



**Lawyers for Palestinian Human Rights' briefing on ICC
confirms jurisdiction and why the ICC Prosecutor should now
decide Gaza cases are admissible for investigation**

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About Lawyers for Palestinian Human Rights (LPHR)

LPHR is a lawyer-based charity in the UK that works on projects to protect and promote Palestinian human rights. We distinctly provide a legal and human rights perspective on issues affecting Palestinians. Our trustees include leading human rights lawyers, Sir Geoffrey Bindman QC and Tessa Gregory.

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1. The [decision](#) of Pre-Trial Chamber I of the International Criminal Court to properly find that the Court's territorial jurisdiction in the Situation in Palestine does include the territory of Gaza, West Bank and East Jerusalem, is a vital step forward towards achieving legal accountability and justice for the many victims, survivors and their families of alleged serious international crimes perpetrated by Israeli forces and their military and political leadership.
2. It significantly paves the way for ICC Prosecutor, Fatou Bensouda, to immediately open a criminal investigation into the situation in Palestine. This follows her [seminal decision](#) on 20 December 2019 that found *“there is a reasonable basis to proceed with an investigation”*, subject to obtaining confirmation from the Pre-Trial Chamber that the scope of the Court's territorial jurisdiction over Palestine does comprise Gaza, West Bank and East Jerusalem.
3. The ICC Prosecutor materially stated in December 2019: *“I am satisfied that (i) war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip; (ii) potential cases arising from the situation would be admissible; and (iii) there are no substantial reasons to believe that an investigation would not serve the interests of justice.”*
4. Now, following the ICC Pre-Trial Chamber's important decision last Friday, it is imperative for the ICC Prosecutor to make the only determination that she could do based on the facts, which is that alleged serious international crimes committed by Israeli authorities within the context of 2014 hostilities in Gaza shall be included within the scope of her imminent investigation.
5. The [Prosecutor's Request](#) to the Pre-Trial Chamber on 20 December 2019 provided an important caveat that a crucial determination on the genuineness and scope of Israel's investigative processes vis-a-vis the 2014 hostilities in Gaza had not yet been made. Paragraph 94 stated that the admissibility assessment *“remains ongoing at this stage and will need to be kept under review”*, due to *“limited accessible information in relation to proceedings that have been undertaken and the existence of pending proceedings in relation to other allegations”*.
6. This stands in clear contrast to the Prosecutor's admissibility assessment on alleged crimes committed in the West Bank, including East Jerusalem, by Israeli authorities. The Prosecutor made clear at Paragraph 95 that the admissibility assessment in the context of the West Bank/East Jerusalem is already fully satisfied in her view. This is presumably because there are no domestic investigative proceedings for the Prosecutor to have had to assess in regard to alleged crimes committed by Israeli authorities vis-a-vis the West Bank/East Jerusalem.



7. Last July on the sixth anniversary of the attacks on Gaza, LPHR and its close partner, the Al Mezan Centre for Human Rights, [issued](#) a statement on behalf of thousands of victims, survivors and their families, calling upon the ICC Prosecutor to make the objectively necessary determination that Israel is demonstrably unwilling to provide genuine investigations, and accordingly the Office of the Prosecutor is required to investigate the 2014 attacks on Gaza.
8. Our grave call to the ICC Prosecutor is based upon empirical evidence of the systemic impunity deeply embedded within Israel's military investigation processes, following years of working relentlessly on behalf of victims, survivors and their families to pursue accountability for clearly apparent serious violations of international criminal, humanitarian and human rights law. For example, please see LPHR's [short report](#) outlining key concerns on Israel's investigations into the grave issue of its targeted airstrikes against family homes in Gaza during the 2014 hostilities in Gaza.
9. The ICC Pre-Trial Chamber's decision is a vital step towards meeting the hope and imperative of victims, survivors and their families, and bringing an end to the devastating cycle of systemic impunity. It is now for the ICC Prosecutor to continue to necessarily act upon the clear and compelling evidence in front of her in relation to the situation in Palestine, and make an admissibility determination on Gaza cases that properly aligns with the authoritative and gravely extant words of the UN independent Commission of Inquiry into the 2014 Gaza Conflict:

“The commission is concerned that impunity prevails across the board for violations of international humanitarian and human rights law allegedly committed by Israeli forces, whether it be in the context of active hostilities in Gaza or killings, torture, and ill-treatment in the West Bank.”

10. The recurrent serious violations that have egregiously harmed thousands of civilians in Gaza over the years without distinction—men and women, boys and girls, the elderly and people with disabilities—must be met with an effective accountability deterrent that only the international justice avenue of the International Criminal Court can realistically provide.
11. The preamble to the ICC Statute declares its goal to *“guarantee lasting respect for and the enforcement of international justice.”* LPHR firmly encourage and expect the Office of the Prosecutor and the International Criminal Court to act in full accordance with this imperative, without fear or favour, in the context of the Situation in Palestine.