



Situation in the State of Palestine: ICC Pre-Trial Chamber I Issues Warrants of Arrest for Benjamin Netanyahu and Yoav Gallant

ICC



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I. INTRODUCTION

Esteemed agents and judges of the International Criminal Court (ICC),

During this debate, you will deal with a topic of great importance: **Situation in the State of Palestine: ICC Pre-Trial Chamber I Issues Warrants of Arrest for Benjamin Netanyahu and Yoav Gallant**

The Court requires a vast set of skills such as diplomacy, use of analysis, innovative ideas, persuasiveness, and above all, a sense of justice. Your task is to reach a viable and unprejudiced verdict. As your directives, we encourage you to adopt these abilities throughout the trial, as well as having complete dominion of the protocol. Agents and Justices of the International Criminal Court, we assure you that your participation is crucial and will be necessary for the development of the debate.



Yours sincerely,

LINMUN

Julene González Suástequi

President of the ICC

Amanda Chamán Águila

Chair of the ICC

Paloma Benita Duffy

Moderator of the ICC

Patricio Becerra Lopezmalo

Deputy Chair of the ICC

NOTE: We highly recommend you thoroughly read the following document and the Conference Handbooks since they will provide an overview of the topics discussed and will allow you to acquire crucial information about the rules of procedure.

II. OVERVIEW

A. COMMITTEE'S BACKGROUND

The International Criminal Court was founded by the treaty of the Rome Statute on July 1st, 2002, as a “court of last resort” to judge individuals for genocide, war crimes, crimes against humanity, and aggression. The Court works as a last resort and it looks to complement national Courts, not replace them. Its mission is to end impunity, hold those individuals responsible accountable for their crimes, thereby preventing them from happening again. The ICC works towards stability and lasting peace, and international justice is key for this goal.

The legal process in the Court has six main stages:

1. Preliminary examination: The Office of the prosecutor must determine if there has been enough evidence gathered of grave crimes falling within the ICC's jurisdiction.
2. Investigation: The prosecution requests that the Court issue an arrest warrant or a summons to appear voluntarily.
3. Pre-Trial stage: The suspect is presented in front of the court where three Pre-Trial judges ensure the suspect understands the charges. Afterwards, the Prosecution and the Defense are heard by the judges to decide if the case goes to trial based on the evidence.
4. Trial stage: The Prosecution and Defense present arguments and evidence to the judges for them to decide whether the suspect is guilty or not. They issue a verdict which can last up to 30 years of imprisonment or a life sentence.
5. Appeals stage: In this stage the Prosecution or Defense have the right to appeal the Court's decision.
6. Enforcement of sentence: The sentence is carried out in the State Parties that have agreed to enforce the Court's verdict.

B. COMMITTEE'S ACHIEVEMENTS

Ever since the Criminal Court was founded by the treaty of the Rome Statute as a “court of last resort,” its help has been fundamental in judging cases such as the war between Sudan and South Sudan or in the Central African Republic and properly evaluating the weight of the crimes committed in both cases.

Throughout the history of the International Criminal Court, 38 warrants have been issued, 21 people have been detained in the ICC detention center who have appeared before the court and issued 10 convictions and 4 exonerations. The ICC has greatly influenced how international crimes are dealt with all over the world and over the years the court has dealt with some cases involving former heads of state.

III. SITUATION IN THE STATE OF PALESTINE: ICC PRE-TRAIL CHAMBER I ISSUES WARRANTS OF ARREST FOR BENJAMIN NETANYAHU AND YOAV GALLANT

CONTEXT OF THE CONFLICT

The complex roots of the Israeli-Palestine conflict were set in the 20th century, a period distinguished by shifting imperial powers and rising nationalist movements. On November 2nd, 1917, Arthur Balfour who was Britain's Foreign Secretary at the time, issued the Balfour Declaration, a 67-word letter in which the British government promised the establishment of a home for the Jewish people in Palestine, even though more than 90% of the population were Palestinian Arab natives. As Jewish immigration increased, fueled by the rising antisemitism in Europe, tensions arose sharply. This culminated in the 1936-1939 Arab Revolt, an uprising by the Palestinian population, backed up by the Arab National Committee, who launched a strike which was repressed by British forces. The revolts continued and the Palestinian population suffered from numerous deaths, imprisonments and repressions.

Following the Second World War, the United Kingdom handed the issue to the recently established United Nations. In 1947, The United Nations then created a partition plan in which the region was divided into independent Arab and Jewish states. The Palestinians rejected the plan, as they declared it as an unfair distribution of land, since the majority of territory was given to the Jewish states despite Palestinians accounting for 67% of the total demographic. In 1948, the Nakba¹ known as the forced displacement of Palestinians, following the expiration of the British mandate, left 15,000 dead Palestinians and 750,000 were forced out of their homes. Even though the 1948 events concluded, they altered the demographic landscape of the region, and new conflicts and periods of violence emerged.

