

Press Releases

Palestinian Organisations Welcome Landmark Decision of the ICC Pre-Trial Chamber Issuing Arrest Warrants against Netanyahu and Gallant as a Major Step Toward Accountability

Monday 2 December 2024, by [Al Mezan](#), [Al-Haq](#), [PCHR](#) (Date first published: 22 November 2024).

Al-Haq, Al Mezan Center for Human Rights (Al Mezan), and the Palestinian Centre for Human Rights (PCHR) welcome the [decision](#) of Pre-Trial Chamber I of the International Criminal Court (ICC) to issue arrest warrants against Israeli Prime Minister, Benjamin Netanyahu and former Minister of Defence, Yoav Gallant, as a historic and pivotal moment in the battle against Israel’s impunity, in which the Palestinian people have been denied justice, and subjugated for decades under a genocidal, settler-colonial apartheid regime. For us, this development offers renewed hope after more than a year of enduring Israel’s genocide, serving as a powerful reminder that the pursuit of justice for the Palestinian people, no matter how long it takes, is never in vain. This marks the first step toward holding accountable those responsible for the killing of our loved ones and the destruction of our homes—a reaffirmation that impunity cannot prevail indefinitely.

The arrest warrants are a direct response to Israel’s aggravated military assault, which has nearly destroyed all of Gaza and denied the conditions of life for the very survival of the civilian population. They may ensure, for the first time, that there will be individual criminal liability for those responsible for the “destruction of part of the civilian population”. The Chamber found “reasonable grounds” to believe that both Netanyahu and Gallant bear “criminal responsibility for [...] the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts”. It further decided that there are “reasonable grounds to believe that [they] each bear criminal responsibility as civilian superiors for the war crime of intentionally directing an attack against the civilian population”.

In light of the length of Israel’s genocide, the gravity of the situation as attested by the increasing number of Palestinians killed daily, as well as the long-standing international crimes committed in the Occupied Palestinian Territory (OPT) by Israeli military forces, prison authorities, occupation authorities, and settlers, our organisations stress that this is a long overdue decision. The criminal conduct, in itself egregious and horrifying, concerns a mere fraction of the overall criminality wrecked by Israel against generations of Palestinian people, who have been dispossessed, fragmented, killed, pillaged, persecuted and subjected to generational refugeehood -- including the majority refugee population of Gaza since *Al-Nakba* of 1948. The current crimes in Gaza are committed against the backdrop of a decades-long unlawful occupation and apartheid, defined by the consistent perpetration of serious, ongoing, and ever-worsening human rights abuses, and the

unlawful suppression of the Palestinian people's right to self-determination.

We note that in charging Netanyahu and Gallant with the crime against humanity of other inhumane acts, the Court has had recourse to the "residual category" of crimes against humanity, designed to criminalise conduct that does not specifically qualify as any of the other crimes under article 7(1) of the Rome Statute. In this instance, the inhumane act identified, but not predicted by the drafters of the Rome Statute, refers to Netanyahu and Gallant's intentional "limiting or preventing medical supplies and medicine from getting into Gaza, in particular anaesthetics and anaesthesia machines", which resulted in doctors being "forced to operate on wounded persons and carry out amputations, including on children, without anaesthetics, and/or were forced to use inadequate and unsafe means to sedate patients, causing these persons extreme pain and suffering". Such conduct, the consequential suffering, and the identity of those responsible have been widely broadcast to the world for over a year during the first live-streamed genocide.

In concluding that there are reasonable grounds to believe that Netanyahu and Gallant bear criminal responsibility for the war crime of starvation as a method of warfare, the Chamber emphasised that "no clear military need or other justification under international humanitarian law could be identified for the restrictions placed on access for humanitarian relief operations". In particular, the Chamber noted "Netanyahu's statement connecting the halt in the essential goods and humanitarian aid with the goals of war", and highlighted that both Netanyahu and Gallant ignored "warnings and appeals" made by the United Nations (UN) Security Council, the UN Secretary-General, States, and governmental and civil society organisations about the catastrophic, man-made humanitarian crisis in Gaza.

