

Legal Evaluation of Potential War Crimes Charges against Benjamin Netanyahu

Introduction

Benjamin Netanyahu's tenure as head of the Israeli government has coincided with repeated armed conflicts and military operations, especially in Gaza. This report assesses, in strictly legal terms, the likelihood that Netanyahu could be convicted of murder or war crimes by an international tribunal such as the International Criminal Court (ICC). Focusing on documented military actions under his leadership, the analysis applies core principles of international criminal law – command responsibility, distinction, proportionality, and intent – to evaluate whether those actions meet the legal definitions of war crimes or crimes against humanity. It also compares Netanyahu's situation with precedents involving convicted leaders like Slobodan Milošević, Radovan Karadžić, Charles Taylor, Jean-Paul Akayesu, and others. All conclusions are grounded in established legal frameworks (e.g. the Geneva Conventions and the Rome Statute of the ICC) and relevant case law, not on political opinion.

International Legal Framework for War Crimes

Under international humanitarian law (IHL), certain serious violations during armed conflict constitute war crimes. The Geneva Conventions (1949) and their Additional Protocols require parties to distinguish between combatants and civilians at all times, and prohibit intentional attacks on civilians or other protected persons. "Wilful killing" of civilians or prisoners is a grave breach of the Geneva Conventions and a war crime. The Rome Statute of the ICC (1998) codifies many war crimes and crimes against humanity. For example, Article 8 of the Rome Statute classifies as war crimes intentionally directing attacks against a civilian population, launching a disproportionate attack causing excessive civilian harm, starvation of civilians as a method of warfare, and other serious violations. Crucially, the law also recognizes crimes against humanity such as murder, persecution, or inhumane acts when committed as part of a widespread or systematic attack on a civilian population (Article 7 of the Rome Statute).

Principle of Distinction: Combatants must at all times distinguish military targets from civilians. Deliberately targeting civilians or civilian objects violates IHL. Any attack must be directed only at legitimate military objectives; if civilians are intentionally attacked, it is a war crime. In the Karadžić case (ICTY), for instance, evidence showed that Bosnian Serb forces carried out a campaign of sniping and shelling Sarajevo civilians for years. The court found that the commanders' intent was to target civilians and use indiscriminate or disproportionate fire, and it convicted Karadžić of unlawful attacks on civilians and terrorizing the civilian population. This

precedent underscores that sustained attacks against clearly civilian targets, or the use of inherently indiscriminate methods, will trigger criminal liability for those in command.

Principle of Proportionality: Even when attacking a legitimate military objective, the expected incidental harm to civilians must not be excessive relative to the concrete and direct military advantage anticipated. Disproportionate attacks – those causing “incidental loss of civilian life... excessive in relation to the concrete and direct military advantage anticipated” – are prohibited by IHL. The law accepts that some civilian harm may occur in war, but commanders are required to refrain from an attack if the collateral damage would clearly outweigh the military gain. An example in jurisprudence is the Galic case (ICTY), where a commander was convicted for shelling civilian areas of Sarajevo; the pattern of excessive civilian casualties indicated a breach of proportionality and an intent to spread terror. In practice, courts will examine factors like the weapon used, the scale of civilian loss, and whether precautions were taken, to judge if an attack was clearly excessive.

Command Responsibility: International criminal law extends liability beyond the direct perpetrators of atrocities to superiors who enable or fail to prevent crimes. Article 28 of the Rome Statute codifies command (or superior) responsibility: military commanders and civilian leaders can be held criminally responsible for crimes committed by forces under their effective control if they “knew or, owing to the circumstances, should have known” the forces were committing or about to commit crimes, and failed to take all necessary and reasonable measures to prevent them or punish those responsible. This doctrine was applied, for example, in the Akayesu case (ICTR). Jean-Paul Akayesu, a Rwandan mayor, was convicted for atrocities in his town not only because he incited violence, but also because as a superior he knew of killings by subordinates and did nothing to stop or punish them. The tribunal found that Akayesu had effective authority over local police and bore responsibility when he “stopped trying to maintain order” and even endorsed some killings. This precedent illustrates that a leader’s inaction or tacit approval in the face of known crimes can lead to conviction. In sum, if Netanyahu as Prime Minister knew of war crimes by Israeli forces and failed to prevent or punish them, a court could find him liable under command responsibility.

