

COVID-19 in the oPt: What Are the Obligations of Third States?

“No one is safe until everyone is safe”. These words, expressed both by the UN Secretary-General and by the Director of WHO, underline the importance of international cooperation to overcome the COVID-19 pandemic. In the occupied Palestinian territory (oPt), decades of occupation and the blockade of the Gaza Strip exacerbate the effects of the COVID-19 crisis on Palestinians’ health, livelihoods and social fabric, and hamper the ability of the local authorities to fight the virus. Third States have an important role to play not only in supporting the Palestinian authorities in their COVID-19 response, but also in bringing an end to Israeli violations of international law. The active involvement of third States not only aligns with collective interest, it is also a question of legal responsibility. What are third States’ obligations, under international law, vis-à-vis Palestinians, the Palestinian authorities and Israel, during and beyond the COVID-19 crisis?¹

Third States MUST:

- Take steps through **international assistance and co-operation**, to the maximum of their available resources, with a view to achieving progressively the full realization of the right to health of Palestinians.
For instance:
 - Contribute to the pooling of international funds for health (e.g. by supporting the COVAX facility);
 - Make available essential healthcare supplies (e.g. bilaterally donating COVID-19 vaccines).
 - Provide economic, technical or other forms of assistance to Palestinian authorities (e.g. for the safe transport, storage or monitoring of vaccines);
- Do everything reasonably in their power to **prevent and bring to an end Israel’s violations of the Fourth Geneva Convention** (such as the failure to provide vaccines for Palestinians, to allow and facilitate the passage of vaccines and other relief goods into the oPt including Gaza, or the unlawful demolitions of Palestinian property).
For instance:
 - Exert diplomatic pressure by means of confidential protests or public denunciations (e.g. conducting advocacy visits when communities are at risk of forcible transfer);
 - Impose trade restrictions or suspend trade privileges or cooperation agreements with Israel;
 - Repress violations pursuant to the principle of universal jurisdiction² and support international efforts to bring perpetrators to justice;
- Take appropriate steps to **prevent and suppress human rights abuse by business enterprises** under their jurisdiction but operating in the oPt.
For instance: ensure that businesses are not involved in unlawful demolitions during and beyond the COVID-19 crisis.

“[I]nternational cooperation [...] for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States which are in a position to assist [...]”.

UN CESCR

“States parties to the Fourth Geneva Convention [of] 1949 have [...] the obligation [...] to ensure compliance by Israel with international humanitarian law”.

The International Court of Justice

Third States MUST NOT:

- Recognize illegal situations resulting from serious violations of peremptory norms of international law (such as the right of self-determination of Palestinians or fundamental rules of IHL) by Israel;
- Encourage, aid or assist Israel in the commission of such violations;
- Arbitrarily hinder the passage, through their territory, of medical supplies for the oPt;
- Impose sanctions that unwarrantedly hinder local civil authorities’ ability to uphold human rights (e.g. via overexpansive application of counter-terrorism measures).

¹ The obligations set out in this note all derive from the UN Charter, the 1966 International Covenant on Economic, Social and Cultural Rights or the 1949 Geneva Conventions. They are therefore binding on all States party to these treaties.

² This is an obligation of all States party to the 1949 Geneva Conventions in the case of “grave breaches” of the Conventions, pursuant notably to Art. 146 GCIV.