



ICC arrest warrants against Israel and Russia's offensive in Kharkiv

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Zain Raza (ZR): Thank you for tuning in today, and welcome back to another episode of The Source. I'm your host, Zain Raza. Today I'll be talking to Dimitri Lascaris about the latest developments surrounding the situation in Israel and Gaza and the war in Ukraine. Dimitri Lascaris is an independent journalist and a lawyer who specializes in class actions, human rights and international law. In 2020, he ran for the Green Party leadership in Canada, finishing second. Dimitri, welcome back.

Dimitri Lascaris (DL): Always a pleasure to talk to you Zain. Thank you for having me.

ZR: Let us start with a major development regarding the Israel-Palestine issue. This week, the International Criminal Court, ICC, chief Prosecutor Karim Khan announced that he would seek arrest warrants for the Israeli Prime Minister, Benjamin Netanyahu and Defense Minister Yoav Gallant, as well as three senior Hamas officials that include leader of Hamas Yahya Sinwar, the head of its military wing Mohammad al-Masri, and the head of its political bureau, Ismail Haniyeh. The charges against Netanyahu and Gallant include, amongst others, quote: "The war crime of intentionally using starvation of civilians is a method of warfare, as well as various other war crimes and crimes against humanity associated with the acts of violence against the Gaza civilian population". The charges against Hamas are centered on the October 7th attacks and include, amongst others: "Crimes against humanity of extermination, murder, rape and torture, and the war crimes of hostage taking, rape and other forms of sexual violence, torture, cruel treatment, and many others". These arrest forms now have to be approved or rejected by a panel of three judges at the ICC. Reactions have varied internationally. Israeli Prime Minister Benjamin Netanyahu responded by stating that Israel has taken, quote, "unprecedented measures to ensure that humanitarian assistance reaches those in need in Gaza", unquote, and accused Karim Khan of, quote, "pouring gasoline in the fires for antisemitism that are raging across the world", unquote, and even attacked the prosecutor personally by declaring, quote, "Khan takes his place among the greatest

anti-Semites in modern times", unquote. The United States rejected the ICC's arrest warrants, stating that it has no jurisdiction over this matter. Germany recognized the independence of the court, however, made it clear that the ICC submitted application of Israel and the leaders of Hamas has resulted in incorrect implications of equivalence. France, Spain, Switzerland, Denmark, Canada, Australia, Ireland also reiterated the importance of respecting the independence of the court. However, Norway went a step further and stated that it would obligate to arrest Netanyahu if these arrest warrants are approved by the ICC. As an international lawyer, can you provide your assessment on this development and also talk about the reactions that we have seen internationally?

DL: It certainly is better than no indictment, from my perspective. The fact that Karim Khan has gone from doing absolutely nothing in this capacity of chief prosecutor to doing something is an improvement. But, I take a very dim view of this and categorically reject any suggestion that he's gone too far. He has not gone nearly far enough. He has not charged any leader of the Netanyahu cabinet or any military leader with genocide. And because of the January 26th decision of the International Court of Justice, which found it plausible that Israel was committing genocide, there is absolutely no doubt that he has reasonable grounds to allege that Israel is committing genocide. That work, the work necessary to conclude that there are reasonable grounds to make the allegation has already been done for him by South Africa and the International Court of Justice. And let's recall that all of the Western based judges, including the German judge and the American judge, who was a former State Department official in the Obama administration, concurred that it was plausible that Israel is violating the Genocide Convention. So he's left genocide completely out of it, despite the fact that the path has been laid for him. He has limited himself to the Gaza Strip, which means that he is ignoring the settlements in the West Bank. And those are a slam dunk violation of international law and a war crime. In fact, most Western governments have explicitly acknowledged for decades that the settlements in the West Bank violate the IV Geneva Convention. He has left off the table all of the torture that is occurring, and this was recently documented, even by CNN, that there's torture occurring in internment camps outside of the Gaza Strip, because he's limiting a period of review to the Gaza Strip post October 7th. And he's also leaving off the table apartheid, even though Human Rights Watch, Amnesty International, the Israeli human rights groups B'tselem and Yesh Din, and various UN special rapporteur on the human rights situation in occupied Palestine have all agreed and documented in detail that Israel is committing the crime of apartheid. So what he's taken, basically, Zain, is a mountain of human rights violations and abuses against the Palestinian people over a period of decades and he focuses his attention on the little tip of that mountain. I mean, maybe even not a little piece at the base of that mountain, that's what he's done. And furthermore, the way he's framed it, if you look at his announcement, and this is really this is not just a philosophical question, it is something that really goes to the heart of the suffering of the Palestinian people, he has framed his allegations against Hamas and Israel as though Hamas engaged in unprovoked violence and history began on October 7th. But we all know that the Palestinian people were subjected to decades of barbarism and savagery prior to October 7th, and it was inevitable, as many Israeli leaders themselves recognized over the years that if Israel continued to treat them this way and dispossess them and deprive them of

