

# DELAYING RECOGNITION OF THE STATE OF PALESTINE IS NOT AN OPTION

---

## ANALYSIS OF THE KEY ISSUES



## PREAMBLE

As an explanation for the delay in recognising Palestine statehood, compared with other Five Eye partners like the UK, Canada and Australia, the Prime Minister Rt Hon Christopher Luxon has referred to the 'complexity of the issue'. Foreign Minister Rt Hon Winston Peters, echoed this, saying it was a 'complicated issue.' Both also noted that there is a need to take into account the views held around the country.

We agree that civil society organisations, academia and the wider community should also have an important role to play in guiding NZ's foreign policy. From our experience, the Ministry of Foreign Affairs and Trade (MFAT) officials have always been open to community engagement and share their expertise when requested. It is important to note that the Royal Commission on the March 15 Terror Attacks, clearly stated that international issues have a direct impact locally, and it is necessary for an all-of-government and all-of-society approach to informed policy development.

In this evidence-based report, we have reviewed the complex issues in a simplified form so that civil society organisations and the wider community can be informed and take part in the national conversation. We have highlighted some of the contextual factors and ensured the scope of the analysis is focussed on the key priorities. We have used a key metric to discuss issues on which NZ can make a difference, and avoid scope areas which are beyond our country's decision-making frame.

We have arrived at a conclusion that New Zealand's continued delay in recognising the State of Palestine is inconsistent with our obligations under international law, our longstanding commitment to a two-state solution, and our humanitarian principles. Recognition would better position New Zealand as a credible actor in support of peace, while aligning our policy with the majority of the international community and with our Five Eyes partners' assessments of Israel's breaches of international law.

Abdur Razzaq  
Chairperson,  
FIANZ Advocacy  
August, 2025

## THE CONTEXT

Rt Hon Christopher Luxon rightfully noted that Israel's Prime Minister Benjamin Netanyahu has "lost the plot". This was a result of direct evidence of mass casualties, civilian bombings, forced starvation, terror-killing of children and women at aid depots and the wholesale displacement of Palestinians. Even our neighbor, Prime Minister Albanese, remarked that Netanyahu was 'in denial'.

Luxon's position seems a 180 degree turn. It should be remembered that in November 2023, Luxon stated that he hadn't "seen any advice" to suggest Israel wasn't meeting its international obligations."<sup>[1]</sup> By August 2025, this position has changed to Israel is breaching international law - "we have said a forcible displacement of people and an annexation of Gaza would be a breach of international law".<sup>[2]</sup>

The fact is that even Israel's own former Prime Minister, Ehud Olmert considers that Netanyahu is committing "unforgiveable war crimes"<sup>[3]</sup>. Two leading Israeli human rights organisations, B'Tselem and Physicians for Human Rights Israel, based on their first-hand investigations have concluded that Israel is committing genocide against Palestinians in the occupied Gaza Strip. <sup>[4]</sup> *(We have deliberately chosen mostly Israeli voices and news sources, so as not to be accused of bias.)*

Our government has been reluctant to take a strident stand on the issue of genocide. For the most part the strategy has been one of deflection, by noting that the International Court of Justice (ICJ) have yet to give its verdict on genocide. However such reluctance needs to be qualified, since the ICJ also ruled that the claim of genocide was "plausible". The ICJ further acknowledged that "the catastrophic humanitarian situation in the Gaza Strip is at serious risk of deteriorating further before the court renders its final judgment."



[1] <https://www.stuff.co.nz/politics/350480946/prime-minister-elect-christopher-luxon-hasn-t-seen-any-advice-to-suggest-israel-isn-t-respecting-international-law-in-gaza>

[2] <https://www.rnz.co.nz/news/political/569866/israel-pm-has-lost-the-plot-says-christopher-luxon>

[3] <https://www.haaretz.com/opinion/2025-05-27/ty-article-opinion/.premium/enough-is-enough-israel-is-committing-war-crimes/00000197-0dd6-df85-a197-0ff64a5c0000>

[4] <https://www.haaretz.com/israel-news/2025-07-28/ty-article/.premium/for-the-first-time-israeli-human-rights-groups-say-israel-is-committing-genocide-in-gaza/00000198-50f1-de88-a9d8-5bf31ble0000>



# THE INTERNATIONAL LAW ON RECOGNITION

In 1988, at the Palestine National Assembly convened in Algiers to announce its independence. Almost immediately 85 countries recognised the State of Palestine. Gradually other nations joined and by May 2024, 143 nations recognised the State of Palestine under international law. It is important to know that under international law, the Montevideo Convention on the Rights and Duties of States of 1933, has clearly outlined the key prerequisites or criteria for official statehood.<sup>[5]</sup> They require a state to have a:

1. Permanent population,
2. A defined territory,
3. A government and
4. The capacity to enter relations with other states.

