

Stolen Land Sales in Synagogues: Canada Could Crack Down, or Is That Antisemitic?

Protests raise the question about applying Canada's domestic version of International Law: the Crimes Against Humanity And War Crimes Act

DRAFT ARTICLE PREVIEW by Greg Macdougall, EquitableEducation.ca

The situation of Israel's actions against Gaza, permitted to unfold for over 6 months now and counting, is a searing reminder of the importance of international law being respected and applied.

And of course – despite some narratives to the contrary – this isn't something that simply began on October 7.

Had international law been respected and applied in years prior, it could have resulted in vastly different present circumstances than what happened October 7th and afterwards.

And a respect and application of international law now, doesn't need to wait years for the top international courts to work through their processes; recent circumstances in Canada provide an exemplary opportunity for how international law could be applied, under domestic federal law.

At the start of March, there were three Israeli real estate events (March 3 and 7 in Toronto, and March 5 in Montreal) at synagogues with companies promoting the sale of properties in Israel – including properties located in the illegal Israeli settlements in the West Bank [see footnote for details].

These events were accompanied, of course, by protests outside these synagogues (see statements from two of the groups involved, Jews Say No To Genocide – Toronto and @eldv4palestine: Eglinton-Lawrence and Don Valley for Palestine).

At least at first, though, the protests themselves were what the dominant establishment narrative focused upon as 'the problem.'

But of course the events themselves are a problem, because of the illegal nature of the settlements and how that implicates individual, and organizations / businesses involved in these real estate events under Canadian law.

The Israeli settlements: they are illegal. They are war crimes.

There are multiple United Nations resolutions – particularly Security Council resolutions 242 (1967), 446 (1979), and 2334 (2016) – addressing the occupation and settlements of the West Bank as illegal.

When Israel was first planning the first settlements in 1967, after having taken control of the land in the 1967 “Six-Day War”, their Foreign Ministry legal counsel Theodor Meron – himself a victim of Nazi war crimes during World War 2 in Poland – advised the government that “civilian settlement in the administered territories contravenes the explicit provisions of the Fourth Geneva Convention.” Article 49 therein is particularly pertinent, prohibiting the dispossession of the existing resident population and the importation of the occupying power's own population.

The International Criminal Court currently has an open investigation on activities from June 3rd 2014 onwards in the occupied Palestinian territory, i.e. Gaza and the West Bank, including East Jerusalem; this thus includes the settlements issue. It's important to be clear the issue consists both of the continuance of the more established Israeli settlements, as well as the ongoing expansionary process of creating further new settlements and displacing more Palestinians from their lands.

While the ICC hasn't yet made a judgment, it did rule in 2021 that it does have jurisdiction, and thus opened the formal full investigation; this in itself had been formally challenged by various parties supportive of Israel, including Canada.

“The Israeli settlements are a presumptive war crime under the Rome Statute of the International Criminal Court (ICC), and should be treated as such by the international community,” was part of the ‘expert opinion’ statement in 2021 from two United Nations’ Special Rapporteurs,

one of whom was Canadian Michael Lynk (Lynk, no longer in the rapporteur role, also wrote an explainer this February about the International Court of Justice's “provisional measures” ruling in the current genocide case against Israel).

The 2021 experts' statement also said, “an international community that does not impose accountability measures on a defiant occupying power contrary to international law cannot be serious about its own laws.” This principle, of course, equally applies to how Israel is doing what it has been doing in Gaza currently, with full knowledge of how bad the deprivation and famine could get, and even after January 26 in violation of the International Court of Justice's provisional measures order.

Complicity in Canada with War Crimes in Israel – Canadian legal jurisdiction

The rapporteurs' 2021 statement on the settlements also pointedly said that national governments need to stop corporations and institutions under their respective jurisdictions from having any “involvement in aiding, assisting or investing in the settlements.”

Contrary to those who are quick to dismiss such a statement as simply an opinion, it is encoded in various aspects of international law that national governments have a responsibility to enforce international law within their own jurisdictions.

So it appears to be a major problem when the Canadian government doesn't take any action about these Israeli real estate events taking place in Canada.

As presumptive war crimes, the Israeli settlements issue would fall under Canada's law addressing war crimes, the Crimes Against Humanity and War Crimes Act (2000).

Under this law, any Canadian citizen or person in Canada “who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, [genocide, a crime against humanity, and/or a war crime] is guilty of an indictable offence” – and can be prosecuted, stripped of citizenship, and/or deported by Canada (extradition is also an

option, but that requires another country to be doing a prosecution).

