

# Strengthening Canada's Role in the Future of International Criminal Justice

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## Issue

The erosion of the international rules-based order, evidenced by ongoing humanitarian crises, dynamic geopolitical tensions and growing challenges to international bodies of justice, underscores the urgent need for Canada to reimagine its role as a proactive leader in addressing the evolving landscape of international crimes and in strengthening the international criminal justice system.

## Background

### Regional Wars

The International Court of Justice (ICJ) has increasingly become a forum for adjudicating legal disputes arising from armed conflict. However, its slow judicial processes and lack of enforcement of international laws have signalled impunity, emboldening oppressive governments to commit mass atrocities without fear of legal repercussions. Multiple cases have been initiated against Russia for its illegal invasion of Ukraine, including allegations of genocide and violations of international treaties. Moreover, South Africa brought proceedings against Israel under the Genocide Convention in 2024, following Israel's repeated violations of international law in Gaza, such as targeting civilians in hospitals (Human Rights Watch 2025), schools, aid and alleged safe zones (Forensic Architecture 2024). Israel's alleged violations of international law have avoided serious repercussions from legal bodies, thereby setting a dangerous precedent for the future of international criminal justice (United Nations 2025).

Canada has taken steps to support the ICJ's authority in these matters. In July 2022, Global Affairs Canada (GAC) reiterated its support for Ukraine's application instituting proceedings against Russia at the ICJ under the 1948 Genocide Convention, emphasizing that Russia has no lawful basis to take military action in Ukraine based on unsubstantiated allegations of genocide (GAC 2022). Furthermore, in December 2022, Canada, alongside the Netherlands, filed a joint declaration of intervention in Ukraine's case against Russia at the ICJ, aiming to reinforce the application of the Genocide Convention. Moreover, Canada is one of three countries that are threatening to sanction Israel unless it allows aid into Gaza (Prime Minister of Canada 2025). Despite these actions, Canada's response to the ICJ proceedings concerning alleged genocide in Gaza has revealed a significant inconsistency in its approach to international legal obligations (United Nations 2025). The ICJ's provisional ruling in January 2024 found a plausible risk of genocide in Gaza, ordering Israel to implement measures to prevent such acts. Yet Canada refrained from explicitly endorsing the ICJ's decision. Former Foreign Affairs Minister Mélanie Joly stated that while Canada supports the ICJ's role in upholding international law, it does not accept the premise of South Africa's case against Israel, which requires a high threshold of compelling evidence to be met (GAC 2024). This apathetic position undermines Canada's commitments to combat prejudice, hatred and violent extremism while people continually suffer around the globe.

In February 2025, Canada launched its first Minister of Foreign Affairs' Standing Table on Human Rights "to provide the minister and senior officials with independent insight and advice on human rights considerations across all aspects of Canada's foreign policy." (GAC 2025). The disparity in Canada's overall responses toward defending and advancing universal human rights remain a key concern of human rights organizations. Specifically, Amnesty International Canada emphasized that Canada has both a moral and legal obligation to prevent genocide and should urge Israel to comply with the ICJ's provisional measures (Human Rights Watch 2025). The Canadian Foreign Policy Institute and Just Peace Advocates have also called on Canada to align its actions with its stated commitment to international law (Just Peace Advocates 2024).

This divergence between Canada's proactive legal engagement in the Ukraine-Russia conflict and its cautious approach to the Gaza situation raises questions about the consistency of its foreign policy and adherence to international legal standards.

### Cybercrime

In an era characterized by the increasing weaponization of technologies by malicious actors, cybercrimes pose a critical challenge to international cybersecurity and the future of international criminal justice. As the international legal framework governing these actions remains unclear, no authoritative legal judgment has clearly defined how principles of international law apply to cyber operations, and the ICJ has yet to rule on a cyber case. Consequently, cyber operations by state and non-state actors have increased in scale and complexity, with cyberattacks on infrastructure, interference in democratic processes and data theft now becoming common features of international relations (United Nations Security Council 2024).

Canada has acknowledged the importance of cybersecurity through its involvement in national strategies and multilateral cooperation (Matiangai 2024). It has also participated in UN working groups and endorsed non-binding norms of state behaviour in cyberspace (GAC 2024). Notably, in 2024, Canada was targeted by Russia's Operation Doppelganger. This pro-Kremlin disinformation campaign deployed fabricated articles against Canada's Liberal Party, highlighting the escalating threat cybercrimes pose not only to Canada's sovereignty, but to global security as a whole (Human Rights Watch 2025).