Intent and Mental Element: Most war crimes require intent or knowledge. Under Article 30 of the Rome Statute, a person has intent if they mean to engage in the conduct and intend the consequence, or are aware that the consequence will occur in the ordinary course of events. For murder as a war crime or crime against humanity, the prosecution must prove the accused meant to kill civilians (or knew lethal force was being unlawfully applied and accepted that outcome). Direct evidence of intent (e.g. orders, statements) can be rare, so courts often infer intent from patterns of conduct. A consistent pattern of directing attacks at civilian objects, or a policy of using methods inevitably causing mass civilian deaths, can demonstrate the requisite “intent and knowledge” beyond reasonable doubt. Notably, even if an accused did not explicitly order civilians to be killed, they can be found to have the intent if they consciously pursued a course of action with foreseeable lethal consequences for civilians. For instance, in the Charles Taylor case (SCSL), the court held Taylor responsible for aiding and abetting crimes because he knowingly supported a rebel campaign of terror against civilians (including murders and rapes) – he understood the likely consequences of his assistance. Similarly, a finding against Netanyahu

would likely rely on evidence that he approved strategies or policies knowing they would cause unlawful civilian deaths (intent), or at least willfully disregarded information that civilians were being unlawfully killed (which satisfies knowledge-based intent under international law).

Documented Military Actions Under Netanyahu's Leadership

During Netanyahu's terms as Prime Minister (first in 1996–1999 and later 2009–2021, and 2022–present), Israeli forces undertook numerous operations in the Occupied Palestinian Territories, especially in Gaza, that drew international scrutiny for potential war crimes. Key episodes include:

- **Gaza Wars (2008–09, 2012, 2014, 2021):** Netanyahu's second tenure began just after "Operation Cast Lead" in Gaza (2008–09), but he oversaw subsequent conflicts such as Operation Pillar of Defense (Nov 2012), Operation Protective Edge (July–August 2014), and a shorter escalation in May 2021. These operations involved intense Israeli air and artillery strikes in the densely populated Gaza Strip in response to rocket fire by Hamas and other armed groups. The 2014 Gaza war (Protective Edge) is particularly well-documented: According to the UN, that 50-day conflict killed 2,251 Palestinians, of whom 1,462 were civilians, including over 550 children . On the Israeli side, 67 soldiers and 6 civilians were killed . Entire neighborhoods of Gaza were flattened, leaving around 100,000 people homeless . Numerous incidents during this war raised war crimes allegations – for example, the shelling of UN shelters and residential buildings, and the "Black Friday" bombardment of Rafah on August 1, 2014. In that Rafah episode, Israeli forces responded to the suspected capture of an Israeli officer with massive firepower ("Hannibal Directive"), bombarding populated areas without adequate discrimination or warning. A forensic investigation by Amnesty International found "strong evidence that Israeli forces committed war crimes" during the Rafah strikes, citing the "relentless and massive bombardment of residential areas" in apparent retaliation . At least 135 civilians were killed in Rafah in a single day, in what Amnesty characterized as a "systematic and apparently deliberate" assault that may also amount to crimes against humanity . Eyewitnesses described the onslaught as an indiscriminate "inferno of fire" that "pulverize[d] Rafah's civilians", with warplanes and artillery hitting people in the streets, ambulances, and homes without mercy . Despite such reports, Israeli authorities have maintained that their forces did not intentionally target civilians and that any civilian deaths were accidental or due to Hamas using human shields. Israel's military opened some internal inquiries, but no senior official or officer was criminally charged for the high civilian toll of 2014. The lack of accountability for incidents like Rafah – which independent observers called "disproportionate or otherwise indiscriminate attacks" – is a critical factor in assessing command responsibility and the need for external judicial review.

