

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Ref.: OL ISR 14/2025
(Please use this reference in your reply)

20 June 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Independent expert on the promotion of a democratic and equitable international order; Independent Expert on human rights and international solidarity; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 58/14, 53/4, 52/4, 53/12, 57/7, 53/5, 1993/2A and 54/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning concerning the **Bill for Protection of Israeli Public Figures from Activity of the International Criminal Court in The Hague against the State of Israel, 2024**" ("ICC Bill").¹ *The Bill was approved by the Knesset Plenum on 19 February 2025 and has been referred to the Foreign Affairs and Defense Committee for inquiry.*

We recall that several Special Procedure mandate-holders have previously expressed serious concerns regarding reports of harassment and intimidation directed at personnel of the International Criminal Court (ICC) by public officials within the Israeli administration. These concerns were raised in light of decisions by the ICC to investigate credible allegations of international crimes committed in and the State of Palestine ([ISR 9/2024](#)).

We note that the ICC Bill aims to protect current and former Israeli public officials, members of the IDF, civil servants, and other agents of the State from investigations, prosecutions, or judicial proceedings initiated or facilitated by the ICC or its affiliates, insofar as such actions pertain to activities undertaken in the service of the State of Israel. The Bill prohibits State authorities from cooperating with the ICC and prohibits ICC activities (including preliminary examinations, investigations and

¹ <https://main.knesset.gov.il/Activity/Legislation/Laws/pages/lawbill.aspx?t=lawsuggestionssearch&lawitemid=2219393>

actions under ICC orders) in Israel (chapter 2, article A); requires the State authorities to assist in protecting any person from the ICC's activities, including by warning them and funding their legal defence (chapter 2, article B); provides for travel and financial sanctions against the ICC and foreign entities supporting it (chapter 2, article C); and establishes criminal penalties of five years imprisonment for any person who knowingly provides information, service or means to the ICC, as well as loss of specified benefits (chapter 3). The Bill also provides for the Israeli authorities to authorize engagement with the ICC in certain circumstances (chapter 4).

We recognize that non-State parties to the ICC are not required to actively cooperate with it under international law. However, by prohibiting and criminalizing engagement with the ICC by private actors and sanctioning the ICC and private actors who engage with it, the Bill would actively promote impunity, while permitting interferences in the right to freedom of expression and the rights of human rights defenders that are incompatible with international human rights law. The Bill also appears to authorize the use of force against the ICC and other States cooperating with it, in violation of international law. We are most gravely concerned that the Bill aims to thwart international accountability for alleged international crimes in Israel or in the State of Palestine, in circumstances where the Israeli justice system has been unwilling to effectively investigate and prosecute those responsible, thus promoting impunity for serious violations of international law and denying effective remedies to victims and their families.

Context

The ICC investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression. As a court of last resort, it seeks to complement, not replace, national courts. It is established and governed by an international treaty called the Rome Statute 1998, which has 125 State parties, including the State of Palestine.

On 20 May 2024, the Office of the Prosecutor filed applications for arrest warrants in the situation in the State of Palestine in respect of three Hamas leaders and two Israeli leaders. On 21 November 2024, Pre-Trial Chamber I of the ICC unanimously rejected challenges to its jurisdiction brought by the State of Israel under article 19 of the Rome Statute 1998.² The Appeals Chamber reversed that decision on 24 April 2025 and remanded Israel's jurisdictional challenge to the Pre-Trial Chamber for fresh consideration.³ It issued warrants for the arrest of Mr. Benjamin Netanyahu, Prime Minister of Israel, and Mr. Yoav Gallant, then Minister of Defence of Israel, and one Hamas leader, whom Hamas later confirmed had been killed in July 2024. The Chamber found reasonable grounds to believe that Mr. Netanyahu and Mr. Gallant each bear criminal responsibility as co-perpetrators for the war crime of starvation as a method of warfare, and the crimes against humanity of murder, persecution, and other inhumane acts; and that they each bear criminal responsibility as civilian superiors for the war crime of intentionally directing an attack against the civilian population.

