**Nationalizing International Criminal Law under Occupation**

**The Challenge of ICC Complementarity in Palestine**

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Abstract

After becoming a state party to the Rome Statute of the International Criminal Court (ICC), Palestine needs to adopt a comprehensive legislation and to adapt its institutions to implement the Statute nationally. The legislation should answer pending questions on the relationship between Palestine and the ICC, including specifying the official body in charge of coordination with the Court, and the roles of the judiciary, prosecution, police, prison officials, and of civil society. It also needs to include substantive provisions relating to international crimes and penalties as well as procedural aspects pertaining to prosecute such crimes in the country. If Palestine does not enact such legislation, and set up a transparent and efficient corresponding institutional structure capable of indicating willingness or ability to investigate and prosecute, the ICC may have automatic admissibility over war crimes, crimes against humanity, and genocide that may be committed in Palestine or by Palestinians.

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**Introduction**

On 1 April 2015, Palestine became the 123rd state party to the Rome Statute of the International Criminal Court (‘ICC’ or ‘Court’)[[1]](#footnote-1) of 17 July 1998.[[2]](#footnote-2) Palestine, like any ICC state party, has the right to ‘exercise its criminal jurisdiction over those responsible for international crimes’,[[3]](#footnote-3) as the ICC’s function is considered to be ‘complementary to national criminal jurisdictions’.[[4]](#footnote-4) Based on

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   ### ICC Press Release, ‘ICC welcomes Palestine as a new State Party’, ICC-CPI-20150401-PR1103 (The Hague, 1 April 2015).

   [↑](#footnote-ref-1)
2. 2187 United Nations Treaty Series (UNTS) 90. Hereinafter ‘the Rome Statute’ or ‘the Statute’. [↑](#footnote-ref-2)
3. The Statute, preamble, para. 10. [↑](#footnote-ref-3)
4. Art. 1 of the Statute. [↑](#footnote-ref-4)