- Gaza Blockade and 2023 Gaza War:** Since 2007, Israel (with Egypt) has imposed a blockade on Gaza, tightly restricting movement of people and goods. Netanyahu has been one of the chief architects and enforcers of this blockade during his years in power. Human rights organizations have long argued that the blockade amounts to collective punishment of Gaza's 2 million residents. This policy took on new legal significance in the context of the war that erupted in October 2023. Following a large-scale attack by Hamas on October 7, 2023 (in which Hamas killed around 1,200 Israelis and took hostages), Israel under Netanyahu launched a full-scale military campaign in Gaza. Netanyahu's government also imposed a total siege, cutting off electricity, fuel, food, water, and medical supplies to Gaza for an extended period. The humanitarian impact was catastrophic, with hospitals shutting down for lack of power and supplies, and civilians – including children – dying from dehydration, malnutrition, or untreated injuries. These actions have now become the focus of an ongoing ICC investigation. In November 2024, the ICC's Pre-Trial Chamber, citing evidence from the 2023 war, issued arrest warrants for Netanyahu and his defense minister on charges of war crimes and crimes against humanity . The ICC judges found "reasonable grounds to believe" that from 8 October 2023 onward, Netanyahu and others "intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their survival, including food, water, and medicine... as well as fuel and electricity", in violation of international humanitarian law . The Chamber held that this blockade, imposed "by all means at [Israel's] disposal", created "conditions of life calculated to bring about the destruction of part of the civilian population in Gaza", leading to civilian deaths from hunger and thirst . In legal terms, this constitutes the war crime of using starvation of civilians as a method of warfare, and the judges also deemed it part of a widespread and systematic attack on the civilian population, supporting charges of crimes against humanity like murder and persecution . Notably, the ICC found that Netanyahu bore responsibility as a co-perpetrator for the policy of withholding humanitarian relief (indicating he was directly involved in formulating or executing that strategy) . Additionally, the Chamber identified at least two incidents during the 2023 war where Israeli forces intentionally directed attacks against civilians in Gaza, for which Netanyahu may bear "superior responsibility" – essentially a command responsibility finding that he knew of these unlawful attacks and failed to prevent or punish them . (The specific incidents were not named in the public warrant, but likely refer to egregious strikes on civilian targets.) These ICC findings are unprecedented in formally accusing a sitting Israeli leader of such grave international crimes, and they provide a concrete example of how Netanyahu's conduct is being evaluated under international law.
- 2018 Gaza Border Protests ("Great March of Return"):** Between March and December 2018, thousands of Palestinians in Gaza protested near the Israeli perimeter fence, demanding the right of return and an end to the siege. Israeli forces, including army snipers, responded with live ammunition, killing over 180 protesters and wounding thousands, many unarmed. A UN Human Rights Council Commission of Inquiry (2019) found credible evidence that Israeli snipers shot at journalists, medics, children and persons with disabilities who were clearly identifiable as such . The Commission

concluded that “Israeli soldiers committed violations of international human rights and humanitarian law. Some of those violations may constitute war crimes or crimes against humanity.” . Specifically, the report noted incidents where individuals who posed no imminent threat were deliberately shot, indicating an apparent policy of using lethal force beyond what IHL permits . Netanyahu, as Prime Minister and also acting Defense Minister for part of that period, was dismissive of the UN report – he accused the UN of hypocrisy and insisted that Israel was defending itself from Hamas “terror activities” at the fence . However, from a legal perspective, the intentional lethal targeting of unarmed civilians (especially clearly marked medics or press) would breach the principle of distinction and could qualify as willful killing or murder as a crime against humanity if it formed part of a systematic policy. The fact that the UN Commission believed the shootings were intentional and “could amount to crimes against humanity” is a serious indicator of potential liability for the chain of command. To date, there has been little accountability; one Israeli soldier was internally disciplined for one high-profile case (the killing of a prone, incapacitated protester), but no high-level commanders were held responsible for the rules of engagement that led to dozens of civilian deaths. This again raises the question of command responsibility: if an international court found that Netanyahu knew (or consciously disregarded reports) that his forces were unlawfully firing on civilians and took no effective action to stop it, he could be held liable for those deaths.

- West Bank and Other Context: While Gaza has seen the most intense military operations, the Israeli army and security forces have also been involved in numerous lethal incidents in the occupied West Bank during Netanyahu’s tenure. Policies such as the expansion of Israeli settlements in occupied territory (often accompanied by land seizures and displacement of Palestinians) have been condemned as violations of the Geneva Conventions. In fact, transferring one’s civilian population into occupied territory is explicitly defined as a war crime (Rome Statute Article 8(2)(b)(viii)). Netanyahu’s governments have openly promoted settlement construction, potentially exposing him to accusations of that war crime as well. However, no international court has yet prosecuted anyone for the settlements. More analogous to “murder” charges would be incidents of excessive force in the West Bank – for example, alleged extrajudicial executions of Palestinian suspects, or the high civilian toll during operations like the 2023 military raids in Jenin. These incidents would need to be examined individually to determine if they involved unlawful killings (e.g. shooting a suspect who was already subdued). For brevity, the primary focus remains on Gaza, where the scale and documentation of attacks on civilians are greatest.

In summary, the documented actions of Israeli forces under Netanyahu’s leadership include large-scale military assaults in civilian areas (with high non-combatant casualties), enforcement of a long-term blockade that deprives a civilian population of basic necessities, and rules of engagement that have at times permitted firing on individuals not directly participating in hostilities. These are precisely the kinds of actions that can fall afoul of international

humanitarian law's core prohibitions. The next sections assess these actions through specific legal lenses.

Command Responsibility: Netanyahu's Leadership and Accountability

Command responsibility provides a framework to evaluate Netanyahu's potential liability for war crimes committed by Israeli forces. As Prime Minister, Netanyahu is the top civilian leader with authority over the Israeli military (in practice, operational decisions are made by military commanders and the Defense Minister, but the Prime Minister and cabinet set strategic directives). International tribunals have convicted civilian leaders for war crimes on the basis that they knew or should have known about abuses by forces under their control and failed to stop or punish them. Two elements are key: knowledge and effective control.