a state and equality, eventually there was going to be a violent backlash from some factions within Palestinian society. And we've seen this again and again, not just in Palestine, but in other parts of West Asia and outside of West Asia. So this was all predictable, and it was an inevitable consequence of the decades long abuse of Palestinian rights. And yet, Karim Khan would have us believe that Hamas started all of this and that Hamas is a worse offender. He has indicted three Hamas officials, but only two Israeli officials. He left out of his indictment the two most extreme members of the Netanyahu cabinet, Ben-Gvir and Smotrich, who right up until this very day have used blatantly genocidal language and have incited the worst forms of violence against Palestinians and the two politicians he chose to go after, frankly, have no future in Israel. Netanyahu and Gallant both presided over the security disaster of October 7th. They've completely botched the war. And moreover, Netanyahu has a corruption trial hanging over him and is very likely to go to jail for corruption if there's any justice left in Israel. So by the time Mr. Khan gets around to actually trying Netanyahu for war crimes, he will either have passed away from natural causes or he will be rotting in an Israeli jail. That's what we're facing here. So I'm sorry, I do think this is an improvement, but it's extremely disappointing. It's a minimalist action. And I'm sorry to be long winded about this thing, but I have to add one fact about Karim Khan. He became the chief prosecutor of the ICC in 2021, and it was widely reported by the British press that the Boris Johnson government, Boris Johnson was the prime minister at the time, was ecstatic that he had been appointed to be the chief prosecutor. What does that tell you? Boris Johnson, fanatically pro-Israel, a fire breathing neocon, the last thing he would want to see is a chief prosecutor who goes after leaders of Western states or their allies. That's why, as The Economist put it, Boris Johnson was cock a hoop about the fact that Karim Khan became the prosecutor of the ICC.

ZR: I would like to touch on your point about the indictments that there were two Israeli officials and three Hamas leaders. The counter argument that you would hear in the media would be as follows: that Hamas has an intent in its charter to destroy Israel. Whereas Israel, on the other hand, is a democratic country. It has a judiciary system. And people, vote there, gays and lesbians have rights, for example, in Tel Aviv, there's a lot of pride for the LGBTQ community happening and that although there's faults in their democracy overall, their system is one that follows the principles of a basic democratic system. So with that being said, also, Israel does not explicitly mention anywhere that it wants to destroy Muslims or Palestinians, whereas in Hamas the intent to commit genocide is pretty clear. How do you counter this argument?

DL: Well, people are misrepresenting what the Hamas charter currently says. Go read it yourself. The Hamas charter does not call for the destruction of the Jewish people or the Jewish Israeli population. The Hamas charter makes it quintessentially, unequivocally clear that the complaint of Hamas is with Zionism, which is a colonial ideology and, frankly, a racist ideology. It's very clear, and it should be anybody now. If there was ever any doubt about this, that should be dispelled now, because look at what is being done to the Palestinians. But in any event, that's not what the Hamas charter says. Maybe it said something along those lines 30 years ago, but organizations evolve over time, just like the African National Congress was once deemed to be a terrorist organization by the West. Its

