

The Prime Minister, Rt Hon Rishi Sunak MP
The Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and
Development Affairs,
The Attorney General, Attorney General Victoria Prentis KC

Our ref: TA/HD/IC/131023

Sent by email to:
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13 October 2023

URGENT

Dear Prime Minister, Foreign Secretary and Attorney General,

NOTICE OF INTENTION TO PROSECUTE UK OFFICIALS COMPLICIT IN WAR CRIMES

NOTICE OF RISK OF IMMINENT COMMISSION OF WAR CRIMES AND CRIMES AGAINST HUMANITY BY ISRAEL IN GAZA

We put the Government on notice that we intend to bring legal proceedings against politicians in the UK and elsewhere where there is evidence that they have aided, abetted or in any other way supported, encouraged or provided material assistance in the commission of a war crime.

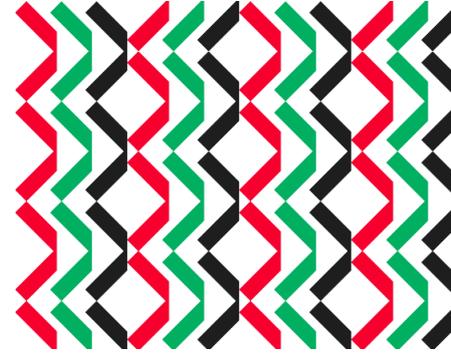
In light of the catastrophic situation currently unfolding in Gaza, and clear evidence that Israel has committed war crimes and is on the verge of committing mass atrocity crimes in Gaza, this letter is provided to the UK Government in order to emphasise that under international criminal law and its jurisprudence on individual criminal responsibility, support provided to perpetrators of international crimes can be investigated and prosecuted by the International Criminal Court and Third States under the principles of Universal Jurisdiction.

This includes support by foreign Governments and officials, including the UK, of Israel's actions when there is demonstrable evidence that international crimes have already been committed and when there is clear evidence that further crimes against civilians will imminently be perpetrated.

This letter is sent by International Centre of Justice for Palestinians (ICJP)¹ - an independent organisation of lawyers, academics and politicians that works to protect the rights of Palestinians.

We bring to your early attention an arrest warrant issued at Westminster Magistrates Court in London for the arrest of Tzipi Livni, the Former Foreign Minister of Israel for

¹ <https://www.icjpalastine.com/>



her part in alleged war crimes against civilians in Gaza arising out of the 2009 Israeli military operation codenamed Operation Cast Lead. Lawyers at ICJP acted in those proceedings and we intend to apply the same principles in this case.

- ***Clear evidence and knowledge of international crimes committed and further imminent crimes***

The UK Government will be aware that actions taken by Israel since 7 October have already been reported as constituting serious breaches of international criminal law, international humanitarian law and international human rights law.

For example, attacks on Gaza not complying with the requirement under international law for proportionality and distinction have indiscriminately killed and injured civilians; including women, children, and the elderly.² Entire residential housing blocks have been levelled to the ground, killing all inside.³ Reports document entire families being killed; with all members of the family – from every generation, young to old, being killed.⁴ And over 500 children have already been killed since 7 October⁵ – in the span of only 6 days. It also includes credible reports on Israel's use of white phosphorus munitions against the civilian population in Gaza – a substance which known to cause burns and risk fire to those who are impacted by it, here the Palestinian civilians.⁶

It is also inescapable that these most recent crimes must be understood within the context of the decades of documented abuses and international crimes committed under Israel's military occupation with impunity and suffered by Palestinian civilians.⁷

With knowledge of the crimes already committed in the days since 7 October, the UK Government must understand that this puts it on notice of further international crimes which it can be reasonably assessed will be imminently committed, and support of Israel in these actions would amount to complicity.

