June 9, 2025

The Right Honourable Mark Carney Prime Minister of Canada 80 Wellington Street Ottawa, Ontario K1A 0A2

Dear Prime Minister,

We write this Open Letter to you as a group of 412 professors of law and lawyers with backgrounds in international law and human rights; academics with demonstrated expertise in international relations, justice and human rights; civil society, faith and labour movement leaders; and former and retired ministers, diplomats and public servants who have worked over many decades to advance Canada's global interests. We write because of the catastrophic human rights and humanitarian crisis in Gaza, now into its twentieth month, which is broadly understood by international law experts and leading human rights organizations as constituting genocide.

Waiting, vacillating, remaining silent and failing or, worse, refusing to act in the face of mounting and incontrovertible evidence of genocide, war crimes and crimes against humanity can no longer be options for Canada. But it is not enough to simply speak out. Canada must do everything in its power to stop these atrocities and support efforts to bring those responsible to account. This is what our signatures on the 1948 *Genocide Convention* and the 1998 Rome Statute establishing the International Criminal Court demand.

We offer five priority recommendations for action, which are described in more detail at the end of this letter. We urge you to take up these suggestions both unilaterally and jointly with partners, including at the upcoming G7 Summit.

- Work actively towards an immediate, permanent ceasefire and the release of all Israeli and Palestinian captives.
- Insist on full humanitarian access to Gaza in a manner in keeping with core humanitarian principles of humanity, impartiality, neutrality and independence, and demand that the Israeli ban on the UN Relief and Works Agency be completely lifted.
- Publicly support the role of and fully comply with international courts in holding to account those who violate international law in the Occupied Palestinian Territory including Gaza, the West Bank and East Jerusalem, and Israel.
- Pursue all possible domestic measures, including immediately withdrawing from the free trade agreement between Canada and Israel, imposing sanctions on Israeli leaders and other individuals suspected of involvement in atrocity crimes, initiating investigations into charges of genocide, war crimes and crimes against humanity under the *Crimes Against Humanity and War Crimes Act* (including any Canadians or dual nationals involved in such crimes) with the aim of prosecuting offenders in Canada or other jurisdictions, enforcing a full and comprehensive two-way arms embargo, and stripping charitable status from organizations found to be complicit in crimes under international law.

• Without further delay, join the 149 states who recognize the State of Palestine and support all efforts for Palestine to be admitted as a full member of the United Nations.

Urgency

We write with a sense of unprecedented urgency, which only deepens as the situation in the Occupied Palestinian Territory, particularly Gaza, worsens hourly.

First and foremost, there is urgency because the situation on the ground in Gaza has become unimaginably dire. Adequate words to accurately describe the level and scale of death, suffering and destruction escape us. Even such a term as apocalyptic seems insufficient. Over 54,000 Gazans have been killed since Israel's military operations began, amounting to a staggering 2.4% of the population. We write that figure, knowing that it underrepresents those killed and that it will rise daily. The true number of deaths is certainly higher, given that there are many bodies that have yet to be recovered from underneath the rubble of buildings that have collapsed under bombardment. Countless others are dying from malnutrition and infectious diseases. An estimated 70% of the deaths have been women and children.¹ The numbers of children who have been killed – often all of the children in a single family at the same time – shatters the collective heart of humanity.

What has transpired in Gaza over the past twenty months is an abhorrent situation of unspeakable death and devastation that should not and cannot be allowed to continue for a single day, in fact a single minute, longer. That the situation has been allowed to reach such depths of suffering is a despicably shameful disgrace borne by the entire international community, including Canada. It is the inevitable result of months of inaction and wholesale impunity.

We are in full agreement with the detailed analysis and conclusions reached by UN human rights experts,² respected human rights organizations,³ and numerous legal academics⁴ that genocide is taking place in Gaza. It should not have come to this. We remind you that there exists a clear and unambiguous legal obligation on parties to the *Genocide Convention*, which obviously includes Canada, to *prevent*

¹ Al Jazeera, Nearly 70 percent of deaths in Gaza are women and children: UN, November 8, 2024, https://www.aljazeera.com/news/2024/11/8/nearly-70-percent-of-deaths-in-gaza-are-women-and-childrenun.

² UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, Anatomy of a Genocide, UN Document A/HRC/55/73, July 1, 2024, <u>https://docs.un.org/en/A/HRC/55/73</u>; UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, Genocide as Colonial Erasure, UN Document A/79/384, October 1, 2024, <u>https://docs.un.org/en/A/79/384</u>. ³ Amnesty International, Israel/Occupied Palestinian Territory: 'You Feel Like You Are Subhuman': Israel's Genocide Against Palestinians in Gaza, December 5, 2024,

https://www.amnesty.org/en/documents/mde15/8668/2024/en/; Human Rights Watch, Extermination and Acts of Genocide: Israel Deliberately Depriving Palestinians in Gaza of Water, December 19, 2024, https://www.hrw.org/report/2024/12/19/extermination-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza.

⁴ UK Judges' and Lawyers' Open Letter Concerning the Occupied Palestinian Territory – May 2025, https://lawyersletter.uk/wp-content/uploads/2025/05/Gaza-letter-26May25.pdf.

genocide where there is a risk of it being committed. It cannot be said with any semblance of rationality that no such risk has existed for the last twenty months.

In point of fact, on 26 January 2024, the International Court of Justice found that the right of the Palestinian people in Gaza under the *Genocide Convention* not to be subjected to acts of genocide is plausibly at stake and that there exists a "real and imminent risk" of genocide in Gaza.⁵ This is enough to have triggered the obligation of all signatories to the Genocide Convention – including Canada – to take positive measures to prevent genocide in Gaza. In addition, the Court ordered the Israeli government to "take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip."⁶

Since that ruling over sixteen months ago, and in violation of two further binding provisional measures orders of the ICJ,⁷ Israel has taken measures to exponentially worsen conditions in Gaza. Israel's decision to completely block humanitarian access to Gaza since March 2, 2025, and more recently to bypass UN and established humanitarian agencies and instead deliver a meagre level of aid through the Gaza Humanitarian Foundation (GHF), a so-called 'humanitarian' foundation lacking humanity, independence, impartiality and neutrality, has been widely condemned, including by your government. In the words of UN Under-Secretary General for Humanitarian Affairs, Tom Fletcher, these so-called "humanitarian" measures adopted by Israel are a "cynical sideshow", "a deliberate distraction", and "a fig leaf for further violence and displacement."⁸ Of note, dozens of Palestinians have been killed and hundreds injured attempting to collect food aid from the GHF to date.⁹

⁵ "In the Court's view the facts and circumstances mentioned above are sufficient to conclude that at least some of the rights claimed by South Africa and for which it is seeking protection are plausible. This is the case with respect to the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III...", "...the Court considers that there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights found by the Court to be plausible." Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel), Request for the Indication of Provisional Measures, Order of 26 January 2024, paragraph 54, <u>https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00en.pdf</u>.

⁶ *Ibid*., paragraph 86(4).

⁷ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel), Request for the Modification of the Order of 26 January 2024 Indicating Provisional Measures, Order of 28 March, 2024, <u>https://www.icj-cij.org/sites/default/files/case-related/192/192-</u> 20240328-ord-01-00-en.pdf; Application of the Convention on the Prevention and Punishment of the Crime of

Genocide in the Gaza Strip (South Africa v Israel), Request for the Modification of the Order of 28 March 2024, Order of 24 May 2024, <u>https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf</u>.

⁸ Mr. Tom Fletcher, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator -Briefing to the Security Council on the humanitarian situation and the protection of aid workers in Gaza, May 13, 2025, <u>https://reliefweb.int/report/occupied-palestinian-territory/mr-tom-fletcher-under-secretary-</u> general-humanitarian-affairs-and-emergency-relief-coordinator-briefing-security-council-humanitariansituation-and-protection-aid-workers-gaza-13-may-2025-enarhe.

