories should come to an end "as soon as possible".

Israel has occupied the West Bank and East Jerusalem since the Six-Day War in 1967. Prior to this, the territories were under Jordanian control.

### What is an 'occupation' in international law?

The most widely accepted definition of occupation comes from Article 42 of the "Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex", 1907. It says that a "territory is considered occupied when it is actually placed under the authority of the hostile army." Importantly, an occupation must

only be temporary, and cannot involve any transfer of sovereignty to the occupying power.

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Once a territory has been seized, the occupying power has certain obligations vis-à-vis persons within the occupied territory, as spelled out in the 1907 Hague regulations, and the Fourth Geneva Convention of 1949, which established international legal standards for humanitarian treatment in war. These obligations include providing food and medical care to the population of an occupied territory. They also prohibit civilian transfers of population in the territory, and the use of or threat of force.

### Why did ICJ give its opinion on Israel's occupation?

In December 2022, the UN General Assembly adopted a resolution seeking the ICJ's advisory opinion on the "legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem." Presented in the UNGA by Nicaragua, it passed with 87 votes in favour, 26 against, and 53 abstentions.

This came well before Israel's assault on Gaza following the Hamas attacks of October 7, 2023.

### What did the ICJ opine?

**The ICJ examined the legality of** Israel's prolonged occupation, settlement policy, annexation of the Palestinian territories, and adoption of allegedly discriminatory measures to apprise whether they affect the right of the Palestinian people to self-determination. Here is what it said:

### ON PROLONGED OCCUPATION

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Since international law does not specify any temporal limit for an occupation, the ICJ noted that the legal status of an occupation cannot be determined by how long a territory has been occupied. What does affect the legality of said occupation, the court said, is the occupying power's "policies and practices and the manner in which they are implemented and applied on the ground".

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## ON SETTLEMENT POLICY

The first Israeli practice that the court examined was its policy of settlement in the West Bank and East Jerusalem since 1967. This, the court said, violated international law. According to the ICJ,

\* The settlement policy, and Israeli military measures, have pushed Palestinians to leave parts of occupied territories against their will. This violates Article 49 of the

Fourth Geneva Convention which provides that “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”.

\* The policy breaches Articles 46 (protection of private property), 52 (general protection of civilian objects), and 55 (protection of the natural environment) of the Hague regulations, as Israel expanded its settlements in the occupied territories by “confiscation or requisitioning of large areas of land”;

\* The policy's implementation fails to follow Article 43 of the Hague regulations, which mandates occupying powers, “unless absolutely prevented”, to respect the law in force in the occupied territories. The court held that Israel treats its settlements and occupied East Jerusalem “as its own national territory, where Israeli law is applied in full and to the exclusion of any other domestic legal system”.

The court also held that the settlement policy led to violence by Israeli settlers and security forces against Palestinians, which Israel failed to prevent and effectively punish. This “contributed to the creation and maintenance of a coercive environment against Palestinians”, the ICJ said.

## ON ANNEXATION OF PALESTINIAN TERRITORIES

Annexation, the ICJ said, is the permanent control over an occupied territory. The court found that Israel's policies and practices in the West Bank and East Jerusalem are “designed to remain in place indefinitely and to create irreversible effects on the ground”.

Apart from the maintenance and expansion of settlements, these include the exploitation of Palestine's natural resources, the proclamation of Jerusalem as Israel's capital, and the application of Israeli domestic law in East Jerusalem and the West Bank.

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According to the ICJ, this is “contrary to the prohibition of the use of force in international relations” and thus affects the legality of Israel's continued

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occupation.

## ON DISCRIMINATORY LEGISLATION AND MEASURES

The court found that a broad array of legislation implemented by Israel in occupied territories “treat Palestinians differently”. This, the court said, “constitutes systematic discrimination” based on, “race, religion or ethnic origin” of the International Covenant on Economic, Social and Cultural Rights, 1954 and the International Covenant on Civil and Political Rights, 1954, and the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD).

The court observed that Israel’s policies serve to maintain “near-complete separation” in the occupied territories between the settlers and Palestinians in clear violation of Article 3 (the obligation to eradicate apartheid and practices of racial segregation) of ICERD.

## ON SELF-DETERMINATION

In light of all the above, the ICJ determined that Israel’s occupation has violated Palestinians’ right to self-determination. “... [The] Palestinian people has been deprived of its right to self-determination over a long period, and further prolongation of these policies and practices undermines the exercise of this right in the future,” in contravention to the fundamental principles of international law, the court said.

## ON FUTURE COURSE OF ACTION

The ICJ said that Israel is under the obligation to immediately end its illegal occupation, cease new settlement activities and evacuate settlers from the occupied territories, and make reparation to all affected people for the damage caused.

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The court said that other states should not recognise the occupied territories of Israel, and refrain from providing aid or assistance to Israel in maintaining this occupation.

The ICJ's opinion is not binding or enforceable.

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EXPRESS Shorts



Salman Khan does a little dance with Govinda at Dharmaveer 2 trailer launch

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The OG 'Partners' – Salman Khan and Govinda – reunited at the trailer launch of the upcoming film Dharmaveer 2, and their excitement was palpable. Alongside Salman and Govinda, other stars like Jeetendra, Boman Irani, and Marathi actor Ashok Saraf attended the event, as...

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