leader, Nelson Mandela, eventually became one of the most celebrated human rights champions in the world. So let's look at what the charter says today, that's not what it says. Secondly, insofar as people are claiming Israel to be a democracy, I refer these people to the report of B'tselem in 2021 about the apartheid regime, and it talks about Jewish primacy. And what they say is that the people living in the occupied territories, okay, so we're talking about Gaza and the West Bank and the population of those territories, plus the Palestinian population of the internationally recognized territory of Israel is roughly equivalent to the Jewish Israeli population. In fact, it's slightly larger, the Palestinian population. Those people are effectively living under the rule of the government in Jerusalem. It's very clear this is what that B'tselem says. This is what other human rights experts say. And I remind people, it is an Israeli human rights organization. And these people do not have a right to vote in the elections that determine their future. They are not eligible to vote. So how can you call the reality of Israel, which is a single government, from the river to the sea, Israel controls in actual de facto, all the territory from the river to the sea, and when you have half the population ineligible to vote in the elections of the government that controls that entire territory, you're telling me this is a democracy? This is just fiction. It's a fantasy. Israel is an apartheid state. And unless and until we recognize that reality, we will never bring an end to the violence. We will never solve this human rights crisis.

ZR: I would like to focus on the West and the way it responds to different cases brought forward by the ICC. When the ICC issued arrest warrants against Russia, in particular against the Russian President Vladimir Putin on March 17th, 2023, the US and UK in particular supported it and even urged all ICC member states to enforce it. In fact, US President Biden in July 2023 even ordered his administration to begin sharing evidence of alleged Russian war crimes in Ukraine with the ICC, which implicitly, one can argue, recognized the court's jurisdiction. In the case of Israel however, Joe Biden described it as shameful. Germany, as mentioned earlier, recognized the court's decision, however, criticized that issuing arrest warrants for both Hamas leaders and Israeli officials in the same application creates a false equivalence. Can you talk about why the West, in particular the US, treats ICC cases differently and what this may reveal? Secondly, can you touch on Germany's stance that issuing arrest warrants for both Hamas leaders and Israeli officials in the same application creates a false equivalence?

DL: Well, let me deal with the false equivalency argument first, and I have seen this all over social media in the last 48 hours. Every single supporter out there, it's almost as though they're all singing from the same song sheet: False equivalency. False equivalency, yes, you're right, it is a false equivalency. The acts of Israel are infinitely worse than those of Hamas. Now, if you actually believe that Palestinian lives are as valuable as the lives of Jewish Israelis, you should have no difficulty accepting the truth of what I just said. And I will refer you to one simple statistic. According to Israeli social security data, the number of children killed by Hamas on October 7th was 36. Two of which were toddlers. And it's not even clear, frankly, that they were all killed by Hamas. It may have been that some of them were killed in Israeli friendly fire. There is evidence that there were deaths caused by friendly fire, but let's assume that all of those 36 children were killed by Hamas. The Israeli military

has killed over 15,000 children since October 7th, and that is a conservative number because it doesn't include all of the children who are buried under the rubble. And there are many more deaths to come. It's very clear that the killing is not being relaxed. The pace at which people are being murdered is not abating. So by the time the bloodshed has ended, we could be talking about a number of murdered Palestinian children greatly in excess of 15,000. You're telling me a military that has killed over 15,000 children is less culpable than a militant group that killed 36? You're telling me that putting them on the same level is some kind of an outrage directed at the military that killed over 15,000 children? No, this is actually an outrage relative to the Palestinians because it's devaluing their lives. The lives of Palestinian children are worth every bit as much as the lives of our precious children in Israel. There's no distinction. If you believe that, then you should regard the crimes of Israel as being far worse than those of Hamas. Instead, we're being told that it is in fact Hamas, which is far worse. And this is the narrative that Karim Khan is peddling, which ultimately is undermining the struggle of Palestinians for justice. Germany needs to shake its head, its government. What Germany is doing is it is, the German government, I know, because I've been watching the reports of protests in Germany, how people, incredibly courageous, conscientious Germans have been going into the street when they know they're going to be arrested, beat up by the cops, harassed, vilified, demonized, the government of Germany is bringing the country into a state of utter disrepute. What happened to the Germany that was widely viewed around the world as a nation of conscience, as a nation of decency, as a nation that welcomed in the wretched and the poor in recognition of the heinous crimes that the German state committed during the Holocaust. What happened to that Germany? That Germany has disappeared. It's becoming a disgrace. And I call upon the German people, to save what remains of German credibility, because it's hanging by a thread.

