

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/18**  
Date: **14 February 2020**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Péter Kovács, Presiding Judge  
Judge Marc Pierre Perrin de Brichambaut  
Judge Reine Alapini-Gansou

**SITUATION IN THE STATE OF PALESTINE**

**PUBLIC**

**Request for Leave to File a Submission Pursuant to Rule 103 of the Rules of  
Procedure and Evidence**

**Source:** Ralph Wilde and Ata Hindi

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

**The Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor

Mr James Stewart, Deputy 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**

Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

Ralph Wilde

Ata Hindi

**REGISTRY**

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**Registrar**

M. Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach, Chief

**Other**

## **I. Introduction**

1. With respect to the ‘Order setting the procedure and the schedule for the submission of observations’<sup>1</sup> in the Situation in the State of Palestine, we – Ralph Wilde and Ata Hindi – hereby ask for leave to submit our written observations in response to the Prosecution’s request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine.<sup>2</sup> These written observations solely represent the views of the authors, Ralph Wilde and Ata Hindi.

## **II. Background and Expertise**

2. Ralph Wilde is Associate Professor of Law at University College London, University of London, where he teaches general international law, including the law of statehood and self-determination, international human rights law, and the international law on the use of force. His book, *International Territorial Administration* (OUP) contains extensive treatment, through a range of case studies, of the international law of statehood and the significance to it of recognition by other states and the right to self-determination. This book was awarded the Certificate of Merit (book prize) of the American Society of International Law. He was formerly a member of the Executive Council of the American Society of International Law, the Executive Board of the European Society of International Law, and the Executive Council of the International Law Association, where he also served as Rapporteur of the Human Rights Committee, and Honorary Secretary of the British Branch.
3. Ata Hindi is a Research Fellow in International Law with the Institute of Law at Birzeit University. There, he is an Assistant Editor with the Palestine Yearbook of International Law. He holds over 10 years of experience working on international law and human rights, largely in/on the Arab World, and especially in/on Palestine. Much of this work has been focused on the International Criminal Court.

## **III. Proposed Submission**

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<sup>1</sup> Order setting the procedure and the schedule for the submission of observations, ICC-01/18-14, 28 January 2020.

<sup>2</sup> Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine, ICC-01/18-12, 22 January 2020 (“Request”).

4. We propose to make a submission that will address the issue of Palestine's statehood in international law and for the purposes of the Rome Statute.
5. In particular, we propose to assist the Court in its consideration of the significance of, first, recognition by states, and second, self-determination, to the question of Palestine's statehood. We will explain the normative significance that both these factors can play in cases where an entity faces practical impediments when it comes to conformity to the legal criteria for statehood. This explanation will cover a detailed explanation of the legal framework relating to these two factors, an indication of how this explanation is evidenced in previous cases of statehood, and an application of the framework to Palestine. The significance of the two factors will be addressed separately and in combination.

**IV. Request for Leave**

6. We respectfully request that the Chamber grants us leave to make the proposed submission in accordance with the Order and Rule 103 of the ICC's Rules of Procedure and Evidence. We believe that this submission will assist in the deliberation of the Prosecution's Request.



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Ralph Wilde



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Ata Hindi

Dated this 14th day of February, 2020

At Atlanta, GA, USA