⁹ CBC News, U.S.-backed Gaza aid group halts distribution as 18 killed in Israeli strike on school shelter, June 4, 2025, <u>https://www.cbc.ca/news/world/gaza-israel-aid-1.7551741</u>.

We write with the full knowledge that one year ago – 10 June 2024 – the United Nations Security Council adopted Resolution 2735 (proposed by the United States) which demanded "an immediate, full and complete ceasefire", the return of Israeli and Palestinian captives, the return of Palestinian civilians to their homes and neighbourhoods throughout Gaza and the safe delivery of humanitarian assistance at scale throughout the Strip. The Resolution also rejected "any attempt at demographic change in the Gaza Strip, including any actions that reduce the territory of Gaza."

We write with additional urgency given that you are hosting the G7 Summit in Kananaskis in five days' time. We anticipate that the situation in Gaza, broader issues related to Israel and Palestine, and wider tensions and openings regarding geopolitical and security challenges in the Middle East, will feature in your discussions. It is a crucial opportunity for concerted action from seven of the world's most influential governments and economies. It is an opportunity that must be seized.

We welcomed the joint statement that was issued by three of the seven G7 leaders, namely French President Emmanuel Macron, UK Prime Minister Keir Starmer and yourself, on May 19, 2025¹⁰ and commend the red lines that were drawn. In particular we note that you have committed to "further concrete actions" if the Israeli government continues with its renewed military offensive and fails to lift its restrictions on humanitarian aid in Gaza. You have indicated that you will not "hesitate to take further action, including targeted sanctions" if Israel does not halt the expansion of illegal settlements in the West Bank. The time for such actions is now. Despite extensive and credible documentation of ongoing international crimes, Canada still refuses to act. What more evidence could possibly be needed?

Indeed, you have not yet taken any such action, despite the fact that the renewed military offensive and restrictions on humanitarian aid which you decried nearly three weeks ago have not abated. Similarly we have seen no response from Canada to the recent decision by Israel's security cabinet to establish 22 new illegal settlements in the West Bank, the most extensive move of its kind since the Oslo Accords and which Israel's Defence Minister, Israel Katz, explicitly acknowledges is "a strategic move that prevents the establishment of a Palestinian state that would endanger Israel."¹¹

Prime Minister Carney, it is clearly time for the further concrete action that has been promised by Canada. It is our expectation that as the summit host, and working with President Macron and Prime Minister Starmer, you will generate wider G7 action along these lines.

International Courts and International Law

We have followed closely the investigation launched by the International Criminal Court with respect to the situation in the State of Palestine. As you are aware, in May 2024 the Court's Prosecutor sought arrest warrants against three Hamas and two Israeli leaders, on charges of war crimes and crimes against

¹⁰ Joint statement from the leaders of Canada, the United Kingdom and France on the situation in Gaza and the West Bank, May 19, 2025, <u>https://www.pm.gc.ca/en/news/statements/2025/05/19/joint-statement-leaders-canada-united-kingdom-and-france-situation</u>.

¹¹ Lorenzo Tondo, Israel confirms plans to create 22 new settlements in occupied West Bank, The Guardian, May 29, 2025, <u>https://www.theguardian.com/world/2025/may/29/israel-new-settlements-occupied-west-bank-palestinian-state</u>.

humanity related to the October 7th attack and the military offensive that has followed. The three Hamas leaders have all subsequently been killed and the proceedings against them have been discontinued or withdrawn. Arrest warrants were issued against Israeli Prime Minister Benjamin Netanyahu and former Minister of Defence Yoav Gallant in November 2024 and remain outstanding.¹² The Court's investigations continue and there is every possibility that further arrest warrants may be sought.