ZR: Can you also talk about the first part of my question of why the ICC treats cases differently? For example the United States was sharing evidence when it came to Russian crimes in Ukraine and on the other side it is rejecting the jurisdiction of the ICC when it comes to the Israeli case.

DL: Yes. And thank you for reminding me of that. The indictment against Putin is based on the allegation that his government at his direction removed children, Ukrainian children, from a war zone. That's what he's alleged to have done. Now, depending on the circumstances in which that happened, that could amount to a war crime. But nobody, including the most virulent, hostile critics of Vladimir Putin, including the US government, the German government, Annalena Baerbock and all the rest of the people who are vilifying Russia, claims that Russia killed 15,000 Ukrainian children. No one. So whether it's true or not, it's not an allegation that's even being made. So how can you justify telling the ICC to go after Vladimir Putin and cooperating with the ICC and giving them evidence and saying even though Russia has never signed the Rome Statute of the International Criminal Court, saying that the ICC has jurisdiction and turn around and say, Oh, well, this business about Israel having committed war crimes is just a false equivalency and anti-Semitism. This is the height of hypocrisy. Look at the actual facts, and it will lead you to the conclusion that the West has a grotesque and really shameless double standard. And what ultimately explains the

contradictory statements from the Western governments about the ICC jurisdiction is that the Western states don't give a hoot about international law. They don't give a hoot about human rights. All they care about is Western hegemony. That's it. So they use the ICC as a tool to persecute or harass or demonize or discredit the geopolitical rivals of the West. And they then use the ICC or attack the ICC relentlessly when it has the audacity to actually hold the West or states allied with the West like Israel, to the same standard as it is being called upon to hold the official enemies of the West. That's how you ultimately make sense of these hypocrisies. It's all about Western hegemony, and it has nothing to do with Western concern about human rights and international law. And again, I want to be very clear. I'm not talking about people in the West, I'm talking about our governments. Our governments do not care about international law and human rights.

ZR: In another related international development, Ireland, Spain, Norway announced today that they would recognize a Palestinian state. Spain's Prime Minister Pedro Sanchez, in a speech at his country's Congress, stated, quote, "we hope that our recognition and our reasons can contribute to other Western countries following this path, because the more we are, the more strength we will have to impose a ceasefire to achieve the release of the hostages held by Hamas to relaunch the political process that can lead to a peace agreement", unquote. Israel responded by recalling the ambassadors from these three countries and threatened with, quote, "severe sanctions", unquote. This comes after a UN General Assembly vote that took place on the 11th of May, in which 143 countries supported a Palestinian state, nine opposed and 25 abstained. In your view, what is the significance of this international development, and do you think a Palestinian state that does not emerge through dialog instead bypasses its closest neighbor Israel can ever live peacefully in harmony with it?

DL: Let me just first of all address this threat of severe sanctions by Israel against these three countries. I've said in articles I've written on my website that despite the rhetoric, Israel is a geopolitical pipsqueak and the idea that that tiny little country is going to impose, quote unquote, "severe sanctions" on some of the largest economies in Europe is, quite frankly, a joke. And it just shows how detached from reality Israel's leaders are. But at the end of the day, the really important question is the one you ask, which is, how is this going to actually affect the Palestinian people? I would say to you, it's helpful. It's a positive development. But the fact of the matter is that the vast majority of states representing the vast majority of the human population, already do recognize Palestine as a state. It's good that some additional Western states have joined the overwhelming international consensus, but at the end of the day, that is not going to save the Palestinian people as positive a development as it is. What must be done is that international law must be enforced against Israel, and that's going to require, at a bare minimum, there have to be the types of sanctions that have been placed upon the official enemies of the West, including, and most importantly, an arms embargo. This is a much more important question than the question of recognition of a Palestinian state. As a practical reality, if Israel doesn't have the bombs to obliterate the population of Gaza, it will not be able to obliterate the population of Gaza. So cut off the flow of bombs.