Information the UK Government receives about Israel's preparatory steps and imminent actions must be viewed in this context. Indeed, this morning, Israel issued a directive to 1.2 million people in Gaza to immediately leave their homes in northern Gaza and move south.⁸

² See, for example, Protection Approaches, Statement on preventing mass atrocity crimes in Israel & in Gaza, 13 October 2023: <https://protectionapproaches.org/news/f/statement-on-preventing-mass-atrocity-crimes-in-israel-in-gaza>

³ See, for example, Israel/OPT: Israel must lift illegal and inhumane blockade on Gaza as power plant runs out of fuel, Amnesty International, 12 October 2023: <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-israel-must-lift-illegal-and-inhumane-blockade-on-gaza-as-power-plant-runs-out-of-fuel/>

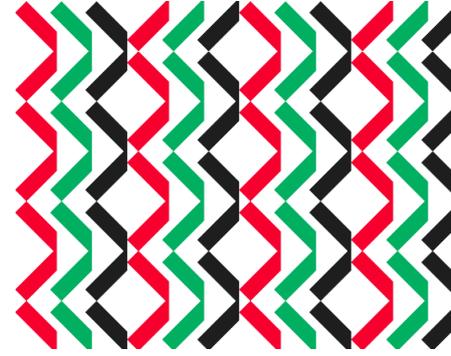
⁴ See, for example, In Gaza, entire families destroyed by Israeli bombing: 'My son, my niece and another child are still under the rubble,' Clothilde Mraffko, Le Monde, 12 October 2023: https://www.lemonde.fr/en/international/article/2023/10/12/in-gaza-entire-families-destroyed-by-israeli-bombing-my-son-my-niece-and-another-child-are-still-under-the-rubble_6167251_4.html

⁵ See, for example, Israel-Hamas war: 500 children among dead in Gaza - as US says Hamas attack was like 'ten 9/11s', Tom Gillespie, Sky News, 13 October 2023: <https://news.sky.com/story/israel-hamas-war-hundreds-of-children-and-women-killed-in-israeli-strikes-on-gaza-as-troops-assemble-on-border-12983174>

⁶ See, for example, Israel: White Phosphorus Used in Gaza, Lebanon Use in Populated Areas Poses Grave Risks to Civilians, Human Rights Watch, 12 October 2023: <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>

⁷ See, for example, Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity, Amnesty International, 1 February 2022, p.266 <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>

⁸ See, Fear, confusion as Israel issues evacuation order for northern Gaza, Al Jazeera, 13 October 2023: <https://www.aljazeera.com/news/2023/10/13/fear-confusion-as-israel-issues-evacuation-order-for-northern-gaza#:~:text=Israel%27s%20order%20for%201.1%20million,seventh%20day%20of%20Israel%27s%20bombardment>



If carried out, this order may well amount to both a war crime and a crime against humanity, particularly the crime of forcible transfer and displacement. This is accompanied by reports that Israeli forces and tanks are amassing at Gaza's border for an expected ground invasion on Gaza city which will devastate any civilians in the area.⁹ This is despite pleas from local medical professionals, which have been echoed by the World Health Organisation, that it is impossible to evacuate vulnerable hospital patients from northern Gaza, particularly those on ventilators, and forcing such action would be a death sentence.¹⁰

This also includes the UK's knowledge of Israel's actions which, despite already being assessed as severely harming civilians and therefore constituting international crimes, continue and with each new step harm further innocent civilians and constitute further international crimes.

This is most clear with the siege on Gaza. Since Sunday 8 October, Israel has imposed a total siege on Gaza, cutting off its electricity, water and food supplies, and preventing the access of humanitarian aid.¹¹ The withholding of food, water and other basic necessities from civilian populations during international armed conflicts is expressly forbidden under IHL,¹² and amounts to war crimes and crimes against humanity under the ICC Rome Statute. Moreover, such action constitutes collective punishment which is "*prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents* under the Geneva Conventions of 1949.¹³ It must be remembered that the prohibition against collective punishment is absolute. This has already disproportionately and indiscriminately caused immeasurable harm and suffering to the people of Gaza,¹⁴ such that international crimes could be concluded, and it will cause more.

At the same time, Israel has continued to bombard Gaza with massive and indiscriminate airstrikes, destroying thousands of civilian homes, and killing over 1,799 people, including 583 children.¹⁵ Conducting further bombardment of the same nature will do the same, and constitute further international crimes which the international community could have predicted and therefore would be on notice.