Knowledge: Netanyahu has had access to extensive military and intelligence reporting during conflicts. It would be implausible for him to claim ignorance of large-scale civilian casualties in Gaza or the methods being used (e.g. heavy artillery in populated areas, airstrikes on buildings, sniper rules on the border). For instance, during the 2014 Gaza war, Israeli media and officials openly discussed incidents like the Rafah "Hannibal" operation; hospitals, UN shelters, and international organizations were protesting civilian deaths in real time. Thus, a prosecutor could argue Netanyahu had actual knowledge of a pattern of potential war crimes (or at least "had reason to know," the lower threshold) given the notoriety of these events. The ICC Pre-Trial Chamber in 2024 effectively made this finding for the Gaza siege, noting that Netanyahu's own statements linked the denial of essentials in Gaza to his war aims – showing he knew exactly the impact on civilians. In the 2018 protest context, Israeli leadership was aware of the sniper tactics; indeed, they publicly defended them. Such awareness satisfies the knowledge element: by all accounts, Netanyahu was informed (through reports or cabinet discussions) of what the IDF was doing and the resulting civilian harm.

Effective Control: As Prime Minister, Netanyahu does not personally issue field orders, but international law extends superior responsibility to civilian officials who have "effective authority and control" over the perpetrators. The Israeli chain of command is such that the Prime Minister and War Cabinet approve broad operations and can halt or alter military strategy. Netanyahu also served as Defense Minister at times, directly supervising the military. Therefore, there is a strong argument that he had the capacity to influence or stop unlawful conduct – satisfying the effective control requirement. An analogy can be drawn to Slobodan Milošević, the Serbian President: he was indicted by the ICTY for atrocities in Bosnia and Kosovo committed by forces that were not always directly in his formal chain of command, but which he effectively controlled through political and logistical support. Likewise, any claim by Netanyahu that lower-level commanders acted independently or "went rogue" would be examined against evidence that Israeli operations followed government policy (e.g., the Gaza blockade is a government policy, not a rogue act, and the rules of engagement in Gaza were set by senior officials).

Failure to Prevent or Punish: The crux of command responsibility is whether Netanyahu took “all necessary and reasonable measures” to prevent violations or to punish those responsible . Here, the record is problematic for him. Israeli authorities have rarely prosecuted soldiers or officers for unlawful killings of Palestinians. After the 2014 war, for example, Israel’s military did internal probes, closing most cases with no action (except a couple of low-level indictments for looting and a single case of a soldier who killed a child, which resulted in minimal punishment). Such outcomes can be seen as a failure to genuinely punish wrongdoing. The ICC, in authorizing the Palestine investigation, noted concern that numerous alleged war crimes had not been adequately addressed by Israel’s justice system . In the “Great March of Return” shootings, despite video evidence of unarmed protesters being shot, Israel either defended the conduct as lawful or at most rebuked a few individuals; no systematic accountability was imposed on those who gave the orders. This pattern could convince a court that Netanyahu failed to take necessary measures to ensure respect for IHL. By contrast, if Netanyahu had, say, ordered thorough independent investigations or restrained the military after reports of civilian killings, he might argue he met his duty. But his public stance was typically to praise the IDF’s actions and deny misconduct. This stance, combined with Israel’s minimal prosecutions, points to a command failure.

In precedent cases, leaders have been convicted when they knew of crimes and did nothing. In Charles Taylor’s conviction, although he was a head of state far from some battlefields, the court found he knew about the campaign of atrocities by Sierra Leone rebels by 1997 and continued to aid them, rather than stop them . In other words, Taylor facilitated war crimes instead of preventing them. While Netanyahu is not accused of aiding another state’s forces like Taylor, the parallel is that both had the power to affect the commission of crimes. A court would likely scrutinize Netanyahu’s decisions (or omissions) during events like the bombardment of Rafah or the use of live fire on protesters. Did he give any instructions to minimize harm or investigate violations? Or did he green-light aggressive tactics and ignore law-of-war violations? The evidence (from cabinet minutes, public statements, military directives, etc.) would be telling. The Goldstone Report on the 2008–09 Gaza conflict (prior to Netanyahu’s term) famously accused Israel of failing to investigate alleged war crimes. In later conflicts under Netanyahu, UN commissions continued to highlight the absence of credible Israeli accountability. This history bolsters a case that Netanyahu, as the ultimate superior, tolerated or even encouraged a culture of impunity, thereby meeting the conditions for superior responsibility.

