

Arrest warrants against leaders of Hamas and Prime Minister of Israel

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- What is International Criminal Court (ICC)?
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- Demand of arrest warrants by the Office of Prosecutor

Why in News?

The Prosecutor of the International Criminal Court (ICC) requested arrest warrants against leaders of Hamas and Prime Minister Benjamin Netanyahu of Israel about the October 7, 2023 attacks on Israel and the subsequent war in Palestine.

What is International Criminal Court (ICC)?

• About

- The **International Criminal Court** is a permanent court to prosecute serious international crimes committed by individuals.
- It tries crimes such as genocide, war crimes, crimes against humanity, and aggression.
- The court was established to fight global impunity and bring to justice criminals under international law, regardless of their rank or stature.
 - It is different from the **United Nations'** International Court of Justice, also at The Hague.

• HQ

- The Hague, The Netherlands

• Statute

- Before the ICC became functional in 2002, its founding treaty was adopted by the UN General Assembly in 1998 in Rome, Italy, thereby making it the Rome Statute.

• Membership

- To become a member of the ICC or State party to the Rome Statute, countries have to sign the statute and ratify it under their respective legislatures.
- 124 countries are currently members of the ICC, with African countries making up the largest bloc.
 - Armenia joined the ICC in February 2024.
- Notably, countries including India, China, Iraq, North Korea and Turkey never signed the Rome Statute.
- Others including the US, Russia, Israel and Syria signed, but never ratified it.

How does the ICC function?

• Judges & Prosecutors

- The court carries out its investigations through the Office of the Prosecutor and has 18 judges.
- Both the judges and prosecutors hold non-renewable nine-year terms.

• Process

- There are pre-trial, trial, and appellate benches in the ICC.
- The prosecutor conducts a preliminary examination in a matter, before seeking permission from pre-trial judges to open a full investigation.
 - The initial examination must conclude that the crimes in question are of sufficient gravity.

• Ways to open investigations

- The prosecutor can open an investigation in three ways:
 - when a case is referred by a member country in its own territory.
 - when a case is referred by the UN Security Council; and
 - when the prosecutor takes up a case proprio motu or on his own.
- Non-member states can also be investigated in three ways:

- if alleged crimes were perpetrated by non-members in member states,
- if the non-members accept the court's jurisdiction, or
- when the Security Council authorises it.

- **Jurisdiction over Israel**

- Israel is not a Party to the Rome Statute.
- However, the ICC does have jurisdiction over crimes committed by nationals of both State Parties and non-state Parties (such as Israel) on the territory of a State Party (such as Palestine).
 - Palestine became the 123rd member of the Rome Treaty on April 1, 2015.
 - Also, in February 2021, the ICC decided that it could exercise jurisdiction over Palestine, including Gaza and the West Bank.
- Hence, ICC's jurisdiction is extended to Israel as well.

Demand of arrest warrants by the Office of Prosecutor

- Persons against whom arrest warrants have been demanded
 - The Prosecutor has sought arrest warrants for three senior leaders of the Palestinian militant group Hamas:
 - its leader in the Gaza Strip Yahya Sinwar;
 - the commander-in-chief of its militant wing, the Al-Qassam Brigades, Mohammed Deif; and
 - the head of the Hamas Political Bureau, Ismail Haniyeh.
 - On the Israeli side, warrants have been sought for Netanyahu and Israel's Minister of Defence Yoav Gallant.
- **Accusations on these leaders**
 - All five individuals have been charged with crimes against humanity and war crimes.
- **Crimes against humanity**
 - Crimes against humanity include murder, extermination, torture, rape, and sexual offenses.
 - They also cover persecution and other inhumane acts causing great suffering or serious injury.
 - These acts must be part of a widespread or systematic attack on civilians, carried out under a state or organizational policy.
- **War Crimes**
 - War crimes include serious violations of the Geneva Conventions during armed conflict.
 - These crimes involve the willful killing or torture of civilians or prisoners of war, and the unlawful destruction or appropriation of property.
 - Taking hostages and intentionally attacking civilians or civilian objects are also war crimes.
 - Using starvation as a weapon and obstructing relief supplies are prohibited as well.
- **What happens next?**
 - The ICC's decisions are binding.
 - However, it relies on the cooperation of States for support, particularly for making arrests and transferring the arrested individuals to the ICC detention centre, for freezing assets, and enforcing sentences.
 - If ICC issues the arrest warrant (as demanded by the prosecutor), all 124 State Parties would be under obligation to cooperate with the court, and to arrest and extradite these individuals to The Hague.

- This would make international travel difficult for these leaders.
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Q.1. What is Rome Statute of the International Criminal Court?

The Rome Statute of the International Criminal Court is the treaty that established the International Criminal Court.

Q.2. What are war crimes as per the Geneva convention?

War crimes per the Geneva Conventions include willful killing, torture, unlawful property destruction, hostage-taking, targeting civilians, using starvation as warfare, and obstructing relief supplies during armed conflict.

Source: [Expert Explains: Why the ICC Prosecutor has asked for an arrest warrant against Netanyahu, and what could happen now](#) | [International Criminal Court](#) | [Government of the Netherlands](#) | [Financial Express](#)

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