



16 October 2023

Dear Excellencies,

Request for support of ICC investigation in Palestine by African ICC Member States

1. The [Southern Africa Litigation Centre](#) (SALC) is a regional non-governmental organisation based in Johannesburg, South Africa. SALC's mandate is to promote human rights and protect the rule of law in the Southern African region. SALC's International Justice cluster focuses on fighting impunity for international crimes and holding perpetrators of international crimes accountable.
2. SALC is seriously concerned by the ongoing reports of violations of international humanitarian law and grave human rights violations in Gaza (Palestine) since 7 October 2023. Atrocities such as the killing and targeting of innocent civilians must be stopped, investigated and prosecuted no matter on which side of this conflict they occurred.
3. SALC is appalled by [statements](#) by Minister of Defense Yoav Gallant stating: *"I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel; everything is closed."* He continued, *"We are fighting human animals, and we are acting accordingly"*. Such dehumanising language has often preceded the crime of genocide in the past and has served as a catalyst for further atrocities. Such statements further show intent to commit war crimes, such as the war crime of starving civilians and/or other crimes under the jurisdiction of the International Criminal Court (ICC). The numerous reports of bomb and rocket attacks on buildings and infrastructure in Gaza, one of the most densely populated areas in the world, show little regard for core principles of international humanitarian law, such as the one of not attacking civilians under the principle of distinction.
4. While we welcome the call by African States for a cessation of hostilities and prevention of further escalation, such measures are insufficient to fight impunity for international crimes. The need to fight against impunity and initiate proceedings to hold perpetrators of international crimes accountable must start now.
5. We, therefore, call on all 33 African Member States to the ICC to use their influence as Member States of the Court and provide technical and political support to the Court to overcome challenges in investigating the situation in Palestine. We further call on all 33 African ICC Member States to use their right under article 14 of the Rome Statute if needed to enable the Prosecutor's Office to expedite and prioritise these proceedings.



6. On 3 March 2021, the Prosecutor of the International Criminal Court (ICC) [announced](#) the opening of the investigation into the situation in the State of Palestine. This followed a [decision](#) by the Pre-Trial Chamber of the ICC that confirmed that the ICC may exercise its criminal jurisdiction in the situation in Palestine and that the territorial scope of this jurisdiction extends to Gaza and the West Bank, including East Jerusalem. As long as part of the crime occurs in the territory of an ICC State Party, and there is a territorial link to the ICC State Party, such as Palestine, the ICC has jurisdiction over such conduct.
7. We further urge all 33 African ICC Member States to use the precedent and momentum that was created by the Ukraine situation, where State support and State referrals by more than 39 ICC State Parties resulted in expedited proceedings and two arrest warrants within 13 months from the time the ICC Prosecutor announced its decision to proceed with opening an investigation into the situation in Ukraine.
8. In light of the criticism by some African States on the double standards within the ICC system, we, therefore, urge you to use your voice as a signatory of the Rome Statute to correct imbalances you see as a Member State and support the work of the Court. We believe that such action is essential to meet the inherent challenges faced in conducting these investigations and also to overcome political challenges by showing strong support for the ICC investigations in the Palestine situation.
9. There is no space for double standards in international criminal justice. Without fear or favour, international crimes committed in Palestine must be investigated and prosecuted no matter by whom they were committed. As signatories to the Rome Statute, you committed yourself to the idea of fighting impunity and holding perpetrators of international crimes accountable. Only if the principles of the Rome Statute are applied equally will the ICC's accountability system have a chance to make a meaningful contribution to the fight against impunity. A lasting peace in the region can only be achieved through accountability and justice.

Yours sincerely,

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**INSTITUTIONAL ENDROSEMENTS,
COUNTRY**

Archbishop Thabo Makgoba, Anglican Church of Southern Africa
Alternative Information and Development Centre, SA
Arthurs Dream Autism Foundation, Kenya
Atrocities Watch Africa
Center for Strategic Litigation, Tanzania
Centre for Human Rights, University of Pretoria, SA
Centre for Human Rights Education Advice and Assistance (CHREAA), Malawi
Centre for Human Rights and Social Advancement (CEFSAN), Nigeria
Coordinating Assembly for Non-Governmental Organizations, Eswatini
Digital Society of Africa, Zimbabwe
Disability, HIV and AIDS Trust (DHAT), Zimbabwe
Foundation for Human Rights in South Africa, SA
Global South Against Xenophobia (GSAX)
Goringhaicona Khoi Khoi Traditional Indigenous Council
Health Justice Initiative (HJI), SA
Housing Assembly, SA
Human Rights Institute of South Africa
Irish Rule of Law International, Malawi
Lawyers Alert, Nigeria
Lawyers for Human Rights, SA
Letfu Sonkhe Institute for Strategic Thinking and Development, SA
Musjidul Furqaan, Lansdowne, Cape Town
Namibia Equal Rights Movement
Ndifuna Ukwazi, SA
Palestinian Solidarity Campaign Cape Town

Reclaim the City, SA
Save Our Sacred Lands, SA
Seinoli Legal Centre, Lesotho
South African Jews for A Free Palestine (SAJFP)
Transformation Resource Centre, Lesotho
Uhuru Mbele, SA
Youth and Society (YAS), Malawi
Youth Watch Society (YOWSO), Malawi
Zackie2024 campaign
#PayTheGrants Campaign, SA



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