In conclusion on this point: If tried, Netanyahu could indeed be found guilty under command responsibility for war crimes committed by Israeli forces, assuming prosecutors show he had knowledge (which is well-supported by reports and his own statements) and that he did not take reasonable steps to prevent or punish the perpetrators. The ICC’s November 2024 warrant explicitly cites him as a “civilian superior” responsible for war crimes like intentionally attacking civilians, due to his failure to repress or report those crimes . That is precisely the language of command responsibility. This greatly increases the likelihood of conviction, because it is not necessary to prove he personally pulled a trigger or dropped a bomb – only that he allowed others to commit atrocities on his watch.

Distinction and Intent: Were Civilians Deliberately Targeted?

A core question in any war crimes trial is whether civilian deaths were the result of unlawful targeting (intentional or reckless attacks on civilians) as opposed to permissible collateral damage. The principle of distinction forbids making civilians the object of attack. Proving a violation of distinction often hinges on demonstrating intent – that the attackers knew their target was civilian or fired indiscriminately with disregard for the distinction.

Israeli Practices Under Scrutiny: Israeli officials argue that they do not intend to harm civilians, citing measures like warning leaflets, “roof-knocking” strikes, and choosing precision munitions. However, critics point to patterns that suggest either knowing or reckless disregard for civilian life. For instance, the sheer scale of civilian casualties and destruction of civilian infrastructure (homes, schools, hospitals) in Gaza wars raises the inference that not all were accidental side-effects of legitimate strikes. The 2014 UN Commission of Inquiry on Gaza noted that Israel’s warnings to civilians often proved ineffective or insufficient (e.g., “roof-knock” mini-missiles gave only minutes of notice) and “did not relieve [Israel] of its obligation to respect... distinction and proportionality”. The Commission and various NGOs documented cases where no evident military target was present to justify the deadly attack on civilians – for example, direct hits on apartment buildings or ambulances. Such evidence can support an argument that at least some Israeli strikes were intentionally directed against civilians or were indiscriminate in nature. Notably, the ICC judges in 2024, while reviewing recent evidence, found reasonable grounds to believe Netanyahu and others intentionally directed attacks against the civilian population of Gaza (they highlighted two incidents meeting this threshold). Although details are sparse, this implies the court saw evidence of deliberate targeting – an example might be the widely condemned strike on Al-Ahli Arab Hospital in October 2023 (though Israel disputes responsibility for that blast), or strikes on convoys of civilians fleeing combat zones after being instructed to evacuate.

Sniper Targeting of Protesters: The 2018 Gaza protests provide a clearer microcosm of the distinction issue. The UN inquiry found that Israeli snipers “shot at journalists, health workers, children and persons with disabilities, knowing they were clearly recognizable as such”. If a soldier has a person in the rifle scope – a person marked PRESS or a paramedic with hands up – and shoots them, the intent to target a civilian is manifest. The Commission concluded many victims “were neither directly participating in hostilities, nor posing an imminent threat”. From a legal standpoint, that is strong evidence of a war crime (willful killing or at least an intentional attack on non-combatants). The implication for Netanyahu is that such conduct was systematic, not just the aberrant act of one soldier. Rules of engagement allowing lethal force against unarmed protesters suggest a policy approved at senior levels. If Netanyahu approved or failed to restrain these open-fire regulations, a tribunal could infer *dolus eventualis* (criminal intent inferred from acceptance of a known risk) or even direct intent to use lethal force to deter protests regardless of civilian status. This scenario echoes the Radovan Karadžić conviction: Karadžić was found guilty of, *inter alia*, persecuting and terrorizing Sarajevo’s civilians, partly because Bosnian Serb snipers intentionally shot civilians (including children) as a campaign of

terror . The judges noted the “long-term pattern” of sniping and shelling indicated a deliberate strategy to target civilians . A prosecutor could analogize that Israel’s repeated use of snipers against clearly non-threatening individuals in Gaza shows an unlawful policy, not random mistakes – thus engaging Netanyahu’s liability for persecution or murder as crimes against humanity.

Military Necessity vs. Civilian Immunity: International law does not forbid all civilian casualties; it forbids intentional or needlessly indiscriminate ones. Israel often cites military necessity, arguing that Hamas hides among civilians, making strikes on civilian areas regrettably unavoidable. An international court would closely examine each justification: Was there a concrete military target? Were precautions taken? Was the attack canceled if it became clear civilians dominated the target area? For Netanyahu to be convicted of murder or direct attacks on civilians, evidence must show that Israeli forces knew an attack would primarily kill civilians (or were outright aiming at civilians). The record reveals some troubling admissions: For example, Israeli officials have at times framed harsh military responses as efforts to collectively punish or “teach a lesson” to Gaza for Hamas’s actions. The Amnesty/Forensic Architecture report on Rafah noted that after the soldier’s capture, Israeli forces “threw out the rule book” and adopted a “gloves off” approach, bombarding Rafah after the soldier was confirmed dead, seemingly to punish the population . If a court accepts that Israeli commanders, with Netanyahu’s assent, intended to punish or terrorize civilians as retaliation (which would be a violation of distinction and a form of collective punishment), that meets the intent element for war crimes and crimes against humanity (such as persecution). Indeed, the ICC warrant highlights that the deprivation of essentials in 2023 was carried out with the intent to pressure the population (“Mr. Netanyahu’s statement connecting the halt in essential goods and humanitarian aid with the goals of war” is cited as evidence of intent). This indicates an intent to target civilians (in this case, using starvation as the weapon), crossing the legal line.