**Not all the preconditions have to be met to be considered an independent state for recognition purposes.**

In September 2024, The Ministry of Foreign Affairs and Trade's (MFAT) legal division also referenced a Report of the International Law Commission and their analysis with respect to the criteria in Article 1 of the 1933 Montevideo Convention on Rights and Duties of States related to the establishment of statehood.<sup>[6]</sup>

When the Montevideo criteria is applied in the current genocide context, Palestine fulfills at least three of the four criteria. It has a permanent population with a functioning government in the West Bank (and focus on the governance in the Gaza Strip is inapplicable given the current genocide, ethnic cleansing context and the full dismantling of civilian infrastructure by the Israeli occupation forces). It can also enter into relations with other states. It does not have a defined territory given that Israel, as established by the International Court of Justice (ICJ), continues its illegal occupation of Palestinian territories. Given the above, 146 countries recognise the legitimacy and Montevideo effectiveness of Palestine as a state.

[5] <https://www.ilsa.org/Jessup/Jessup15/Montevideo%20Convention.pdf>

[6] <https://www.mfat.govt.nz/en/media-and-resources/united-nations-general-assembly-sixth-committee-seventy-ninth-session-report-of-the-international-law-commission-on-the-work-of-its-seventy-fifth-session>

## PROCESS PRECONDITIONS SET BY NZ GOVERNMENT

NZ has set its own preconditions with respect to the process of recognition. These include fundamental issues relating to a Palestinian State's legitimacy and viability, including representative governance, commitments to non-violence, regional support and security guarantees for Israel. As Winston Peters noted, "If we recognise the State of Palestine, New Zealand wants to know that what we are recognising is a legitimate, representative, viable political entity." However such preconditions are neither legally mandated under International Law nor do they take into account the reality of Palestine today. As a recent study by the Royal United Services Institute for Defence and Security Studies (RUSI) notes, the current context is that "the Israeli government is considering plans for annexing parts of Gaza, transferring Gazans to other countries, and moving Gazan civilians into a 'humanitarian city', which former Israeli Prime Minister Ehud Olmert has likened to a concentration camp."<sup>[7]</sup> At the same time the Israeli occupation in the West Bank has only intensified with forced displacement, land seizures and unsanctioned extremist settler violence. The Knesset, Israel's parliament, also has voted to explicitly reject any moves towards Palestinian statehood, and NZ has not yet factored these into their preconditions.

When Palestine is being forcibly broken into parcels of concentration camps (as mentioned by Israel's own former Prime Minister<sup>[8]</sup>), its people's displaced, there is on-going ethnic cleansing and genocide, its land being forcibly occupied by settlers, and Israel has started the process of annexation - NZ's preconditions seem devoid of any functional reality. The inevitable conclusion is that "recognition will better position Palestinians for any future talks by changing the long-accepted sequence of setting statehood as an endpoint rather than a starting point."<sup>[9]</sup> The fact is that preconditions set by NZ on Palestine, have not been set for any other state which NZ has recognised in the last 75 years. This is simply untenable. How can such double standards be justified while Palestinians are being displaced into camps likened by Israeli leaders themselves to concentration camps?

***"The fact is that preconditions set by NZ on Palestine, have not been set for any other state which NZ has recognised in the last 75 years.***

***This is simply untenable. "***

[7] <https://www.rusi.org/explore-our-research/publications/commentary/why-it-matters-recognise-palestine>

[8] <https://www.haaretz.com/israel-news/2025-07-14/ty-article/former-israeli-pm-olmert-gaza-humanitarian-city-plan-would-amount-to-ethnic-cleansing/00000198-082a-dd18-a7dd-09afbc910000>

[9] <https://www.rusi.org/explore-our-research/publications/commentary/why-it-matters-recognise-palestine>

# THE THREE BASELINE FOREIGN POLICY VALUES ON PALESTINE

In the above context, any further delay in formally recognising the State of Palestine would also be tantamount to disregarding the three long-held baseline values of our foreign policy –

- the respect for international law,
- the two-state solution and
- the humanitarian imperative.