Many of us endorsed an Open Letter to your predecessor, Justin Trudeau, from 375 academics, lawyers, civil society and faith leaders and former ministers and diplomats in May 2024, calling on the Canadian government to support the ICC's ongoing work with respect to Palestine.¹³ That remains a key imperative, as a means of tackling the decades of impunity that have shielded those responsible for grave crimes under international law in Palestine and in Israel from accountability.

To date we have been disappointed by what would best be termed ambivalent and reluctant support from the Canadian government for the ICC. Your government must not only support the ICC's investigation in words, but in deeds, for instance by allocating investigators to assist the Court's probe into atrocities in Palestine, as it did in the context of the Ukraine investigation. We likewise implore your government to not only clearly state that it would enforce the existing ICC arrest warrants but that it would support the issuance of additional warrants, including in relation to atrocities committed in the West Bank.

We draw your attention as well to the Advisory Opinion issued by the International Court of Justice in July 2024, in which the Court found that "Israel's presence in the Occupied Palestinian Territory is unlawful."¹⁴ The Court noted that all states – *i.e.* including Canada and all members of the G7 – are "under an obligation not to render aid or assistance in maintaining the situation created by Israel's illegal presence in the Occupied Palestinian Territory."¹⁵ The Court affirmed that all States were therefore under a duty "to distinguish in their dealings with Israel between the territory of the State of Israel and the Palestinian territory occupied since 1967".¹⁶ In this regard, the Court affirmed that such a duty encompasses, *inter alia*:

 ¹² International Criminal Court, Situation in the State of Palestine, <u>https://www.icc-cpi.int/palestine</u>.
 ¹³ A call for Canadian support for the ICC's work with respect to Palestine/Israel, May 29, 2024, <u>https://www.alexneve.ca/blog/a-call-for-canadian-support-for-the-iccs-palestineisrael-case</u>.

¹⁴ "The Court considers that the violations by Israel of the prohibition of the acquisition of territory by force and of the Palestinian people's right to self-determination have a direct impact on the legality of the continued presence of Israel, as an occupying Power, in the Occupied Palestinian Territory. The sustained abuse by Israel of its position as an occupying Power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel's presence in the Occupied Palestinian Territory unlawful." International Court of Justice, Advisory Opinion, Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory Including East Jerusalem, July 19, 2024, paragraph 261, https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf.

¹⁵ *Ibid.*, paragraph 279.

¹⁶ *Ibid.*, paragraph 278.

- "the obligation to abstain from treaty relations with Israel in all cases in which it purports to act on behalf of the Occupied Palestinian Territory or a part thereof on matters concerning the Occupied Palestinian Territory or a part of its territory;
- to abstain from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory or parts thereof which may entrench its unlawful presence in the territory;
- to abstain, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of its illegal presence in the Occupied Palestinian Territory; and
- to take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory."¹⁷

As the principal judicial organ of the United Nations, the ICJ's authoritative determination of international law, as above, is binding on all States, regardless of whether such determination appears in the form of an Advisory Opinion of the Court. This is so given the Court's determinations above all rest upon Israel's violations of peremptory norms of international law, derogation from which is not permitted.

Many of us were involved in letters to and/or meetings with the former prime minister and relevant ministers over the course of 2024, laying out recommendations for action that Canada is legally required to take in response to the 2024 Advisory Opinion, including in relation to illegal settlements in the West Bank, which are war crimes; but very little has been done, and the minimal steps that have been taken, such as sanctions against a negligible number of individual settlers in the West Bank, have clearly proven ineffective.¹⁸

In our view Canada has fallen far short of complying with the clear international legal obligation to refrain from providing "aid or assistance" to Israel in continuing its illegal presence in the Occupied Palestinian Territory and its commission of other internationally wrongful acts, including core international crimes, in the territory.

