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Israel may face UN court ruling on legality of Gaza conflict

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Israel faces the prospect of intervention by international courts amid growing calls that its actions in [Gaza](#) are a violation of world humanitarian and criminal law.

The UN general assembly, which is meeting this week to discuss the issue, will consider requesting an advisory opinion from the international court of justice, the Guardian has learned.

"There is a well-grounded view that both the initial attacks on Gaza and the tactics being used by Israel are serious violations of the UN charter, the Geneva conventions, international law and international humanitarian law," said Richard Falk, the UN's special rapporteur on the Palestinian territories and professor emeritus of international law at Princeton University.

"There is a consensus among independent legal experts that Israel is an occupying power and is therefore bound by the duties set out in the fourth Geneva convention," Falk added. "The arguments that Israel's blockade is a form of prohibited collective punishment, and that it is in breach of its duty to ensure the population has sufficient food and healthcare as the occupying power, are very strong."

A Foreign Office source confirmed the UK would consider backing calls for a reference to the ICJ. "It's definitely on the table," the source said. "We have already called for an investigation and are looking at all evidence and allegations."

An open letter to the prime minister signed by prominent international lawyers and published in today's Guardian states: "The United Kingdom government ... has a duty under international law to exert its influence to stop violations of international humanitarian law in the current conflict between Israel and Hamas."

The letter argues that Israel has violated principles of humanitarian law, including launching attacks directly aimed at civilians and failing to discriminate between civilians and combatants.

The letter follows condemnation earlier this week from leading QCs of Israel's action as a violation of international law, and a vote by the UN's [human rights](#) council on Monday on a resolution condemning the ongoing Israeli military operation in the Gaza Strip.

"The blockade of humanitarian relief, the destruction of civilian infrastructure, and preventing access to basic necessities such as food and fuel are *prima facie* war crimes," a group of leading QCs and academics, including Michael Mansfield QC and Sir Geoffrey Bindman, wrote in a letter to the Sunday Times.

Israel has already been found to have violated its obligations in international law by a previous advisory opinion of the ICJ, and is likely to vigorously contest arguments that it is an occupying power. It previously stated that occupation ceased after disengagement from Gaza in 2005.

Its stance raises questions as to the utility of an advisory opinion by the ICJ after Israel rejected its finding in a previous case, which found the wall being constructed in the Palestinian territories to be a violation of Israel's obligations under international humanitarian law.

Questions are also being raised as to whether the international criminal court, which deals with war crimes and crimes against humanity, would have any jurisdiction to hear cases against perpetrators of the alleged crimes on both sides of the conflict. Neither Israel nor the Palestinian territories are signatories to the Rome statute, which brings states within the jurisdiction of the ICC.

More likely, experts say, is the establishment of ad-hoc tribunals of the kind created to deal with the war in the former Yugoslavia and the genocide in Rwanda.

"If there were the political will there could be an ad-hoc tribunal established to hear allegations of war crimes," Falk said. "This could be done by the general assembly acting under article 22 of the UN charter which gives them the authority to establish subsidiary bodies."

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