



Arrest Warrants Against Israel and Hamas Leaders

For Prelims: [International Criminal Court \(ICC\)](#), [Israel and Hamas](#), [‘The Rome Statute’](#), [United Nations Security Council \(UNSC\)](#), [International Court of Justice](#), [Geneva Conventions \(1949\)](#)

For Mains: About International Criminal Court, War Crimes and Related Conventions

Source: [TH](#)

Why in News?

Recently, the [International Criminal Court \(ICC\)](#) prosecutor has requested arrest warrants against leaders of Hamas and the Prime Minister and Defence Minister of Israel for the war crimes in Palestine.

Note:

- Israel is **not a member of the ICC**, so even if the arrest warrants are issued, the concerned leaders do not face any immediate risk of prosecution. However, if the threat of arrest further deepens Israel’s isolation will make it difficult for the Israeli leaders to travel abroad.
- The ICC accepted **“The State of Palestine” as a member in 2015.**

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ISRAEL-PALESTINE CONFLICT

The Israel-Palestine conflict is a long-standing geopolitical dispute over territory and self-determination in the Middle East.

BEGINNING

- UN adopted **Resolution 181** - the Partition Plan in 1947
- State of Israel created in 1948, sparking the **first Arab-Israeli War** (Israel won)
 - Palstinians displaced
 - Division of territory into - State of Israel, West Bank and Gaza Strip

INITIAL TENSIONS AND CONFLICTS (1956-1979)

- Suez Crisis** and Israeli **invasion of Sinai Peninsula** in 1956
- Six-Day War (1967)** - Israel gained control over Sinai Peninsula, Gaza Strip, West Bank, East Jerusalem and Golan Heights

Controversy over Jerusalem as Capital

- Israel view:** Complete and united Jerusalem
- Palestinians view:** East Jerusalem future capital

- Yom Kippur War (1973)** - Surprise attack by Egypt and Syria
- Camp David Accords (1979)** b/w Egypt and Israel

Intifada (Arabic for 'shake off')

- First Intifada** - 1987 to 1993
 - Led to the foundation of Hamas (1987) - a Palestinian political party designated as a foreign terrorist org by US
 - Response - **Madrid Conference 1991** (chaired by the US and Russia)
- Second Intifada** - 2000-2005
- The latest escalation (2023) is being called the beginning of "Third Intifada"

OSLO ACCORDS (MEDIATED BY US)

- First (1993)**
 - Estd framework for **Palestinian self-governance** in West Bank and Gaza
 - Enabled mutual recognition between Israel and Palestine

Second (1995)

- Expanded on Oslo I Accords
- Mandated **complete Israeli withdrawal** from several cities and towns in **West Bank**

POST 2000 CONFLICT AND RESPONSES

- 2013** - US-led peace process began
- 2014-18** - Gaza Conflict (2014)
 - Palestine announced break from territorial divisions under Oslo Accords (2015)
- 2018-20** - US Cancelled funding for Palestinian refugees under UN Relief and Works Agency (UNRWA)
 - US proposed "**Peace to Prosperity**" plan
- 2020** - **Abraham Accords**
- 2022-2023:**
 - Israel raids on **Jenin refugee camp**
 - Hamas launched "**Operation Al-Aqsa Flood**" and Israel launched "Operation Iron Swords" (both in 2023)
 - Israel declared a **State of War**
 - India's Stand:**
 - Supports a **Two State solution** for Israel and Palestine
 - Condemned the recent attack** by Hamas on Israel



What is the International Criminal Court?

About ICC:

- It is the **world's first permanent international criminal court** governed by an international treaty called '**The Rome Statute**'.
 - In 1998, the Rome Statute was **adopted by 120 States** in the direction of creating a more just world.

