

Annex

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/18**

Date: **1 July 2024**

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge Nicolas Guillou

SITUATION IN THE STATE OF PALESTINE

Public

Request for Leave to File Submissions Pursuant to Rule 103

Source: Professor John Quigley

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor



Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants
(Participation/Reparation)

The Office of Public Counsel for
Victims

The Office of Public Counsel for the
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Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations
Section

Other

I. INTRODUCTION

1. On the basis of the 'Order deciding on the United Kingdom's request to provide observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence, and setting deadlines for any other requests for leave to file amicus curiae observations' issued by Pre-Trial Chamber I ("Chamber") on 27 June 2024, ICC-01/18-173, I, John Quigley, hereby ask leave to submit written observations, in my name alone.

II. BACKGROUND AND EXPERTISE

2. I am Professor Emeritus at the Moritz College of Law of The Ohio State University in Columbus, Ohio, USA. I have been a member of the faculty of the College since 1969. I teach international criminal law and international human rights law, as well as a seminar course titled Middle East Conflict. I have published extensively in these areas of the law. A list of my publications can be accessed via Moritz College of Law, "Directory," "Faculty," "Emeriti," [Quigley, John B.](#) My research includes the status of Palestine. I am author of *The Statehood of Palestine: International Law in the Middle East Conflict* (Cambridge University Press, 2010).

3. I bring to bear practical experience, having served as external legal consultant to the Negotiation Affairs Department of the Palestine Liberation Organization when Palestine submitted an article 12(3) declaration in 2009.

4. On 20 October 2010, I was honored to participate at the invitation of the Prosecutor in the NGO Roundtable held at the Court's headquarters as the Prosecutor was considering the validity of Palestine's article 12(3) declaration.

5. On 3 March 2020, with leave of this Chamber, I filed an amicus submission in this same matter. [Submissions Pursuant to Rule 103 \(John Quigley\)](#) ICC-01/18-66.

III. SUMMARY OF PROPOSED SUBMISSIONS

6. I propose to make submissions in regard to the issues being raised by the Government of the United Kingdom under the Chamber's Order of 27 June 2024. I plan to refute that Government's contention that the Israeli-Palestinian Interim Agreement of 1995 is a basis for the Chamber to refuse to issue warrants against Yoav Gallant and Benjamin Netanyahu. To that end, I plan to make five points.

7. First, I plan to demonstrate that the Interim Agreement was not regarded as a treaty by the Government of Israel.

8. Second, I plan to demonstrate that the Interim Agreement was a temporary arrangement pending a peace treaty. As of 2024, Israel has indicated that it will not negotiate a peace treaty. As a result, the Interim Agreement has lost its purpose. Any legal force it may have had has dissipated.

9. Third, I plan to demonstrate that even if the Interim Agreement were found to be presently in force, it does not derogate from the territoriality of Palestine for purposes of article 12. Article 12 does not contemplate a transfer to the court of a state party's jurisdiction. Rather, article 12 bases territorial jurisdiction on a state's adherence to the Rome Statute. As a result, as I plan to demonstrate, any limitations imposed on a state party in a bilateral treaty do not limit the court's jurisdiction.

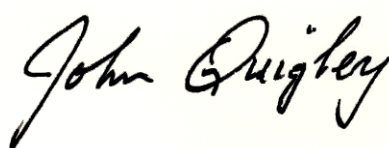
10. Fourth, I plan to demonstrate that the Interim Agreement did not limit Palestine's prescriptive jurisdiction in regard to commission of crime. The limitation was on the exercise of its prescriptive jurisdiction with regard to a defined category of persons. Even if one views article 12 as a conferral upon the court of a state's jurisdiction, the PLO agreed only to forgo prosecution in its courts.

11. Fifth, I plan to demonstrate that, far from reflecting any limitation on Palestine's prescriptive jurisdiction, the Interim Agreement is premised on Palestine holding that jurisdiction. Had Palestine not held plenary criminal jurisdiction, there would have been no need for Israel to ask the PLO to forgo its exercise in Palestine courts with regard to nationals of Israel.

12. I anticipate requiring no more than 10 pages to develop these submissions. I believe that my submissions may assist the Chamber in its deliberations.

IV. CONCLUSION

13. For the foregoing reasons, I ask leave to file the proposed submissions in accordance with the Chamber's Order and with Rule 103 of the Court's Rules of Procedure and Evidence.

A handwritten signature in black ink, reading "John Quigley", is centered on a light yellow rectangular background.

John Quigley

Dated this 1st day of July 2024
At Columbus, Ohio