So all of those countries out there, I commend them, that are calling upon the world, the global community, those few states that haven't yet recognized Palestine as a state to do so. I commend them. But really, what we need from them is, at a bare minimum, an arms embargo and they should also begin to impose major sanctions, travel sanctions, financial transactions sanctions on all of the people in the Israeli leadership, all of the people in the Knesset who support the Israeli parliament, who support what is being done to the Palestinian people and the military contractors in Israel, for example, Elbit Systems. You know, I live here in Kalamata for part of the year, Zain, and I can see from my house, I live on a mountain outside Kalamata, the Kalamata airbase of the Greek Air Force. There is an Elbit Systems training facility right there, and they are training, this Israeli company that manufactures killer drones, Greek soldiers and pilots how to use those drones. And three weeks ago, I heard a sound outside my house that I recognized for my recent trip to South Lebanon into the Palestinian refugee camps in the West Bank. That was the sound of an Israeli drone. I went outside, I looked over my balcony, and there it was, exactly the type of killing machine that I had seen when I was in the occupied West Bank when I was in South Lebanon. I'm not suggesting that they were coming after me. I'm just trying to highlight the fact that the European Union, including Greece, a country of which I am a citizen, is deeply complicit in enriching the military industrial complex of Israel. So these symbolic measures, as important as they are, you know, recognizing Palestine as a state, for example, are not nearly as important as starving the military industrial beast that Israel has become. So let's call upon these states to implement some real sanctions. And then we may be able to see some real progress on the ground.

ZR: I would like to switch gears here and recap the developments related to the war in Ukraine. In April, the US Congress passed a comprehensive \$95.3 billion foreign aid package. This aid package includes \$61 billion to support Ukraine in its war against Russia. Most of the funds are now going to replenish US stockpiles and purchase US defense systems. One notable difference, however, is that Army Tactical missile systems, also known as ATACMS. Until now, the US sent ATACMS with a range of 160km. Now, for the first time ATACMS will be arriving with a range of 300km, which, according to many military analysts appearing in Western media, will make a significant difference in favor of the Ukraine military. End of last month, while visiting Ukraine, NATO General Secretary Jens Stoltenberg announced that Ukraine's rightful place is in NATO, and French President Emmanuel Macron went a step further and stated that his country would consider sending troops to Ukraine if they ever request backup. In response, Russia announced it will hold drills that will include exercises for the use of tactical nuclear weapons. Russia recently began a summer offensive in Kharkiv and grabbed several villages, displacing around 14,000 people. The German media is also reporting that the €7.1 billion provided by Germany for Ukraine has almost completely been used up, and only €300 million remain. An increase of €3.8 billion is therefore now being considered, even though the household budget is facing severe problems. In light of the Russian summer offensive, don't you think these moves by the West, which include sending longer range ATACMS missiles, more funding and even considering NATO membership, are becoming more essential to counter Russia? If the West fails to act, Russia,

according to many Western politicians, will proceed to not only take all of Ukraine but move towards other countries as well.