² <https://www.icc-cpi.int/court-record/icc-01/18-374>. The Pre-Trial Chamber I also rejected Israel's request under article 18 of the Rome Statute. See <https://www.icc-cpi.int/court-record/icc-01/18-375/>

³ <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180b5913d.pdf>.

Protection against ICC activities

Article 11(a)-(b) of the Bill requires the State authorities to “act, by all means at their disposal” against the ICC in relation to its activities against Israel or Israeli citizens, specifically including “to secure the release of any person who is under arrest or custody”. We are alarmed that the extremely broad language of this provision could be understood to authorize violence against the ICC in its host country or in foreign States which arrest or detain an Israeli for surrender to the Court. We note in this respect that the Explanatory Notes to the Bill refer to the United States’ 2002 American Service-Members’ Protection Act as authorizing the US President to use force to protect U.S. and allied personnel from ICC proceedings (that Act uses the similarly broad formulation of “all means necessary”).

We emphasize that the threat or use of armed force against any other State, including its territory, is prohibited by article 2(4) of the United Nations Charter and customary international law, except in self-defence. We recall further that any purported extraterritorial law enforcement, short of armed force, is prohibited by the principles of non-intervention, respect for foreign State sovereignty and exclusive law enforcement jurisdiction of the territorial State under international law. Any unlawful use of force in foreign territory could also constitute a violation of the right to life of any person killed or injured in any operation, contrary to article 6 of the ICCPR.

Criminal penalties

Chapter 3 of the Bill requires individuals and organizations to report requests from the ICC to the Israeli authorities (article 16) and criminalizes the knowing provision of information, services or means to the ICC as part of its activities concerning Israel or its allies or where a person acts on behalf or for the ICC (articles 17-18), with a penalty of five years’ imprisonment. Where information is provided confidentially to the ICC, the penalty is increased to life imprisonment (article 17). “Information” is defined to include, any testimony document, computer file, image, photographed information, database, object or identifying detail (article 2). The Minister of Finance is also empowered to administratively order the withholding of benefits where the Minister is convinced that a person provided information, services or means, including denying tax benefits, financial assistance, and state licenses (article 19). Article 20 prohibits financial ties with the ICC.

We are deeply concerned that these offences would criminalize victims, their representatives, or any human rights defenders for legitimately publicizing and sharing with the ICC the findings of their monitoring, investigation, documentation and reporting activities in relation to alleged Israeli violations of international law, including in the State of Palestine, as well as alleged violations of Israel’s allies worldwide. The wide language of Bill could further risk criminalizing the indirect provision of information to the ICC, such as by journalists publishing media reports, or individuals posting photographs or videos on social media, about violations (including Israel soldiers incriminating themselves), which would then be accessible to the ICC. The Bill would also have a chilling effect on the underlying monitoring and investigation functions of human rights defenders, and deter their donors, since they would be unable to publicize or share the findings of those activities with the ICC without committing a criminal offence.

We recall that the right to freedom of expression in article 19 of the ICCPR includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. Further, article 6(b) and (c) of the UN Declaration on Human Rights Defenders provides that everyone has the right, individually and in association with others to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters.

We further emphasise that articles 1 and 2 of the UN Declaration on Human Rights Defenders state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. In addition, in accordance with its article 12 (2) and (3), the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

The jurisdictional scope of the offences is unclear and presumptively territorial, in line with the ordinary principles of criminal jurisdiction under international law. To the extent that extraterritorial application is envisaged, we note that the criminalization of engagement with the ICC, as a lawfully established international organization pursuing international justice, is not within the legitimate scope of the protective or passive personality principles of criminal jurisdiction under international law. Further, while Israel claims to have annexed East Jerusalem, the latter is occupied territory that is part of the State of Palestine and Israel does not possess territorial criminal jurisdiction there under international law. The same is true of Syria's Golan Heights, occupied by Israel.

Sanctions

Chapter 2, Article C of the Bill empowers the authorities to prohibit: the entry into Israel of members of the ICC and foreign entities providing services to the ICC (by denying and revoking visas) (article 13); the holding of assets and funds of the ICC in Israel (article 14); and contracting with, or providing benefits or licenses to, foreign entities (including individuals and corporations) declared to be providing services to the ICC (article 15).