In sum, the distinction and intent analysis suggests that a number of actions under Netanyahu involved either deliberate or recklessly indifferent harm to civilians. To secure a conviction for war crimes like willful killing or attacking civilians, prosecutors would present evidence such as: high civilian death ratios (for example, over 60% of those killed in 2014 were civilians), specific incidents of targeting known civilian objects (hospitals, UN shelters), permissive fire orders against civilians, and statements by Israeli leaders implying malice or extreme disregard (e.g. characterizing civilians as part of the enemy). Compared to precedents:

- In Milošević’s ICTY indictment, one count was the murder (crime against humanity) of over 900 Kosovo Albanian civilians and the deportation of 800,000, achieved by Serbian forces through village massacres and terror . Milošević wasn’t personally on the ground, but evidence of a coordinated campaign against civilians supported the charges. Similarly, evidence of an organized policy in Gaza to strike civilians or civilian infrastructure could underpin charges against Netanyahu for murder as a crime against humanity (if the attacks are found to be part of a systematic assault on the population).
- In Karadžić, the court inferred intent from systematic shelling/sniping of a city with no military justification commensurate with the harm caused . A comparable inference might

be drawn from Israel's destruction of entire city blocks in Gaza (e.g. Shuja'iyya neighborhood was heavily bombarded in 2014, causing mass civilian loss, ostensibly to hit militants embedded there). If that destruction was clearly disproportionate (see below) or aimed to intimidate the population, it too breaches distinction/intent rules.

It is important to acknowledge that proving intent to target civilians at the highest level can be challenging. Israel does not explicitly state "we target civilians"; the official stance is that any civilian deaths are unintended collateral damage. A defense for Netanyahu would be that Israel made efforts to avoid civilians and that any civilian deaths, however tragic, were not the objective. However, international courts do not take such claims at face value – they analyze consistency of military practices with those claims. The record of repeated incidents where civilians bore the brunt, and the scale of devastation inflicted on civilian life in Gaza, can undermine the credibility of the "no intent" argument. If the judges become convinced (as the ICC judges preliminarily have) that certain Israeli actions were purposefully punitive or reckless to the point of demonstrating intent, Netanyahu's chances of acquittal on these counts diminish sharply. Based on the independent findings to date, a competent tribunal would likely find at least some of the civilian killings to have been intentional or knowingly indiscriminate, satisfying the mental element for war crimes like intentional killing or for crimes against humanity like persecution and murder .

Proportionality: Was Force Excessive Relative to Military Advantage?

Even where Israel did target military objectives, many observers argue that the manner and magnitude of force used were grossly disproportionate, causing unnecessary civilian suffering. A conviction for disproportionate attack (a war crime under customary law and the Rome Statute) requires showing that civilian casualties were clearly excessive compared to the concrete military gain. This involves an objective evaluation of the military advantage vs. civilian cost, and also whether the commander respected the duty to minimize harm.

Civilian Harm in Numbers: The casualty asymmetry in Gaza conflicts is often cited: for example, in 2014, over 1,500 Palestinian civilians killed versus 6 Israeli civilians . In 2023, the toll was even starker; by the ICC's cutoff of May 2024, thousands of Gaza civilians (many of them children) had been killed, whereas Israeli military fatalities were limited to the early October Hamas attack. While asymmetry alone isn't proof of illegality, it flags the need to scrutinize proportionality. Consider specific strikes: the destruction of high-rise apartment buildings in Gaza because they allegedly housed a Hamas office or antenna. Leveling such a building renders dozens of families homeless and risks killing many civilians. Is that excessive for the elimination of one mid-level militant or a piece of equipment? Many legal experts argue yes. The ICRC and others note that force protection (protecting one's own soldiers) is a valid military consideration but cannot justify unlimited firepower if it means massive civilian loss . Yet, Israeli tactics like heavy artillery barrages in urban areas (seen in Shuja'iyya 2014 and in Gaza City

2023) were partly to minimize IDF risks – effectively shifting risk to civilians, which raises proportionality concerns.