⁹ Tanks seen moving in southern Israel as military orders Gaza evacuation, The Guardian, 13 October 2023:

<https://www.theguardian.com/world/video/2023/oct/13/tanks-southern-israel-military-orders-gaza-evacuation-video>

¹⁰ Moving severely ill people in Gaza amounts to 'death sentence', WHO says, Reuters, 13 October 2023 ([https://www.reuters.com/world/middle-east/moving-severely-ill-people-gaza-amounts-death-sentence-who-2023-10-13/#:~:text=GENEVA%2C%20Oct%2013%20\(Reuters\),relocate%20south%20within%2024%20hours.](https://www.reuters.com/world/middle-east/moving-severely-ill-people-gaza-amounts-death-sentence-who-2023-10-13/#:~:text=GENEVA%2C%20Oct%2013%20(Reuters),relocate%20south%20within%2024%20hours.)).

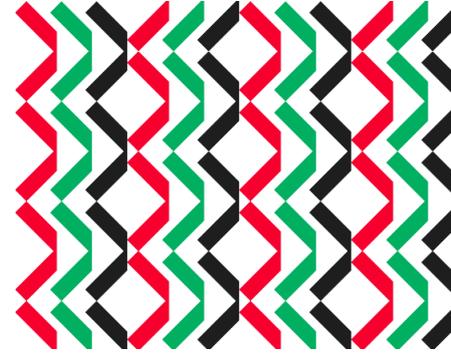
¹¹ Yoav Gallant, Israel's Defence Minister, said "I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed," and "We are fighting human animals and we are acting accordingly": https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/

¹² Article 33 of the Fourth Geneva Convention provides that "*No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.*" <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-33#:~:text=12%20August%201949-.Article%2033%20%2D%20Individual%20responsibility%2C%20collective%20penalties%2C%20pillage%2C%20reprisals.Pillage%20is%20prohibited>. The ICRC commentary of 1958 provides that collective punishment refers to "*penalties of any kind inflicted on persons or entire groups of persons, in defiance of the most elementary principles of humanity, for acts that these persons have not committed*" and rendered without regard to due process of law: See: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-33/commentary/1958?activeTab=undefined>

¹³ See Article 75 of Additional Protocol I to the Geneva Conventions of 1949: <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-75>

¹⁴ LPHR statement on new sustained military action in Gaza/Israel, Lawyers for Palestinian Human Rights, 10 October 2023: <https://lphr.org.uk/latest-news/lphr-statement-on-new-sustained-military-action-in-gaza-israel-2/>

¹⁵ Israel commits widespread war crimes in Gaza, humanitarian catastrophe is imminent, Euro-Med Human Rights Monitor, 10 October 2023: <https://euromedmonitor.org/en/article/5846/israel-commits-widespread-war-crimes-in-gaza,-humanitarian-catastrophe-is-imminent>



- ***Support for international crimes: Individual criminal responsibility***

With information and evidence that international crimes have already been committed against Palestinian civilians since 7 October (and within the context of historical abuses, crimes and oppression), and clear evidence that this pattern will continue in the immediate future, this letter is intended to place you on notice that government officials providing support to the actions of the Israeli government under circumstances in which war crimes and crimes against humanity are imminent, are likely to incur individual criminal liability and may be prosecuted at the ICC, domestic courts or other tribunals.

Under Article 25 of the Rome Statute, individual criminal responsibility attaches not only to the direct perpetrators of crimes but also to those who aid, abet or otherwise assist in the commission of a crime within the jurisdiction of the ICC.¹⁶

It is not required that an individual who provides support to the commission of a crime to be either located in the territory over which the ICC has jurisdiction or for the support to be given in this territory to bear responsibility for aiding, abetting and assisting these crimes and to be investigated or prosecuted.¹⁷ Nor does the ICC recognise an individual's official capacity as a protection against such scrutiny, with the ICC Appeals Chamber having found that there is no head of state immunity under customary international law in regards to international courts.¹⁸