- In 2002, Rome Statute **took effect** upon **ratification by 60 states**, officially establishing the ICC. Since it has **no retroactive jurisdiction**, the ICC deals with crimes committed on or after this date.
 - **India is not a party** to the **Rome Statute** along with the US and China.
 - **124 countries** are States Parties to the Rome Statute of the International Criminal Court with [Malaysia](#) being the last one.
- **Jurisdiction and Working:**
 - It investigates and, wherever warranted, **tries individuals** charged with the gravest crimes of concern to the international community: **genocide, war crimes, crimes against humanity and crimes of aggression. Also:**
 - The crimes are committed by a State Party national, in the territory of a State party, or in a State that has accepted the jurisdiction of the court.
 - The crimes are **referred to the International Criminal Court Prosecutor** by the [United Nations Security Council \(UNSC\)](#) pursuant to a resolution adopted under Chapter VII of the UN Charter.
 - The ICC is **intended to complement, not to replace, national criminal systems.**
 - It prosecutes cases only when States are unwilling or unable to do so genuinely.
 - ICC is **not a UN organisation** but it has a cooperation agreement with the UN.
 - When a situation is not within the Court's jurisdiction, the [UNSC](#) can refer the situation to the International Criminal Court granting it jurisdiction.
 - Several countries like Israel, the US, Russia and China. don't accept the court's jurisdiction over war crimes, genocide and other crimes.
- **Difference between ICC and ICJ:**

Differences between the ICJ and the ICC

	 ICJ International Court of Justice	 ICC International Criminal Court
Established	1945	2002
UN-relationship	Highest court of the UN	Not part of the UN
Location	The Hague, the Netherlands	The Hague, the Netherlands
Jurisdiction	UN member-states	Individuals
Types of cases	Legal disputes between states and requests for advisory opinions on legal questions	Prosecutes individuals for the most serious crimes as per the Rome Statute
Appeals	No	Yes
Enforcement power	None - relies on the UN Security Council to uphold judgements, with permanent members having veto power	None - relies on cooperation from member states to enforce its decisions



What is a War Crime?

▪ About:

- War crimes are defined as **serious violations of humanitarian laws** during a conflict; the taking of hostages, **willful killings, torture or inhuman treatment of prisoners of war**, and forcing children to fight are some of the more obvious examples.
 - It is based on the idea that individuals can be held liable for the actions of a state or its military.

▪ War Crime vs Crime Against Humanity:

- The United Nations Office on Genocide Prevention and the Responsibility to Protect (or [Genocide Convention](#)) **separates war crimes from genocide and crimes against humanity**.
 - **War crimes** are defined as occurring in a domestic conflict or a war between two states.
 - While **genocide and crimes against humanity** can happen in peacetime or during the unilateral aggression of a military towards a group of unarmed people.

▪ Geneva Conventions on War Crime:

- The [Geneva Conventions \(1949\)](#) and their Additional Protocols are international treaties that contain the most **important rules limiting the barbarity of war**.
- They **protect people who do not take part in the fighting** (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war).
 - The **first Geneva Convention** protects wounded and sick soldiers on land during war.
 - The **second Geneva Convention** protects wounded, sick and shipwrecked military personnel at sea during war.
 - The **third Geneva Convention** applies to [prisoners of war](#).
 - The **fourth Geneva Convention** affords protection to civilians, including in occupied territory.
- **India is a party** to all the four Geneva Conventions.

UPSC Civil Services Examination Previous Year Questions (PYQs)

Prelims

Q 1. Which one of the following countries of South-West Asia does not open out to the Mediterranean Sea? (2015)

- (a) Syria
- (b) Jordan
- (c) Lebanon
- (d) Israel

Ans: (b)

Mains

Q1. 'Too little cash, too much politics, leaves UNESCO fighting for life.' Discuss the statement in the light of the US' withdrawal and its accusation of the cultural body as being 'anti-Israel bias'. **(2019)**

Q2. "India's relations with Israel have, of late, acquired a depth and diversity, which cannot be rolled back." Discuss. **(2018)**