DL: Well, this claim that Russia has an intention to expand its military activities beyond eastern Ukraine and into NATO countries is frankly delusional. There's no evidence to support it whatsoever. And I've said this before, I believe in talking to you about this issue, which is such a dominant theme in Western European discourse: The Russians are coming. We're next. If we let that domino fall, all the European dominoes, all this nonsense we heard, for example, to justify the genocidal war that the United States conducted in the 60s and 70s against Vietnam and Laos and Cambodia, the falling dominoes theory. We've seen this spectacle before and it is complete and utter nonsense. And if you think about it, if the West really believes that incorporating Ukraine into NATO is some kind of an ironclad protection for Ukraine, that means that they believe that the Russian Federation is afraid to attack a NATO country. That is the obvious implication. If they think that NATO membership for Ukraine will protect Ukraine, that means Russia doesn't want to attack a NATO country. At the same time, they're telling us that Russia wants to attack NATO countries. This makes absolutely no sense. The theory is flatly contradictory, and it's unsupported by any evidence, because Putin has said repeatedly that he has no desire to attack a NATO country. His concern is Ukraine. And of course, he could be lying. But show me the statements from the president of the Russian Federation or some senior official from the Russian Federation government, which suggests otherwise, which evinces an intention to expand Russian control beyond eastern Ukraine. Show me the statements. They don't exist. This is a fantasy. So you have a self-contradictory argument being advanced by NATO countries. You have a theory that we've heard many times before, which turned out to be complete nonsense. When, you know, Vietnam fell to the communists, the whole world didn't become communist. That was nonsense. And we have a theory that is completely unsupported by the statements of the Russian Federation and in fact is contradicted by them. That there are reasons why Russia is fixated on Ukraine. Ukraine is not the same as Poland to Russia. Ukraine is not the same as Germany to Russia. Ukraine has a special historical relationship with Russia, and there are a large number of ethnic Russians and Russian speakers there. And it's literally a few hundred kilometers from Moscow and Saint Petersburg and the industrial heartland. Any rational, sane person should see that there are specific reasons why Russia is concerned about Ukraine that simply don't apply to Central and Eastern Europe.

Now in terms of whether all of this makes just any sense, I refer people to a recent interview that Kyrylo Budanov, the general who heads the military intelligence of Ukraine gave to the New York Times, nothing less than New York Times, and he said the situation in Ukraine has become critical, we have no more reserves, I've deployed them all. So who's going to use all of these weapons? And every day there are fewer and fewer Ukrainian soldiers. There are reports of major Ukrainian cities like Kharkov, which have become ghost towns, because the men don't want to go into the streets. They're afraid of being grabbed and forcibly conscripted into the Ukrainian military, which, by the way, is having a disastrous impact on the Ukrainian economy. There are reports that women are having to do jobs in the industrial sector of Ukraine that men traditionally did, because men don't want to go into a workplace. They're

afraid of being conscripted by force into the military, and they've already suffered hundreds of thousands of casualties. Who is going to continue this fight? The weaponry, at the end of the day, cannot make a material difference if the trained military personnel to use it do not exist and are not accessible, and they simply are not. This war is over. Ukraine is not only losing in the north. You mentioned some gains, very quick and surprising gains by the Russian military in the north of the country, even though the Ukrainians and its Western backers were saying for months that Russia was going to attack in that area, they had months to prepare, and yet Russia swept in and took something like 15 villages and towns in a matter of a few days. It's not just there. They took Avdiivka which was the most heavily fortified place under Ukrainian control in the Donbas. Then they expanded outward from there, and they took one village after another. They have reconquered Robotyne which was the focus of the colossally failed Ukrainian counteroffensive last summer, where Ukraine lost so much in terms of men and material. It has been retaken by the Russian forces. Another place that Ukraine sacrificed a great many men for is a place called Klishchiivka, outside of Bakhmut and near Chasiv Yar, that has been largely retaken by Russian forces. All along the line of contact, the Russian forces are advancing. The most sane and humane thing for us to do, quite apart from considerations that this may lead to a nuclear war if we continue to escalate this, just looking at the interests of the Ukrainian people is to stop this war now, and that means there will have to be territorial concessions. That's the reality. If we don't accept that reality, Ukraine will end up being an even smaller country, and it may even lose access to the Black Sea, which would be a strategic disaster for Ukraine. So let's stop the bleeding and bring to an end this horrific NATO proxy war, which is exactly what it is by means of negotiation and reasonable compromise.

ZR: Dimitri Lascaris, independent journalist and lawyer for international law, thank you so much for your time today.

DL: Thank you very much, Zain. Take care.

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