

# Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

Promoting human rights by protecting those who defend them

[www.lrwc.org](http://www.lrwc.org) – [lrwc@lrwc.org](mailto:lrwc@lrwc.org) | Vancouver, B.C. CANADA

11 December 2024

## Attention: Members of Parliament

### Canada's legal obligations to prevent crimes of genocide, war crimes and crimes against humanity

[Lawyers' Rights Watch Canada](#) (LRWC) calls on Canada to immediately enact effective measures to ensure compliance with international law on the prevention of genocide by Israel against Palestinians in Gaza, the West Bank and East Jerusalem, including the end of arms sales and the transfer of components that risk Canada being complicit in genocide and to fully comply with and support the [arrest warrants issued by the International Criminal Court](#) (ICC) and [the Orders](#) and [Advisory Opinion](#) of the International Court of Justice (ICJ).

### Factual Background

On 7 October 2023 Hamas launched an assault on Israel, killing approximately 1,200 people and taking approximately 200 hostages. The Prime Minister<sup>1</sup> and the Government of Canada<sup>2</sup> moved quickly to unequivocally denounce these attacks.

Since that date, Israel's military operations in Gaza have killed at least 45,492 people, including 17,492 children,<sup>3</sup> and placed millions more at risk of injury, death, and displacement<sup>4</sup> but Canada has failed to denounce or to take adequate or effective steps to prevent violations of international law by the state of Israel and the Israeli Defense Forces against Palestinians in the occupied territories.

### Applicable Law

Canada is a signatory to the *Rome Statute of the International Criminal Court* (Rome Statute) the *Convention for the Prevention and Punishment of the Crime of Genocide* (Genocide Convention), the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR), the *International Covenant on Civil and Political Rights* (ICCPR), the *Universal Declaration of Human Rights* (UDHR), and the *Geneva Conventions*, and is legally bound to act to prevent war crimes, crimes against humanity, and genocide. The most serious breaches of these are crimes of

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<sup>1</sup> *Statement by the Prime Minister on attacks against Israel*. Canada, 8 October 2023.

<https://www.pm.gc.ca/en/news/statements/2023/10/08/statement-prime-minister-trudeau-attacks-against-israel>

<sup>2</sup> [Canada's response to the crisis in Israel, the West Bank and the Gaza Strip](#), Government of Canada, undated

<sup>3</sup> [Israel-Gaza war in Maps and charts: Live Tracker](#), Aljazeera, accessed 6 December 2024.

<sup>4</sup> [Genocide as Colonial Erasure](#), Report of Special Rapporteur Francesca Albanese on Situation of human rights in the Palestinian territories and East Jerusalem occupied since 1967, A/79/384, 1 October 2024

For additional information see *Death, Destruction and Displacement by Israel of Palestinians in the GAZA in violation of the United Nations (UN) Convention to Prevent and Punish the Crime of Genocide*, Appendix to letters to Canadian MPs and Senators, 19 November 2024. <https://nightslantern.ca/2024bulletin.htm#nov22poc>

universal jurisdiction under Canada's *War Crimes and Crimes Against Humanity Act*,<sup>5</sup> and form principles of Customary International Law binding all nations.

**Nothing justifies breaches of international humanitarian law on genocide, war crimes, or crimes against humanity.**

On 21 November 2024 Pre-Trial Chamber I of the International Criminal Court (ICC), pursuant to the Rome Statute,<sup>6</sup> issued arrest warrants for Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant for committing jointly with others the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts, from at least 8 October 2023 until at least 20 May 2024.

The Chamber found reasonable grounds to believe that with no justification under international humanitarian law, Netanyahu and Gallant:

- impeded humanitarian aid in violation of international humanitarian law;
- knowingly deprived the civilian population in Gaza of objects indispensable to their survival, including food, water, medicine and medical supplies, fuel and electricity;
- failed to facilitate relief for Gaza residents by 'all means at Israel's disposal';
- created conditions of life calculated to bring about the destruction of part of the civilian population in Gaza, which resulted in the death of civilians, including children due to malnutrition and dehydration;
- intentionally limited or prevented medical supplies and medicine from getting into Gaza;
- intentionally directed an attack against the civilian population.<sup>7</sup>

Canada must immediately take effective measures to stop the murder, displacement, starvation, inhumane acts and persecution of Palestinians by Israel identified by the ICC investigations. Canada must also comply with the ICC arrest warrants and the orders and Advisory Opinion issued by the ICJ in two separate cases, the [\*Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip \(South Africa v. Israel\)\*](#);<sup>8</sup> and the, [\*Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem\*](#).<sup>9</sup>

In *South Africa v Israel*, the ICJ concluded by Order on 26 January 2024, that the genocide of Palestinians by Israel was plausible and ordered Israel to "take all measures within its power to prevent" acts against Palestinians prohibited by the Genocide Convention including: killing; causing serious bodily or mental harm to Palestinians; deliberately inflicting conditions of life calculated to destroy in whole or in part, the group of Palestinians in Gaza, in whole or in part; and ordered Israel to immediately ensure provision of services and humanitarian aid. When Israel

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<sup>5</sup> [\*Canada: Crimes Against Humanity and War Crimes Act\*](#), SC 2000, c. 24, 23 October 2000.