The current dynamic of the conflict, specifically in the Gaza Strip, changed significantly after the 2006 legislative election. With the victory of Hamas, a designated terrorist organization by Israel and the United States, the Gaza Strip was taken over by the group. In response, Israel, alongside Egypt, imposed a blockade with the supposed need of countering terrorism and maintaining safety. From 2008 to the present day, Israel has launched military assaults on Gaza. These operations have generated instability and numerous casualties from both sides, with the vast majority being Palestinian civilians.

OVERVIEW OF THE CASE

The ongoing dynamics and the escalation of violence following the attacks of October 7th, 2023, provoked significant international legal action. On May 20th, 2024, the prosecutor of the International Criminal Court (ICC) filed warrants of arrest for two individuals, Mr. Benjamin Netanyahu, the Prime Minister of Israel, and Mr. Yoav Gallant, the former Minister of Defense. The warrants were issued for crimes against humanity and war crimes committed from at least 8 October 2023 until at least 20 May 2024, the day the Prosecution filed the applications for warrants of arrest.

¹ Nakba, word in Arabic for catastrophe.

To protect the integrity of witnesses and the current investigations, the arrest warrants are categorized as "secret." However, recognizing that the alleged criminal actions appear to be continuing, the Chamber chose to make the facts below public. Furthermore, the Chamber believes that informing victims and their families of the existence of the warrants is in their best interests.

Regarding the crimes, the Chamber found reasonable grounds to believe that both Mr. Netanyahu and Mr. Gallant bear criminal responsibility for the following crimes as co-perpetrators for carrying out the acts in concert with others: the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts. Additionally, the Chamber determined that there are good reasons to suspect that both Mr. Netanyahu and Mr. Gallant are criminally responsible for the War Crime of purposefully directing an attack against the civilian population.

The Chamber concluded that international humanitarian law regarding the international armed conflict between the states of Israel and Palestine was applicable during the relevant period, mostly because of Israel's status as an occupying power over at least a portion of Palestine. The war between Israel and Hamas was also determined to be covering the Rome Statute concerning non-international armed conflicts. The alleged crimes were deemed part of an organized assault on Gaza's civilian population.

The Chamber determined that there are good reasons to suspect that, between at least October 8, 2023, and May 20, 2024, both individuals purposefully and knowingly denied the civilian population in Gaza access to necessities for their survival, such as food, water, medical supplies, fuel, and electricity. This conclusion is because Mr. Netanyahu and Mr. Gallant violated international humanitarian law by obstructing humanitarian help and by failing to use all available tools to facilitate relief. The Chamber concluded that their actions interfered with humanitarian organization's ability to supply food and other necessities to Gaza's needy people. The availability of water in Gaza and the capacity of hospitals to deliver medical care were severely impacted by the previously mentioned limitations as well as the shutting off electricity and the reduction of fuel supply.

The Chamber also pointed out that choices about expanding or permitting humanitarian aid into Gaza were frequently subjected to conditions. They were not created to assure that the civilian population in Gaza would get enough supplies of necessities or to fulfill Israel's commitments under international humanitarian law. The court suggests that they were a reaction to requests from the United States of America or pressure from the entire international community.

Additionally, the Chamber determined that there were good reasons to think that the limitations on access for humanitarian relief operations could not be justified under international humanitarian law or by a demonstrated military need. Only a small amount of humanitarian aid was approved despite warnings and appeals on the humanitarian crisis in Gaza from the UN Security Council, UN Secretary General, States, and governmental and civil society organizations, among others. In this context, the Chamber considered the extended period of suffering as well as Mr. Netanyahu's claim linking the suspension of humanitarian supplies and necessities to the objectives of war. The Chamber therefore found reasonable grounds to believe that Mr. Netanyahu bears criminal responsibility for the war crime of starvation as a method of warfare.

TIMELINE OF EVENTS

This jurisdictional procedure has had numerous events throughout the last few years. Some of the most relevant ones belong to the following:

In March 2021, the Prosecutor formally announced the initiation of an investigation into the Situation in Palestine. It was not until May 2024, that the application for the arrest warrants for Mr. Benjamin Netanyahu and Mr. Yoav Gallant was issued. As a response to this, in September 2024, Israel filed its formal challenge, titled "Israel's Jurisdiction Challenge", pursuant to Article 19 (2) of the Rome Statute.

However, this challenge was rejected by the Pre-Trial Chamber, and the arrest warrants were formally issued in November 2024. From November 2024 to December 2024, Israel submitted a series of appeals pursuant to the Rome Statute, looking to suspend the warrants and declare them as incorrect. Such requests were dismissed. In May 2025, Israel filed an independent request to suspend investigations of Palestine. The prosecution then responded, and on May 28, 2025, the Chamber set out a schedule of submissions from the parties involved: Israel, the victims, and the prosecution. Finally, Palestine filed observations requesting to be heard.