The importance of our value-based foreign policy has been raised time and again by both the Prime Minister and the Foreign Minister.<sup>[10]</sup> Each of the major foreign policy announcements on Palestine from the Beehive have had a direct nexus to the above three values. And each are of equal importance as to why NZ needs to immediately recognise the State of Palestine.

Successive New Zealand governments have advocated for an international rules-based order enshrined in institutions such as the United Nations and norms such as multilateralism. What is happening in Gaza and the West Bank is an assault on the international rules-based order generally and represents a wider challenge to states like New Zealand which depend on that order for their prosperity and security.<sup>[11]</sup>

## International Law

Based on his government's legal advice, the UK Foreign Secretary, David Lammy, said that the blockade of food, fuel and medicine imposed by Israel on Gaza was a "breach of international law".<sup>[12]</sup> Later, the Australian Prime Minister Anthony Albanese also confirmed that Israel has 'quite clearly' breached international law in Gaza.<sup>[13]</sup> The Canadian Prime Minister Mark Carney echoed the same and accused Israel of "violating international law".<sup>[14]</sup> In the face of such strong statements by NZ's Five Eyes partners, NZ cannot remain silent. Winston Peters sternest warning echoed this, "we condemned Israel's policies which are leading to untold and unimaginable suffering and death among Palestinian civilians – and we called for it to comply with its obligations under international humanitarian law."<sup>[15]</sup> It is simply inconceivable that we can arrive at such a conclusion and not take the next step.

### Carney calls Israel denying humanitarian aid in Gaza 'violation of international law'

PM pressed for Israel's control of aid distribution to be replaced amid reports of mass starvation in Gaza

Holly Carreno - CBC News - Posted: Jul 24, 2025 8:35 PM EDT | Last Updated: July 25



CBC

### Australian PM: Israel has 'quite clearly' breached international law in Gaza

Albanese says his country doesn't plan to 'imminently' recognize a Palestinian state, Hamas terror group is 'abhorrent' and can have 'no role in a future state'

By TOM STAFF  
27 July 2025, 7:31 pm



THE TIMES OF ISRAEL

[10] <https://www.nzherald.co.nz/nz/politics/prime-minister-christopher-luxon-condemns-israeli-prime-minister-benjamin-netanyahu-says-hes-lost-the-plot/RYZCYLUBANAIFB3UZZMX7P47TQ/> and <https://www.beehive.govt.nz/release/nz-considering-recognition-state-palestine>

[11] <https://newsroom.co.nz/2025/07/27/why-nz-must-resist-the-trashing-of-international-law/>

[12] <https://www.jewishnews.co.uk/lammy-says-israel-breaking-international-law-with-blockade-of-gaza-aid/>

[13] <https://www.timesofisrael.com/australian-pm-israel-has-quite-clearly-breached-international-law-in-gaza/>

[14] [https://www.timesofisrael.com/liveblog\\_entry/canada-condemns-israeli-government-over-humanitarian-disaster-in-gaza/](https://www.timesofisrael.com/liveblog_entry/canada-condemns-israeli-government-over-humanitarian-disaster-in-gaza/)

[15] <https://www.beehive.govt.nz/speech/ministerial-statement-house-middle-east>



## Two State Solution

NZ has a long-held policy of a two state solution. The timing now is critical. Gaza is not only occupied, but the Israeli Cabinet have been working on a plan to annex Gaza. Prime Minister Benjamin Netanyahu has proposed to the political-security cabinet a plan to annex areas in the Gaza Strip, in an attempt to keep Finance Minister Bezalel Smotrich in his government.<sup>[16]</sup> This is domestic Israeli politics which is directly challenging the two state solution. As the Israeli paper Haaertz reported, Israel is splitting West Bank in two to 'bury the Idea of a Palestinian State'.<sup>[17]</sup> Far-right Finance Minister Bezalel Smotrich announced that he plans to approve tenders to build more than 3,000 housing units in the El settlement project between Jerusalem and Ma'ale Adumim in the West Bank, saying the move "buries the idea of a Palestinian state."<sup>[18]</sup> This is in the context of the Israeli Foreign Minister Gideon Sa'ar vowing that Israel "will not allow" the implementation of the two-state solution.<sup>[19]</sup> As the Israeli Policy Forum, a mainstream Israeli Think Tank based in the USA stated, "no Israeli government has taken such a step since Israel conquered the Gaza Strip in 1967. Unlike military occupation (the mechanism for Israel's control in Gaza until the 2005 disengagement), annexing territory permanently alters its legal status. It would constitute a formal declaration that Israel views the area as an inseparable part of the state."<sup>[20]</sup>

