



The Hague, 2 December 2024

Statement by H.E. Dr. Riad Malki, Special Advisor to the President of the State of Palestine on International Relations before the General Debate of the 23rd Session of the Assembly of States Parties of the International Criminal Court

Madam President,

I am honored to be here today to speak on behalf of the Palestinian people, enduring an ongoing genocide, and determined to achieve accountability for them.

It goes without saying that no one could or should unhear the screams of a mother who did everything, everything in her power to save her children and failed.

Or unsee the parents holding their decapitated babies in one hand while carrying the others to safety and never finding it.

Humanity cannot forget the faces of orphans taken care of by the next closest relative, until none remains.

Or the families wandering the streets, traumatized, aching, desperate, coming from nowhere, heading to nowhere, repeatedly displaced, until they are burned alive in their tents.

Over the past 14 months, the world has watched as Israel committed the unfathomable: forced mass displacement, deliberate starvation, systematic destruction of all elements of life, including healthcare, education, and infrastructure. They watched or acted in complicity as Israel locked Gaza, a tiny enclave of 365km² and turned it into a living hell for the over 2 million civilians in it.

During this time, Israel slaughtered over 44,000 Palestinians in Gaza: 17,000 children, murdered, 12,000 women killed, over 1,400 families obliterated, nearly 3,500 other families massacred and survived only by 1 member of those families, and over 11,000 people still remain under the rubble, unaccounted for. Israel has created the biggest cohort of amputee children in history and turned over 35,000 children into orphans of one or both parents. During this ongoing genocide, Israel's wholesale slaughter has created the bone-chilling medical term: Wounded Child with no Surviving Family. Take a moment to process this term and grasp the totality of its horror.

Madam President,

No State Party can legally justify Israel's genocide, war crimes, and crimes against humanity. None. The evidence is insurmountable and compelling. International law experts have been crystal clear about what is transpiring, as has the International Court of Justice, as well as the Office of the Prosecutor and the Honorable judges of the Pre-Trial Chamber.

The Rome Statute is rooted in two fundamental premises: 1) there is no justification for crimes; and 2) there is no impunity for perpetrators of crimes, irrespective of their official capacity.

Acting on these premises, South Africa, Bangladesh, Comoros, Djibouti, Bolivia, and Mexico and Chile referred the Situation in the State of Palestine to the OTP; a referral preceded by Palestine's referral on the basis of which a formal investigation was launched by the OTP in 2021. We are grateful and thankful for the principled support for the law and the Palestinian people's basic right to redress expressed by these distinguished States Parties.

The OTP and the PTC have since confirmed what the Palestinian people have been saying and documenting. The OTP and the PTC have upheld their duties, without fear and favor, and have reminded us of the universality of the law.

We welcome the issuance of the arrest warrants for Israel's Prime Minister Benjamin Netanyahu and Ex Minister of War Yoav Gallant and respect the independence and impartiality of the Court and its different organs to continue its investigation in the Situation in the State of Palestine, including on Israel's settlement enterprise.

We have extended our full cooperation to the Court including the OTP and spared no effort to help the investigation move forward and will continue to do so. In this connection, we remind States Parties of their legal obligations under the Rome Statute, and their commitment to protect and preserve the Court's independence. The continued functioning of the Court depends on that. Let me put it plainly: States Parties are obliged to execute the arrest warrants for Netanyahu and Gallant. No ifs. No buts. No exceptions.

Madam President,

Fifty years after the horrors of World War II, we built a Court of international calling, not for one group against another, but for all humanity. Palestine is not an exception to humanity or international law. Yet, there are those who opposed Palestine joining the Court and have resorted to every argument and tactic to circumvent the path to accountability for crimes committed against the Palestinian people.

In fact, some States Parties are now attempting to excuse themselves out of their obligations under the Rome Statute to preserve Israeli exceptionalism. It doesn't matter what debunked pretext such States Parties are advancing to exempt accused Israeli war criminals from accountability. What they are in fact doing is endorsing anti-Palestinian racism and double standards while also deconstructing the Court and the mechanisms of international law, condemning humanity to lawlessness and the normalization of the atrocities this Court was established to combat.

The Court, without enforcement of its decisions; with states entrusted with upholding the Rome Statute betraying their responsibility; with the officers of the Court bullied, threatened and intimidated without protection - this Court would turn into a lawless desert.

This Court must work for all or it will work for none at all. Under the Rome Statute and all other instruments of international law, all human lives are equal and all crimes and criminals are condemned.

Israel is defying this Court, from its Prime Minister to its soldiers. It is showing the deepest contempt for the law and the Court established to protect it while inciting states to defy the Rome Statute or impose sanctions on the Court and States that comply with its decisions.

Palestine and many like-minded states refuse to abandon the Court. We will not forsake this international justice mechanism. We will not abandon the staff and officers of the Court, nor allow them to be exposed to objectionable bullying, intimidation, and threats. We will not allow duplicity and supremacist ideology to create a reality where war criminals are shielded, and prosecutors and judges are punished.

We all need to stand united against threats and sanctions aimed to interfere in the works of the Court to uphold its mandate. Palestine renews its calls on all States Parties to respect the independence and impartiality of the Court and to provide the political, legal, diplomatic, and financial support to the Court to ensure its effectiveness. Finally on the issue of supporting the Court, Palestine cautions against the cynical exploitation of the important issue of reform efforts to undermine and impose punitive restrictions on the Court. Such efforts are dangerous and threaten the viability of the Court.

To those ends, Palestine has formulated an initiative along with like-minded states to provide the needed budgetary requirements. My delegation also introduced language in the Omnibus resolution recalling that such attacks and threats are an offense under Article 70 of the Rome Statute and calling on the OTP to act accordingly.

Madam President,

It took 20 years to activate the jurisdiction of the Court over the crime of aggression. It will remain hard to explain to future generations why it took so much time and effort to activate the jurisdiction of the Court over one of the original crimes covered by the Rome Statute, the supreme international crime, the most unlawful form of the use of force, that is so often accompanied by the commission of other crimes falling under the jurisdiction of the Court.

It will be hard to explain why the jurisdictional regime envisaged for this crime in the Kampala amendments was so much more limited than the one for the other crimes. It will be hard to explain why so much effort has gone to even limit it further at the ASP activating jurisdiction of the Court with the aim to align it with the regime foreseen for any amendment to the Rome Statute.

We had a chance, and the State of Palestine with many other States, was at the forefront of these efforts to align the jurisdiction, pled and appealed that because of the lessons of the past, and because of the future we want to help build, nothing should be done to further constrain the jurisdiction of the Court over this crime.

We hope that States Parties will show the political will to correct this mistake in the working groups and the special session for the mandated review of the Kampala Amendment in 2025.

Allow me to conclude with this thought: humanity is at a crossroads. As States Parties, we have an historic responsibility to stand up for the values and principles we enshrined into law. Otherwise, history will record that humanity slipped back into abominable lawlessness and the re-normalization of unspeakable atrocities. There is no middle ground. The choice is ours. May we make a choice future generations can be proud of.