YOAV GALLANT

Mr. Yoav Gallant, Israel's former Minister of Defense, was identified as a collaborator of Mr. Benjamin Netanyahu in the alleged commission of the crimes. Even he was dismissed by Netanyahu who stated that Mr. Gallant was no longer aligned with Israeli aims, he remained included in the arrest warrants directed at Israeli government officials.

CONCLUSION

On September 26, 2024, the Chamber decided regarding two requests that Israel had made. Based on article 19 (2) of the Statute, Israel contested the Court's jurisdiction over the Situation in the State of Palestine in general and over Israeli citizens in particular in the first request. In the second request, Israel asked the Chamber to direct the Prosecution to notify its authorities of the start of an inquiry in accordance with Article 18(1) of the Statute. Additionally, Israel asked the Chamber to stop all court procedures in the relevant case, including the prosecution's petitions for arrest warrants for Mr. Benjamin Netanyahu and Mr. Yoav Gallant (May 20, 2024).

The Chamber stated the following:

1. Regarding jurisdiction, the Chamber determines that the formal acknowledgement of the Court's jurisdiction by Israel is not required, as the Court can exercise its

jurisdiction based on the geographical jurisdiction of Palestine, as established by the Pre-Trial Chamber I in a previous composition. The chamber also noted that, in accordance with Article 19 (1) of the Statute, states are generally not allowed to contest the Court's authority under Article 19 (2) before an arrest warrant is issued, which led to Israel's challenge to be deemed as premature.

2. Regarding notification of Article 18 (1), the Chamber denied Israel's request. It recalled that the Prosecution had notified Israel of the beginning of the investigation in 2021. At that time, Israel chose not to pursue a request for a delay of the inquiry, even if the prosecution requested clarification. The Chamber concluded that no notification to the State of Israel was necessary, since the case has not changed.

IV. ANNEXES

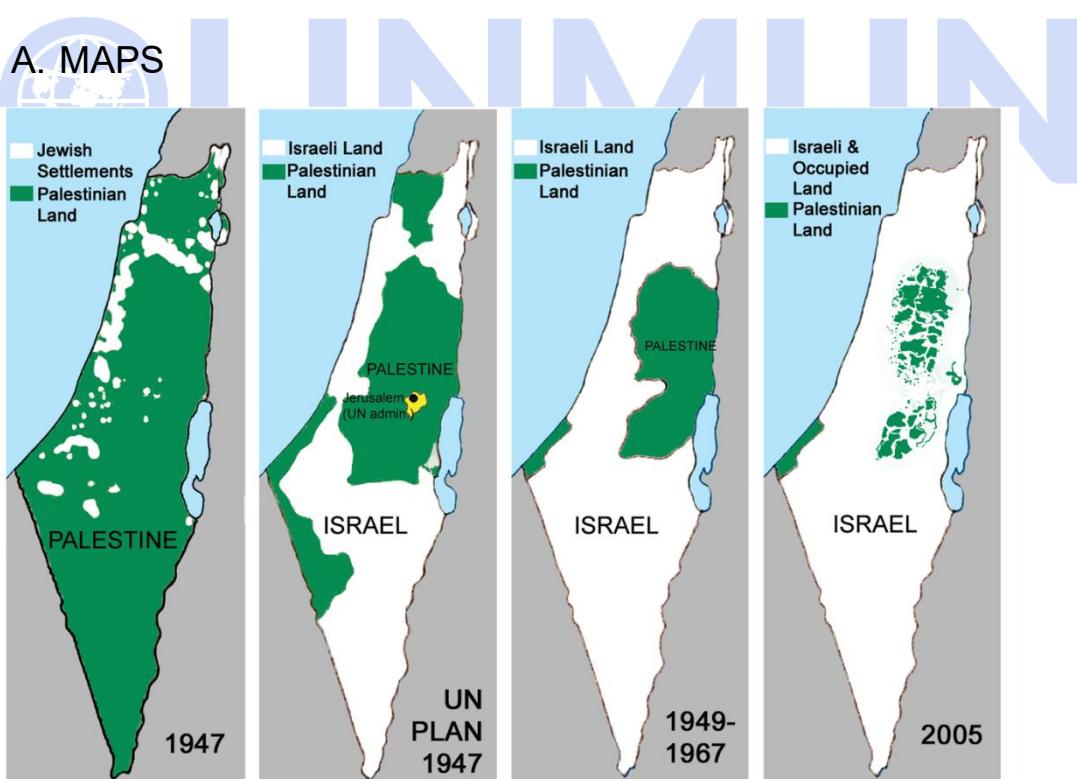


Figure 1. Loss of Land. Palestine Portal.

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