“Black Friday” in Rafah – a Case Study: As detailed earlier, on 1–4 August 2014, after an Israeli soldier was captured, the IDF unleashed intense bombardment on Rafah under the Hannibal Directive. According to Amnesty International’s investigation, this retaliation killed at least 135 civilians in one day and involved strikes with no discrimination between civilians and fighters . The goal was to prevent the soldier’s abduction, which is a legitimate military aim, but the means – “relentless and massive” strikes in populated areas – were utterly incommensurate with protecting one soldier . Amnesty concluded these were “disproportionate or otherwise indiscriminate attacks” and evidence of war crimes . If an international court examined Rafah, it would likely agree that inflicting such carnage to possibly thwart a single soldier’s kidnapping (the soldier was presumed dead shortly after) was disproportionate. The military advantage – denying Hamas a hostage – was real, but not concrete enough to justify bombing dozens of civilians evacuating or hitting ambulances as occurred . This example shows Netanyahu’s forces (even if he did not micromanage, he approved the overall operation rules) using force well beyond what is permissible.

High Civilian Structure Destruction: The IDF’s practice of destroying multi-story buildings in Gaza (sometimes justified by saying a Hamas intelligence unit had an office in the building) has drawn criticism under proportionality. The UN Commission on the 2014 war reviewed such strikes and noted that even when warnings were given, the loss of dozens of civilian homes was immense, and “roof-knocking” warnings often did not give adequate time to evacuate high-rises with elderly and children . They noted incidents where only 3–5 minutes elapsed between a warning shot and the fatal strike, “clearly not sufficient” for residents to escape . Despite warnings, many civilians were killed in these collapses. This calls into question whether those attacks were excessive relative to the advantage of eliminating a suspected Hamas office or a couple of fighters. A proportionality analysis might find that alternative, less destructive means could have been used, or that the value of the target simply did not warrant such loss of civilian property and life.

Military Advantage vs. Civilian Cost: To convict on disproportionate attack, prosecutors do not need to prove malicious intent, only that the commander launched an attack knowing the likely civilian harm was clearly disproportionate. If Netanyahu is tried for such a war crime, the evidence might include IDF internal assessments of anticipated collateral damage. For example, in *Prosecutor v. Galić* (ICTY), the commander of the Sarajevo siege was found to have deliberately shelled civilian areas – the advantage (spreading terror or slight tactical gains) was outweighed by civilian harm, thus violating proportionality and earning a conviction for terrorizing civilians. Similarly, Israeli strikes that killed dozens at once (e.g. the Khuza’a village shelling, or the bombing of a UN school shelter in Jabalia in July 2014 that killed at least 15 civilians) would be examined. If intelligence had shown hundreds of civilians were present but strikes went ahead to hit a few militants or none at all, that’s a disproportionate attack. Netanyahu’s potential culpability lies in the fact that these kinds of operations were approved at the highest levels. The state comptroller’s report in Israel (2017) found that Netanyahu’s cabinet barely discussed the

worsening humanitarian situation in Gaza before 2014 and took no steps to alleviate it . This suggests a leadership stance that prioritized military initiative over civilian protection.

An international court might ask: did Netanyahu's government issue clear directives to spare civilian lives to the maximum extent? Or did it effectively authorize the military to use overwhelming firepower even at high civilian cost? The evidence (from public statements and military outcomes) tilts toward the latter. Netanyahu often framed civilian casualties as Hamas's fault (for "using human shields") and vigorously rejected international allegations. While attributing blame to the enemy is a common refrain, legally it does not excuse Israel if its own attacks were foreseeably excessive. Under IHL, even if Hamas embeds in civilian areas, Israel must still choose means and methods that minimize harm. The consistent high death tolls and incidents like strikes on clearly marked shelters indicate a failure to calibrate force as required.

Comparison to Precedents: Other leaders have been held accountable for widespread civilian devastation. Slobodan Milošević was charged (though not convicted, due to his death) for the indiscriminate shelling of civilian areas in Croatia and Bosnia and the campaign of village burnings and massacres in Kosovo, on the theory that he was part of a joint criminal enterprise that recklessly or purposefully drove out the civilian population . Those campaigns, like Gaza wars, involved disproportionate use of force against towns and villages (albeit with genocidal intent in some cases). Radovan Karadžić was convicted of extermination as a crime against humanity for Srebrenica – while that was an outright massacre (intent to kill all men and boys, thus not an issue of proportionality but genocide), he was also convicted for the siege of Sarajevo, where the court found the terror inflicted on civilians far outweighed any legitimate military goals. The ICC's recent warrant effectively characterizes Israel's siege of Gaza (2023) as an unlawful tactic primarily harming civilians without military necessity: judges noted "no clear military need or other justification" for the severe restrictions on aid and basic goods, even after many warnings of the humanitarian disaster . By highlighting that Israel's minimal relief efforts only responded to international pressure rather than legal duty, the ICC implied that the suffering caused was disproportionate and avoidable . This aligns with the notion of collective punishment, which is banned under Geneva Convention IV (Article 33). A conviction for persecution or inhumane acts (crimes against humanity) could stem from imposing such life-threatening conditions on civilians as a form of pressure – essentially an extreme disproportionality where harm to civilians isn't just collateral but a leveraged outcome.