It is such disregard that led France to formally accept the recognition of the State of Palestine. As M. Jean-Noël Barrot, Minister for Europe and Foreign Affairs warns, "a Palestinian State has never been as threatened or as necessary as it is now". Referring to French President Macrons decision to recognise Palestine, he notes that France "refuses to watch a people be permanently deprived of their right to self-determination. The refusal to watch the permanent erasure of the two-state solution, which is the only solution likely to guarantee peace and security in the region."<sup>[21]</sup> As noted earlier, Luxon has already stated that annexation is a breach of international law.<sup>[22]</sup> It is already very clear that our government's position is that "Israel's conduct in the occupied Palestinian Territory is unlawful."<sup>[23]</sup> In such circumstances, if NZ does not immediately recognise Palestine, we will fall into a quagmire of international legal challenges of Israel's annexation of the Gaza strip.



[16] <https://www.haaretz.com/israel-news/2025-07-28/ty-article/netanyahu-proposes-to-annex-gaza-in-attempt-to-appease-far-right-minister/00000198-525a-dc50-a9bf-ff7ba06f0000>

[17] <https://www.haaretz.com/israel-news/2025-08-14/ty-article/.premium/smotrich-calls-for-israeli-sovereignty-in-west-bank-as-govt-advances-controversial-plan/00000198-a7eb-dba8-a3dc-b7fba6ac0000>

[18] <https://www.timesofisrael.com/smotrich-to-approve-frozen-el-settlement-homes-buries-idea-of-palestinian-state/>

[19] [https://www.timesofisrael.com/liveblog\\_entry/fm-says-israel-will-not-allow-two-state-solution-rejecting-allies-recognition-plans/](https://www.timesofisrael.com/liveblog_entry/fm-says-israel-will-not-allow-two-state-solution-rejecting-allies-recognition-plans/)

[20] <https://israelpolicyforum.org/2025/07/30/gaza-annexation-on-the-table/>

[21] <https://franceintheus.org/spip.php?article11713>

[22] <https://www.rnz.co.nz/news/political/569866/israel-pm-has-lost-the-plot-says-christopher-luxon>

[23] <https://www.mfat.govt.nz/en/media-and-resources/unga-illegal-israeli-actions-in-occupied-jerusalem-and-the-rest-of-the-occupied-palestinian-territory-item-5-draft-resolution-aes-10l-3lrev-1-explanation-of-vote>



## Humanitarian Action

It is the third pillar of NZ's core international foreign policy, which is the most urgent rationale for NZ's immediate recognition of Palestine. New Zealand's humanitarian action is guided by the Humanitarian Action Policy.<sup>[24]</sup> At the core of this is "New Zealand's humanitarian action helps to save lives, relieve suffering and maintain dignity for communities affected by disasters and armed conflict."<sup>[25]</sup> New Zealand's humanitarian aid to Palestinians in Gaza is being blocked by Netanyahu's restrictions. It is important that the NZ public is made aware that our humanitarian assistance to suffering children and women is being illegally blocked by Israel. Our government should make the strongest stance against this breach of international law. The casualty toll in Gaza is now at genocide level. The UN estimates over 52,535 deaths, of which 70 percent continue to be women and children, and 118,491 injuries as of 4 May 2025.<sup>[26]</sup> There are 2.1 million Palestinians who are facing a direct humanitarian crisis, according to the UN. "The Times of Israel", a prominent supporter of Israel's occupation of Palestine noted in its headlines that, "pro-Israel advocates are now using words like 'genocide' to describe the Gaza war..... a growing number of Jews see the recent aid blockade, high death toll, and threats of annexation as a red line".<sup>[27]</sup> B'Tselem and Physicians for Human Rights, two Israeli based Jewish Human Rights Groups, reports "detailed crimes including the killing of tens of thousands of women, children and elderly people, mass forced displacement and starvation, and the destruction of homes and civilian infrastructure that have deprived Palestinians of healthcare, education and other basic rights".<sup>[28]</sup>

