



May 23, 2024

STATEMENT BY THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS (IJL) IN RESPONSE TO THE ICC PROSECUTOR'S REQUEST TO ISSUE ARREST WARRANTS AGAINST THE ISRAELI PRIME MINISTER AND MINISTER OF DEFENCE

The International Criminal Court (ICC) was established with the vision that the Court would play an important role in upholding global justice. As legal practitioners and academic jurists committed to the rule of law, we are deeply concerned that the ICC Prosecutor's decision to request arrest warrants for Israeli leaders is an affront to the legal systems of law-abiding democratic states such as Israel's, and undermines the Court's integrity and ability to deliver justice. It turns the Court into a tool in the strategy of radical forces seeking to make cynical use of the law as a weapon against democratic states.

The Prosecutor's request is not an equal application of the law but a distortion of it.

There can be no moral or legal equivalence between Hamas – a terrorist organization that commits unspeakable atrocities, still holds 128 hostages (including children, women, and the elderly), continuously and deliberately targets civilians, intentionally hampers attempts to provide the civilian population with humanitarian aid, and deliberately misuses international law – and Israel, a democratic state committed to international law and to defending its territory and citizens from a consorted attack from all its borders aimed at its destruction, while mitigating harm to civilians exploited as human shields.

The credibility of the request itself is further undermined by factual inaccuracies and questionable legal determinations.

For example, the fundamental assumption on which the Prosecutor's case relies – that Israel imposed a total siege on Gaza, including by closing all border crossings into Gaza, for extended periods of time, as part of a deliberate plan to starve the civilian population – is demonstrably wrong. The Prosecutor fails to mention, for instance, that the Erez crossing was forced closed as a direct result of Hamas's invasion and destruction of the crossing on October 7, during which it also killed and kidnapped Israelis at the site. Moreover, amidst the ongoing fighting, Israel has been working to ease the humanitarian situation and enable the entry of aid through various channels.



The tragic suffering of the Gazan population cannot and must not be understated. Nonetheless, acknowledging the tragic reality that wars often create is distinct from concluding that such suffering stems from a deliberate plan to starve the population.

The ICC's jurisdiction in this matter is questionable at best, as Israel is not a party to the Rome Statute, and the claimed statehood of "Palestine" does not meet the requirements of international law. Rather than being based on a firm jurisdictional basis, this request adopts a highly politicized stance.

The request also disregards the principle of complementarity, a cornerstone of the Court's mandate. No equation can be drawn between a terrorist organization with evident disregard for the law, and a democratic state with an independent, robust legal system capable of investigating and prosecuting allegations of misconduct.

The Prosecutor's request sets a dangerous precedent to be exploited by those seeking to misuse and weaponize international law.

We urge the Judges of the Court to reject the Prosecutor's request to issue arrest warrants against Israeli leaders, and for law-abiding states, organizations, and individuals in the international community to oppose the abuse of international law.

The International Association of Jewish Lawyers and Jurists (IJL), founded in 1969, comprises lawyers, judges, judicial officers, and academic jurists from around the world.

The IJL strives to advance human rights for all, including by combating antisemitism, racism, xenophobia, Holocaust denial, and the delegitimization of the State of Israel.