Recommendations

Legally and morally, it is incumbent on Canada, and therefore upon your government, to pursue all possible action to end, prevent, investigate and punish genocide, war crimes and crimes against humanity in Gaza, the West Bank, East Jerusalem and in Israel. We note that under the *Genocide Convention* Canada has an express obligation to prevent and punish genocide. As well, the Convention is widely recognized to give rise to *erga omnes* obligations, which all states have a legal interest in enforcing. No state can or should remain passive in the face of war crimes, crimes against humanity, and genocide. We urge you to prioritize Canadian action in five areas.

¹⁷ Idem.

¹⁸ Letters to the Canadian government, April, June and August 2024: Illegal West Bank settlements are war crimes, <u>https://www.alexneve.ca/blog/2024warcrimeletters</u>.

CEASEFIRE AND RELEASE OF CAPTIVES

The most immediate step that must be taken in Gaza is a full, unconditional ceasefire, starting with a complete halt to Israel's renewed ground offensive. That must include release of all captives unlawfully held by Hamas and by Israel. Your government has expressed opposition to the renewed offensive and insisted that it be halted, and has frequently called for a ceasefire. Working with G7 and other partners, there must now be consequences for the consistent failure and refusal to comply with those demands.

➢ HUMANITARIAN ACCESS

The blockade on humanitarian access to Gaza since early March has given rise to catastrophic conditions on the ground which UN officials have described as a famine; a famine that is not a result of environmental conditions or crop failure, but entirely instigated by Israeli government policy, decisions and action. Your government must insist that the Israeli ban on the UN Relief and Works Agency be lifted, and that aid be allowed into Gaza at the scale that is required and in conformity with the binding orders of the International Court of Justice issued in *South Africa v. Israel*, as well as widely recognized humanitarian principles of humanity, impartiality, neutrality and independence. Again, working with other governments, there must be consequences for Israel's refusal to live up to this most basic of humanitarian imperatives. Canada must not work with, recognize or in any way support the Gaza Humanitarian Foundation, which in no ways adheres to those humanitarian principles and instead supports Israel's military strategies and intentions regarding Gaza.

SUPPORT FOR INTERNATIONAL COURTS

Canada has a long and proud tradition of supporting the important role of international courts in upholding international law. Support for these institutions is vital at this time. Both the International Court of Justice and the International Criminal Court are actively engaged in cases involving allegations and charges of genocide, war crimes and crimes against humanity in Israel and Palestine. Those two courts have faced criticism and hostile challenges from a number of governments, particularly Israel and the United States. Canada can do much more to demonstrate the substance of our support for international courts. That should include developing a plan of action for ensuring Canada: a) complies with the ICJ's 2024 Advisory Opinion regarding the illegality of Israel's continued presence in the Occupied Palestinian Territory; b) intervenes in support of South Africa's case at the ICJ under the *Genocide Convention* in the way Canada has done in other cases (*i.e.* Gambia v. Myanmar); c) makes a clear public statement confirming Canada's commitment to enforcing arrest warrants issued by the ICC; and d) works with other governments to refer concerns about the expansion of illegal settlements in the West Bank to the ICC Prosecutor.

> PURSUE ALL POSSIBLE MEASURES WITHIN CANADA

In addition to taking international action there are many steps that Canada can and must take domestically. In fact, we are legally obliged to do so. The *Genocide Convention* outlaws not only genocide but "complicity in genocide." The *Crimes Against Humanity and War Crimes Act* lays out the legal framework for charges related to genocide, crimes against humanity or war crimes to be brought against

both Canadians and non-Canadians before Canadian courts. Among other measures we call on your government to:

- build on the sanctions that have been imposed against Hamas, other Palestinian armed groups and leaders associated with those groups, as well as sanctions imposed against extremist settlers, by imposing sanctions against key Israeli government officials suspected of responsibility for genocide, crimes against humanity and war crimes, including Prime Minister Benjamin Netanyahu, Minister of Defence Israel Katz, Minister of National Security Itamar Ben-Gvir, and Minister of Finance Bezalel Smotrich;
- enforce a full, two-way arms ban between Canada and Israel, including all Canadian arms, parts or components and 'dual-use' objects transferred to Israel via the United States or any other third country;
- withdraw from the Canada-Israel Free Trade Agreement, particularly given that the agreement is
 unlawful for being in violation of two peremptory norms of international law, namely the
 prohibition on the acquisition of territory through the threat or use of force and the obligation to
 respect a people's right to self-determination (see the *Vienna Convention on the Law of Treaties,*article 53), and the fact that the agreement includes goods and services originating from illegal
 West Bank settlements and fails to distinguish between Israeli territory and the occupied
 Palestinian territory;
- request the RCMP to launch investigations into allegations that Canadian citizens and
 organizations incorporated in and based in Canada have committed, or aided and abetted the
 commission of genocide, war crimes or crimes against humanity in Israel or Palestine, including
 while serving with the Israel Defense Forces, with the specific aim of prosecuting alleged
 perpetrators; and
- appoint an independent expert to investigate and ensure that any organization with Canadian charitable status that has provided financial or other support for genocide, crimes against humanity or war crimes is stripped of that status.

Recognition of the State of Palestine

Finally, Prime Minister, we urge you to recognize the State of Palestine, which should be granted full membership within the United Nations. There is wide support for doing so, with 149 States having already done so (148 of the 193 member states of the UN, plus one nonmember Observer State, the Holy See).¹⁹ The Canadian government has previously expressed an intention to do so eventually, but has indicated it is premature.²⁰ That cannot stand, particularly as the Israeli government pursues such

¹⁹ Al Jazeera, Mapping which countries recognise Palestine in 2025, April 10, 2025,

https://www.aljazeera.com/news/2025/4/10/mapping-which-countries-recognise-palestine-in-2025. ²⁰ "Canada is prepared to recognize a Palestinian state at the time most conducive to lasting peace, not necessarily as the last step along the path to achieving the two-state solution." Government of Canada, Canadian policy on key issues in the Israeli-Palestinian conflict, <u>https://www.international.gc.ca/worldmonde/international_relations-relations_internationales/mena-moan/israeli-palestinian_policypolitique_israelo-palestinien.aspx?lang=eng, accessed May 29, 2025; Raffy Boudjikanian, Canadian government speaking with allies about Palestinian statehood recognition, official tells MPs, CBC News,</u>

courses of action as genocide in Gaza and the expansion of illegal settlements in the West Bank, which are (by Israel's own admission) intended to undermine the territorial integrity and political independence of Palestine. As noted by the International Court of Justice in its 2024 Advisory Opinion, the Palestinian people's right to self-determination in their State is in the nature of a peremptory norm of international law, derogation from which is not permitted, and is therefore not a matter of negotiation. Canada's position is patronizing and contravenes the fundamental right of Palestinians to self-determination. Canada can and should wait no longer.

We also remind you that on 18 September 2024, the United Nations General Assembly overwhelmingly (124-14-45) adopted Resolution ES-10/24, which not only welcomed the July 2024 Advisory Opinion of the International Court of Justice, but also gave Israel a firm deadline of 12 months to completely end its unlawful occupation of the Palestinian Territory. We urge you to join with other like-minded states in the world who – in the event that Israel does not obey the clear directions of the Court, the United Nations and the international community – will consider the necessary consequences of that defiance.

Prime Minister, there is no question as to which side of history Canada belongs. Because of Canada's proclaimed "shared values" and close relationship with Israel, Ottawa must spare no effort to bring the genocide in Gaza, and the war crimes and crimes against humanity in the West Bank and East Jerusalem, to an immediate end. Upholding international law is the only avenue through which not only peace, justice and human rights, but the durable, long-term security of Israelis and Palestinians alike will be achieved.

Sincerely,

ENDORSED BY:

(Organizational affiliations are cited only for identification purposes and do not indicate endorsement by those organizations.)

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November 8, 2024, <u>https://www.cbc.ca/news/politics/canadian-government-speaking-with-allies-about-palestinian-statehood-recognition-official-tells-mps-1.7377712</u>.

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