Beyond state-sponsored cyber operations, the role of big tech in facilitating digital harm has come under scrutiny. A notable example is Facebook's (now Meta) contribution to the atrocities committed against the Rohingya in Myanmar. Amnesty International reported that Facebook's algorithms, designed to maximize user engagement, amplified hate speech and disinformation, fuelling violence and the forced displacement of over half the Rohingya population into neighbouring Bangladesh. Despite repeated warnings from civil society organizations between 2012 and 2017, Meta failed to implement adequate safeguards, prioritizing profit over human rights. Amnesty International has since called on Meta to provide reparations to the Rohingya for its role in the ethnic cleansing (Amnesty International 2023).

This case underscores the urgent need for international legal frameworks to address the accountability of technology companies in the digital age. As digital platforms increasingly influence global events, their responsibilities and liabilities must be clearly defined to prevent future human rights violations.

### Climate Justice

The concept of ecocide, defined as widespread, severe or long-term environmental destruction caused by human action (Stop Ecocide Foundation 2021), is increasingly being positioned as a potential fifth international crime under the Rome Statute. Legal scholars and climate justice advocates argue that environmental destruction of this scale should trigger international criminal accountability, particularly when state or corporate actors knowingly cause irreparable harm to ecosystems and vulnerable populations (Higgins, Short and South 2013, 251–66). Advocates, including the Stop Ecocide Foundation, have proposed a legal definition of ecocide that aligns with core principles of criminal law, notably intent, foreseeability, and harm to human and non-human life.

A growing number of legal cases and environmental disasters are being cited as illustrative of potential ecocide. For instance, the mass deforestation of the Amazon, largely driven by industrial agriculture and enabled by Brazilian state policy under former president, Jair Bolsonaro, has been framed by international jurists as ecocide due to its irreversible effects on biodiversity, Indigenous communities and the global climate system (Silva et al. 2022). Similarly, the 2020 oil spill in Mauritius, which devastated marine ecosystems and local livelihoods, is often referenced as a case that reveals the absence of legal remedies for transboundary

ecological harm (*ibid.*). These examples echo broader calls to elevate environmental destruction to a matter of criminal responsibility, not merely regulatory or civil liability.

In 2023, the UN General Assembly, led by Vanuatu and supported by numerous climate-vulnerable states, formally requested an advisory opinion from the ICJ regarding state obligations on climate change under international law (Human Rights Watch 2023). The opinion, while non-binding, could establish a legal basis for recognizing environmental harm, including ecocide, as a violation of existing human rights and international legal principles.

Canada's engagement in evolving legal discourse is crucial as the country faces growing expectations to align its environmental policy with its international legal commitments. Advocating for the recognition of ecocide within international criminal justice mechanisms would not only bolster Canada's credibility on climate justice but also resonate with its historical commitments to the rule of law and human rights.

### Reimagining Canada's Role in International Justice

Global power dynamics are undergoing major shifts due to changes in US leadership, growing geopolitical fragmentation and the rise of illiberal governance, collectively challenging the stability of international law and multilateral cooperation. In this context, Canada must reassess its foreign policy priorities and deepen its commitment to defending international legal institutions.

## Recommendations

**Champion advisory opinions at the ICJ.** Canada should leverage advisory opinions at the ICJ as a strategic means to clarify international norms and promote accountability. Specifically, Canada should: support and participate in key proceedings, such as the UN General Assembly's request on climate justice; advocate for ICJ engagement in emerging legal areas, including artificial intelligence (AI), cybersecurity, transboundary climate harms and statelessness linked to environmental collapse; submit legal arguments and contribute to scholarly discourse to influence the interpretation of state responsibilities; ensure meaningful inclusion of Indigenous peoples with expertise in Indigenous legal traditions, particularly those related to land rights, environmental stewardship and intergenerational justice; recognize that Indigenous legal

frameworks offer essential perspectives rooted in ecological governance, critical for shaping culturally grounded legal norms; and promote the evolution of international law to address the criminal dimensions of ecological collapse, as it has previously adapted to cybercrime and terrorism.

**Establish and strengthen the legal policy and strategy hub within GAC.** To address the evolving and escalatory nature of international crimes, the hub should: position Canada as a global leader in inclusive, rights-based digital governance; ensure wider consultation with civil society partners, including the Standing Table on Human Rights, legal experts, relevant GAC departments such as the Centre for International Digital Policy, representatives of allied states and multilateral institutions with a view to develop international legal strategy, advisory opinions and any other forms of intervention; monitor legal trends (for example, AI, cyber conflict, climate justice); draft ICJ submissions and advise on treaty work; and ensure transparency and participation in all processes.

**Lead the development of a global digital rights framework with ICJ mechanisms.** Canada should take the lead in advancing international digital rights by: developing a global framework based on Canada's Digital Charter, setting clear standards that safeguard digital rights and freedoms from bad actors; addressing key issues such as disinformation, intrusive surveillance, cyberattacks and algorithmic bias; legitimizing ICJ advisory opinions to clarify legal grey zones; prioritizing rights protection, transparency and the peaceful resolution of digital harms; and ensuring global consultation with civil society, the private sector and Indigenous groups.

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