<sup>6</sup> UN General Assembly, [\*Rome Statute of the International Criminal Court\*](#) (last amended 2010), ISBN No. 92-9227-227-6, UN General Assembly, 17 July 1998. There are 125 State Parties counting Palestine, to the ICC. Canada is a State Party having signed 18 December 1998 and ratified 7 July 2000.

<sup>7</sup> ICC Press Release, "Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant," 21 November 2024 <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

<sup>8</sup> *South Africa v Israel*, ICJ Latest Developments. For access to all submissions, press releases, decisions and summaries in *South Africa v Israel* see <https://www.icj-cij.org/case/192>

<sup>9</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. Access to all submissions, press releases, decisions and summaries in this case is available on the ICJ website here <https://www.icj-cij.org/case/186>

failed to comply the ICJ made further orders of 28 March and 24 May 2024.

In the Legal Consequences case, the ICJ Advisory Opinion on 19 July 2024 concluded that the occupation and annexation by Israel of Palestinian Territory since 1967 is illegal under international law and that all states are legally obligated to recognize it as such and not to assist its perpetuation or recognize the occupation as legal. (emphasis added) The ICJ ordered Israel to:

- stop occupation;
- cease settlements;
- evacuate settlers; and
- make reparations.

**In accordance with our international legal obligations, Canada must:**

1. Publicly recognize that what is taking place in Gaza and the Occupied Territories constitutes genocide and call for an immediate, permanent ceasefire in Gaza and the Occupied Territories;
2. Call for economic sanctions against Israel at the United Nations;
3. Call for an end to all arms transfers to Israel and all transfers of key components of arms to the United States;
4. Cancel all existing permits to transfer arms from Canada to Israel and cancel all transfers of components for arms to the United States;
5. Conduct investigations under the *War Crimes and Crimes Against Humanities Act* of persons in or outside Canada reasonably alleged or suspected of complicity in crimes of: illegal occupation of Palestinian Territory; murder; starvation; inhuman acts; persecution; and, attacks against civilians and attacks against hospitals, schools and refugee camps in Gaza, West Bank and East Jerusalem;
6. Investigate and where appropriate, prosecute using universal jurisdiction, criminal conduct committed in the Occupied Territory in compliance with *erga omnes* obligations;<sup>10</sup>
7. Take all available steps, domestically and internationally, to ensure the investigation, prosecution, trial, and punishment of those responsible for authorizing, directing, and executing genocide in Gaza;
8. Apply to the ICJ for such orders as necessary to prevent further acts by Israel that are prohibited by the Genocide Convention Article II;
9. Join South Africa's case at the ICJ;
10. Increase aid to UNRWA; m;
11. Oppose existing and ongoing Israeli settlement of Gaza, West Bank and East Jerusalem;
12. Revoke or suspend, pending investigation, the charitable tax status of Canadian organizations suspected of providing support for illegal occupation or expropriation of Palestinian Territory or military activity;
13. Support a UN General Assembly resolution referring Israel's ban of UNRAW to the ICJ;
14. Ensure that Palestinians seeking refuge in Canada do not face unrealistic administrative barriers to entry;

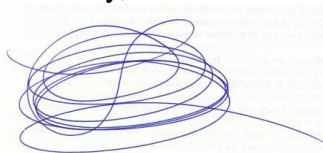
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<sup>10</sup> [Position Paper of the United Nations Independent International Commission of Inquiry](#) on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *Legal analysis and recommendations on implementation of the International Court of Justice, Advisory Opinion, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, 18 October 2024 at para. 33.

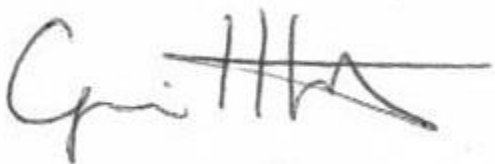
15. Develop a protective framework for Palestinians displaced outside Gaza, in line with international human rights and refugee law, while fully preserving their right to return;<sup>11</sup>
16. Oppose forced evacuation of Palestinians from Gaza and the occupation by Israel.

**LRWC calls on Parliament and all MPs to take such actions individually, collectively, nationally and internationally** as are required to stop, prevent, and remedy the genocide of Palestinians in Gaza, the West Bank and East Jerusalem.

Sincerely,



Gail Davidson, Director, LRWC



Gavin Magrath, Director, LRWC

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<sup>11</sup> Supra Note 4. See recommendations at paras. 89 to 93.