While there is no doubt but that the Chamber's statement is correct in concluding that the criminal conduct for which Netanyahu and Gallant have been charged relates to an international armed conflict, particularly given "the relationship between an Occupying Power and the population in occupied territory", our organisations emphasise the conclusions of the International Court of Justice (ICJ) in its [Advisory Opinion](#) of July 2024. The ICJ affirmed that from a legal standpoint, the OPT - comprised of the West Bank, including East Jerusalem, and the Gaza Strip - constitutes a single territorial unit, the unity, contiguity and integrity of which are to be preserved and respected ([para. 78](#)). The ICJ further affirmed that Israel's purported military withdrawal or 'disengagement' from Gaza had not changed its legal status, which remains under occupation (para. 94), as Israel continues to exercise key elements of authority over Gaza: "even more so since 7 October 2023" (para. 93). As such, the proposition in the Chamber's statement today that "Israel occupies at least parts of Palestine" must be deemed inaccurate in light of the ICJ's conclusions. To be clear, Israel unlawfully occupies all of Palestine.

The response of senior Israeli political figures and government officials to the issuance of arrest warrants has been predictably aggressive, threatening further [illegal annexation](#), and accusing the Court of antisemitism. For Israel's allies, this development must be taken as a further sign that business cannot go on as usual. It underscores the imperative to reassess diplomatic, economic, and military relations to ensure they align with the principles of international law. It is imperative that political loyalty to a regime whose military presence in the OPT has been declared unconditionally unlawful by the ICJ, and whose Prime Minister is now indicted on war crimes and crimes against humanity perpetrated against Palestinians, be rejected and concluded.

Our organisations call on State Parties to the Rome Statute and International Organisations:

- To comply with the obligation, inter alia, to cooperate in arresting Netanyahu and Gallant, calling in particular on European States because of their location and military and economic relations with Israel and the potential travel of Israeli officials therein;

- We call on all States to close off their land air and sea for the transit of Netanyahu and Gallant to international travel, to arrest the perpetrators and facilitate their transfer to the Hague;
- We call on the Office of the Prosecutor to continue to investigate those responsible for the commission of Rome Statute crimes in the OPT, including additional new charges against Prime Minister Netanyahu and former Defence Minister Gallant;
- We call on the Office of the Prosecutor to submit further requests for arrest warrants concerning those Israeli officials and military commanders who are responsible for the crimes committed against the Palestinian people, including but not limited to, the war crime of transfer of civilians of the Occupying Power into occupied territory, crimes related to the establishment of settlements, crimes committed against Palestinian prisoners and detainees, the crime against humanity of apartheid, and the crime of genocide;
- We call on States Parties, and civil society organisations, to work collectively to protect the Office of the Prosecutor, the ICC, lawyers representing Palestinian victims, and NGOs working with the Court, from attack and to counter any sanctions against the ICC;
- The Court must be supported financially, to secure the viability of the Situation in Palestine, amongst others, to ensure the continued investigation of international crimes in the OPT, and the progression of cases in the Situation in the State of Palestine long term. We recommend that States Parties increase their financial contributions to the court with immediate effect, to anchor an independent and impartial court from attack;
- We call on States Parties to the Rome Statute to investigate and prosecute nationals or those present on their territory, who have committed international crimes in the OPT;
- We call on all States, in keeping with the conclusions of the ICJ's Advisory Opinion, to sever economic relations with Israel, which maintains its unlawful occupation of Palestinian territory. The European Union should immediately suspend its Association Agreement with Israel;
- All states must impose a comprehensive two-way arms embargo to avoid potential complicity in the serious violations of international law for which Netanyahu and Gallant have been indicted.

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P.S.

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