

Can the ICJ Inject Humanity into the World's Most Vexing Problem?

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At the end of 2022, the UN General Assembly passed a resolution on the legal status of the occupation and annexation by Israel. For reference, the resolution states: “The Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development.”

The resolution requests that the International Court of Justice examine the long-running conflict, Israel’s “annexation” and the “legal status of the occupation.”

Under international law, the International Court of Justice has the power to give an advisory opinion generally sought by any state or group of states or by any international organization. In the past, the ICJ gave its legal opinion on the construction of Israel’s wall in the West Bank. This is the second time that the UN has approached the world court to give a legal opinion on the Israel-Palestine conflict. The objective of the advisory opinion also covers the change in the status of Jerusalem.

There are a number of questions regarding the history of this long-standing conflict, how the election of a far-right government affects the already derailed peace process, and what possible steps should the advisory opinion focus on to prompt changes on the ground.

Historically, Palestine’s borders have arisen from agreements that Israel signed with both Jordan and Egypt in 1949. Palestine was divided into the State of Israel (including West Jerusalem), the West Bank (including East Jerusalem) which was taken over by Jordan, and the Gaza Strip (controlled by Egypt).

Cut to the present, a new far-right government has assumed power. Their aim is the expansion of Israeli settlements in the West Bank.

The emphasis of the ICJ through its advisory opinion must seek to emphasize a human needs perspective to conflict resolution. Such an approach focuses on the needs for identity, security, recognition, participation, dignity, and justice. Having in place such an

approach is of great significance due to the fact that in the tussle between the imposition of sovereignty by Israel over the West Bank and Gaza and the human rights of the Palestinians, it is Israelis and Palestinians who are suffering.

The need of the hour of ensuring peace and justice was best explained by former UN Secretary-General Kofi Annan. He wrote: “Justice and peace are not contradictory forces. Rather, properly pursued, they promote and sustain one another. The question, then, can never be whether to pursue justice and accountability...”

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