We are concerned that the prohibition on and seizure of ICC assets in Israel would infringe the inviolability of the property and assets of the ICC, as an international organization with widespread participation by States, under customary international law.

We are further concerned that the withholding of certain benefits from foreign entities declared to be providing services to the ICC could severely jeopardize the ability of some human rights organizations to operate, particularly because the

declarations are administrative decisions made by a minister and not judicial decisions of a court, and do not require a criminal conviction for the offence of providing services as a precondition of administrative sanctions.

As regards the travel ban, we note that there is no general obligation to admit foreign nationals to Israel or to cooperate with the ICC as a non-party State. However, given that there can be no legitimate reasons for obstructing the work of an international organization dedicated to independent and impartial justice for international crimes, we are concerned that the travel ban appears to be an arbitrary act of retorsion against the ICC.

Accountability for international crimes

While Israel, as a non-party State, is not required to actively cooperate with the ICC under the Rome Statute, we emphasize that Israel is required to “respect and ensure respect” for international humanitarian law (four 1949 Geneva Conventions, common article 1), to investigate and prosecute international crimes under customary international law, and to ensure effective remedies for violations of international human rights treaty and customary law. These obligations imply that Israel must not obstruct efforts by other actors, including the ICC and human rights defenders assisting it, to pursue accountability for international crimes. States should support and cooperate in good faith with international mechanisms of investigation and prosecutions addressing possible violations of the right to life (general comment No. 36, para. 28) and make every effort to cooperate, to the extent possible, with each other in order to facilitate the investigation of war crimes and the prosecution of the suspects (International Committee of the Red Cross, Customary International Humanitarian Law, rule 161).

We note that the ICC may only exercise jurisdiction where the independent and impartial ICC determines that its complementarity conditions are met, namely that national courts are unwilling or unable to prosecute genuinely. In a context where the Israeli courts do not appear to have genuinely prosecuted those allegedly most responsible for international crimes, the Bill appears to promote impunity for alleged international crimes by undermining the ICC as a “fail-safe” mechanism where the State has not fulfilled its duty to respect and ensure respect for humanitarian law, including the overriding obligation to protect civilians, and to provide effective remedies for violations of human rights.

We are further concerned that the Bill appears to be part of a pattern of legislative and policy initiatives aimed at de facto silencing civil society organizations that seek to hold Israel accountable for violations of international law, including previous measures abusively listing legitimate human rights groups as “terrorist” ([AL ISR 10/2021](#); [AL ISR 11/2021](#); [AL ISR 11/2022](#); [AL ISR 13/2022](#); [AL ISR 15/2022](#)) and requirements to disclose funding from foreign political entities.

Finally, we emphasize that article 70 of the Rome Statute of the ICC establishes offences against the administration of justice by the ICC, including the article 70(c) offence of “corruptly influencing a witness, obstructing or interfering with the attendance or testimony of a witness, retaliating against a witness for giving testimony or destroying, tampering with or interfering with the collection of evidence.” In our view, this offence is not subject to jurisdictional limitations and applies even to

nationals of non-party States, such as Israeli officials who apply and enforce the Bill if it were to pass into law.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned comments.
2. Please indicate whether the Bill will be withdrawn from the Knesset in order to ensure that it is not inconsistent with international law.
3. Please explain what steps Israel is taking to ensure that allegations of international crimes by Israeli personnel, including political and military leaders, are being genuinely investigated, prosecuted and punished.
4. Please outline what measures Israel is taking to ensure human rights defenders can freely perform their work without undue interference by the authorities and without fear of criminalization or reprisals of any sort as a result of the Bill.

We stand ready to provide your Excellency's Government with any technical advice it may require in ensuring that its legislation is fully compliant with international human rights standards and international humanitarian law.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a copy of this letter is being sent to the Government of the State of Palestine.

Please accept, Excellency, the assurances of our highest consideration.

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

George Katrougalos
Independent expert on the promotion of a democratic and equitable international order

Cecilia M. Bailliet
Independent Expert on human rights and international solidarity

Francesca Albanese
Special Rapporteur on the situation of human rights in the Palestinian territory
occupied since 1967

Bernard Duhaime
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of
non-recurrence