To this, it is unacceptable that the UK Government has not only continued to express support for Israel's actions in Gaza, but has also provided military assistance and economic support. The UK Government must be aware that such support and assistance raises the risk of the UK Government being complicit in the commission of war crimes and crimes against humanity. The UK Government should be aware that international criminal tribunals have previously examined the responsibility of those who have substantially contributed to a crime by providing encouragement and moral support to the perpetrators, and where the perpetrator is aware of this support.¹⁹

We therefore remind you that the investigation into the Situation in Palestine is currently ongoing at the ICC, and that therefore the ICC has jurisdiction over any Rome Statute crime committed in the Occupied Palestinian Territory, including Gaza. The principle of universal jurisdiction is also applicable, including the ability to seek review of such complicity under the UK's legislation – as was done when an arrest warrant was issued for Tzipi Livni for her part in alleged war crimes arising out of Israel's assault on civilians in Gaza.

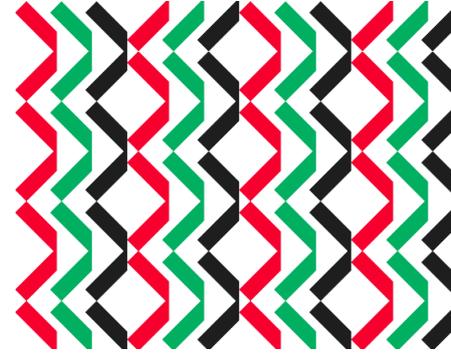
Immediate action must be taken to ensure that UK Government policy towards the unfolding catastrophe in Gaza complies with international law, places the core humanitarian principles

¹⁶ ICC Rome Statute, Article 25.

¹⁷ ICC Rome Statute, Article

¹⁸ Al-Bashir Case: ICC Appeals Chamber confirms Jordan's non-cooperation but reverses the decision referring it to the ASP and UNSC, ICC Press Release, 6 May 2019 (<https://www.icc-cpi.int/news/al-bashir-case-icc-appeals-chamber-confirms-jordans-non-cooperation-reverses-decision#:~:text=It%20concluded%20that%20there%20is,%C3%A0%2Dvis%20an%20international%20court.>)

¹⁹ See, for example, ICTY, Prosecutor v. Brđanin, Appeal Judgment, IT-99-36-A, 3 April 2007, para. 277; Prosecutor v. Bemba et al., Judgment Pursuant to Article 74 of the Statute, ICC-01/05-01/13-1989-Red, 19 October 2016.



of proportionality, distinction, precaution and humanity at its heart. It must not contribute, support or assist with the commission of international crimes.

Armed with this understanding of its responsibilities under the basic framework of international law, which was framed in the aftermath of the Second World War and the appalling actions of the belligerent powers, not least by the leading British jurists of the time imbued with the tradition of British respect for the law and the final defence it provides for the weak and otherwise defenceless in the face of brute and the pitiless use of raw power, the legal and moral path for the UK Government to follow is to support the UN Secretary General's call for an immediate ceasefire to prevent further loss of life on both sides and for an immediate end to the siege. We also ask you to urgently work with international partners to secure the access of humanitarian aid to Gaza.

ICJP will welcome any dialogue with the Prime Minister to help alert him to the legal peril his apparent unqualified support to the policy of the Government of Israel placed him and his fellow ministers, and we invite the earliest response from the Attorney General.

In order to prevent further legal action, the UK Government must immediately:

1. Issue a public statement condemning Israeli breaches of international law;
2. Ask each Government official that has encouraged war crimes in Gaza to rescind their statements in public;
3. Insist Israel complies unequivocally with international law;
4. Immediately act to safeguard civilians in Gaza;
5. Call for an immediate ceasefire to prevent further loss of life;
6. Calls for an immediate end to the siege to allow the secure the access of humanitarian aid to Gaza.

We have passed a copy of this letter to Scotland Yard's War Crimes Unit who have recently requested information and evidence in relation to terrorism and war crimes in the region. We will continue to assist them with gathering evidence in relation to the contents of this letter.

We reserve our rights to proceed to apply for a private arrest warrant for politicians complicit in war crimes without further notice.

Yours sincerely

ICJP

The International Centre of Justice for Palestinians

Crispin Blunt MP - Director

Tayab Ali – Director