And while Canada's War Crimes Program was specifically alerted about these Israeli real estate events in regards to their potential violation of the law, and confirmed that it would be looking into the issue, it is the federal Minister of Justice / Attorney General, Arif Virani, who is the decision-maker under the Act on whether to start a prosecution.

ASIDE: The same law and decision-making situation applies to Canadians who enlist as foreign soldiers in Israel's military. In January, the organization Canadians for Justice and Peace in the Middle East (CJPME) issued a letter to Virani demanding action be taken regarding those Canadians' potential involvement in war crimes and genocide, and then more recently started an email campaign to increase public pressure on the Minister to take action. **/END*

Canada's official position, articulated on its policy page, affirms, "Israeli settlements in the occupied territories are a violation of the Fourth Geneva Convention."

As the two special rapporteurs pointed out in their 2021 statement, however, it is actual actions on the part of governments that is required – hollow words aren't enough.

'Let's ignore the War Crimes thing – the protesters are plain and simply antisemitic'

Words have also muddled too many people's understanding of these issues. As referenced earlier, much of the establishment narrative about these real estate events focused only on the protests being a problem, and specifically on the fact that these were protests outside synagogues, and thus are antisemitism.

The first of the three events was actually originally scheduled to be at a City of Vaughn (part of Greater Toronto) community centre, but the municipality canceled the booking in the leadup to the event, apparently due to the event's controversial nature. No representatives for the city would respond to comment for this article to explain that cancellation.

But the Vaughn mayor (/former

provincial Liberal MPP and Minister) Steven Del Duca was one of a number of high-profile public officials and organizations who made public statements on X/Twitter, condemning the protests for being outside synagogues while not mentioning the real issue of the protests. First Del Duca posted a thread about the March 3rd re-located event, then in advance of the March 7th event, posted a joint statement with the local city councillor, provincial MPP and federal MPP: "It is unacceptable that a place of worship, or nearby schools and day cares, be targeted in this way."

Some of the other high-profile statements that completely omit the context of the real estate events and international law, to simply condemn the protests for being outside synagogues, were from Conservative MP and Deputy Party Leader Melissa Lantsman; Liberal MP and Minister Ya'ara Saks; Liberal MP Anthony Housefather; Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism Deborah Lyons; Canadian Friends of Simon Weisenthal Centre (FSWC); FSWC president Michael Levitt; and the Centre for Israel and Jewish Affairs (CIJA).

CIJA is an organization well-connected with politicians, that received two grants totaling over \$200,000 in recent years from the federal government to fight online hate, antisemitism, and disinformation. One of their four posts linked above, reads,

"Blatant antisemitism on full display in broad daylight. There's no depth the anti-Israel mob won't sink. Not satisfied with shutting down Jewish community centres, they're setting their targets on protesting synagogues. It's unacceptable, it's hateful, and it cannot be allowed" – while the accompanying photo literally has protest spokesperson – including Rabbi David Mivasair of Independent Jewish Voices – explaining the actual issues with the real estate event to a TV news crew, as Mivasair also did earlier at the March 3rd protest..

Canadian Heritage, the federal department that gave CIJA the grants, provided comment for this article, saying the government's antisemitism definition "states that criticism of Israel similar to that

levelled against any other country cannot be regarded as antisemitic."

FSWC had just led an antisemitism police training session in Brantford (officially entitled "Building a Case Against Hate") at the end of February, funded by a \$22,600 provincial government grant. On March 4th they quote-shared an inflammatory "pro-Hamas protesters" Toronto Sun columnist X post, adding their own comment, "We deplore yesterday's anti-Israel demonstration outside the Aish Thornhill Community Shul. This attempt to delegitimize the state of Israel and intimidate the Jewish community, especially at a place of worship that serves as a safe space for Jews, is reprehensible. Read our statement." Their linked statement did acknowledge it was about a real estate event and claims of stolen land – but without mentioning the relevant international law – and did end with a brief mention of the pro-Israel violent hate crime that had been committed against protesters (see later section in this article regarding that incident).

Prime Minister Justin Trudeau himself gave a press conference in Toronto March 7th, earlier in the day of the third real estate event. He answered a question about pro-Palestinian protests (video start @ 27:47), saying "he's heard from too many members of Canada's Jewish community who have seen protests at synagogues and community centres and who now feel unsafe." He added, "Hateful or harassing behaviour, particularly against neighbours, is not what we do here in Canada... when the protests turn to hatred, or to acts of harassment – particularly against fellow Canadians – there's a line that's crossed." Research for this article was unable to find any instance of protests at synagogues in Canada aside from the three that were against real estate events, yet the Prime Minister didn't offer that context for the media to convey to those who might feel unsafe.

TO BE CONTINUED
This was only the first half of full draft

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