In first, two major Israeli  
human rights groups accuse  
Israel of 'genocide' in Gaza

**THE TIMES OF ISRAEL**

[24] <https://www.mfat.govt.nz/en/aid-and-development/humanitarian-action>

[25] <https://www.mfat.govt.nz/en/aid-and-development/humanitarian-action>

[26] <https://www.ohchr.org/en/press-releases/2025/05/end-unfolding-genocide-or-watch-it-end-life-gaza-un-experts-say-states-face>

[27] <https://www.timesofisrael.com/some-pro-israel-advocates-are-now-using-words-like-genocide-to-describe-the-gaza-war/>

[28] <https://www.theguardian.com/world/2025/jul/28/israel-committing-genocide-in-gaza-say-israel-based-human-rights-groups>

## LUXON & PETERS' LASTING LEGACY

The humanitarian “catastrophe”, as Luxon recently noted, now needs his direct action. The scale of humanitarian suffering in Gaza and the West Bank has reached a point where humanitarian aid alone cannot address the crisis.

Recognition of Palestine would extend and invigorate the international response from the much needed and urgent short-term humanitarian relief to long-term political stabilisation. This approach acknowledges that the root cause of recurring humanitarian emergencies, is the unresolved status of Palestine and the denial of its statehood. Humanitarian aid delayed every day is a war crime and NZ cannot be party to such a crime . Not addressing the underlying cause—lack of recognised statehood and sovereignty— abets such a crime . From a foreign policy strategy , recognition of Palestine is a necessary step toward a political solution that addresses the conflict’s root causes rather than just symptoms.

The current humanitarian crisis in Gaza and the West Bank has exposed the limitations of humanitarian aid as a stand-alone response. Without addressing the root cause—the unresolved status of Palestine— the problem will persist. Recognition of the State of Palestine aligns with the UN Charter and international law, which uphold the right of peoples to self-determination. Palestinians have long been recognised by the UN General Assembly as entitled to this right. By granting recognition, NZ will reaffirm our commitment to these legal principles and strengthen the rules-based international order.

***For Luxon and Peters, this is the defining test of their legacy.***

***They can be remembered as leaders who upheld international law and justice -or as men who watched genocide unfold and chose hesitation over action.***

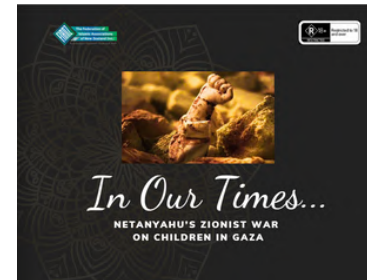
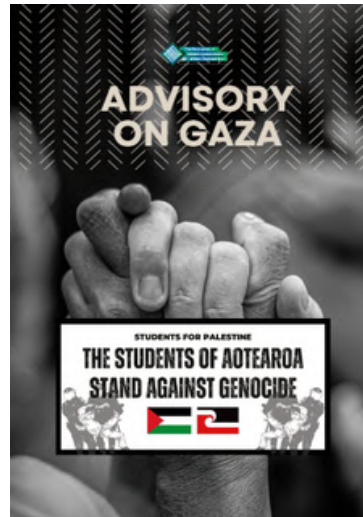
Continued denial of recognition undermines these norms and risks perpetuating double standards. Recognition of Palestine as a sovereign state provides a strategic pathway to address both short-term relief and the long-term political stabilisation. Recognition would align with international law, strengthen Palestinian civilians choice governance through elections, and reinvigorate the two-state solution by creating a more equal framework for negotiations. It would enhance accountability through international mechanisms, support regional stability, and demonstrate consistency in the application of human rights and self-determination.

For both Prime Minister Luxon and the Foreign Minister Peters, who have consistently pledged to uphold the rules-based international order, recognition of Palestine is both a moral imperative and a pragmatic step toward lasting peace.

For Luxon and Peters, this is the defining test of their legacy. They can be remembered as leaders who upheld international law and justice—or as men who watched a genocide unfold and chose hesitation over action.



## OTHER RELEVANT RECENT PUBLICATIONS ON PALESTINE BY FIANZ



\*Click on images to open Flipbook or go to [www.fianz.com/fianz-on-gaza](http://www.fianz.com/fianz-on-gaza)