In conclusion, the proportionality assessment strengthens a potential prosecution: many actions under Netanyahu's watch can be portrayed as militarily excessive. If a trial showed that the IDF repeatedly used firepower knowing it would kill large numbers of civilians for relatively modest military gains, Netanyahu (as the leader setting the tone and approving operations) could be found guilty of war crimes. The probability of conviction on disproportionate attack charges is bolstered by extensive documentation from the UN and NGOs. For example, Human Rights Watch reported apparent disproportionate strikes by Israel in multiple Gaza wars , and such reports would be evidence. Ultimately, proportionality violations are slightly harder to prosecute than deliberate targeting (because one must assess the "excessiveness" which is somewhat subjective), but given the extreme disparities in these conflicts, a court – especially one like the

ICC that has now taken a stance on starvation and civilian destruction – could very well convict Netanyahu for excessive civilian casualties.

Comparison to International War Crimes Precedents

To gauge the likelihood of Netanyahu's conviction, it is instructive to compare the allegations against him with cases of other leaders tried for war crimes or crimes against humanity:

- Slobodan Milošević (ICTY) – Former President of Serbia/Yugoslavia, indicted on 66 counts including genocide, crimes against humanity (murder, persecution), and war crimes for atrocities in Croatia, Bosnia, and Kosovo . The ICTY charged Milošević with both direct and superior responsibility for a campaign of ethnic cleansing: he was accused of deportations, mass killings, and shelling of civilian areas to forcibly remove non-Serbs . Notably, Count 1 of his Kosovo indictment was deportation (a crime against humanity) and Counts 2–3 were murder (CAH and war crime) of hundreds of civilians . Milošević never saw a verdict (he died during trial), but evidence presented showed that the Belgrade leadership (under him) orchestrated and funded forces that committed systematic crimes . Parallel to Netanyahu: Both were heads of government accused of widespread civilian victimization under the guise of security operations. Milošević's forces deliberately massacred villagers and expelled populations (in Kosovo 1999), which has a parallel in the repeated large civilian toll and displacement in Gaza. While the contexts differ (Serbia sought to permanently expel an ethnic group; Israel claims to target terrorists), the legal thread is targeting civilians or using unlawful means of war. Milošević's indictment shows that even a sitting head of state can be held for murder and persecution of civilians by troops under his control . The precedent suggests that if evidence links Netanyahu to policies causing civilian deaths (even without an intent to exterminate a group, as genocide requires), he could face similar charges of murder as a crime against humanity and war crimes. One distinction: Milošević faced genocide charges for Bosnia (Srebrenica), whereas Netanyahu is not accused of genocidal intent – the alleged aim is not to destroy a people, but the scale of killings could still constitute extermination or persecution as crimes against humanity if deemed part of a systematic attack. Indeed, the ICC explicitly noted the Gaza crimes were part of a “widespread and systematic attack against the civilian population” , echoing the contextual elements required for crimes against humanity.
- Radovan Karadžić (ICTY) – Political leader of Bosnian Serbs, convicted in 2016 of genocide (Srebrenica), crimes against humanity (extermination, murder, persecution), and war crimes (including unlawful attacks on civilians and taking UN hostages) . Karadžić's case is notable for the Sarajevo siege: he was found to have orchestrated a campaign of sniping and shelling against a city's civilians to spread terror . The ICTY found this intentional terror against civilians to be a war crime (acts of violence with primary purpose to spread terror) and part of persecutory campaign . Parallel to Netanyahu: The protracted siege and bombardment of Gaza, especially in 2023, invites comparison. While Israel's stated aim was to eliminate Hamas, the effect on Gazan

civilians (sealed in a warzone without escape, under continuous bombardment) has been described by some observers as collective punishment or even “urban siege warfare” reminiscent of Sarajevo’s plight. If prosecutors argued that Israeli forces used tactics intended to intimidate or punish the civilian population of Gaza (e.g. the statements linking civilian suffering to leverage over Hamas), it mirrors the terror charge against Karadžić. Moreover, Karadžić was held responsible for shelling Markale marketplaces and other civilian gatherings in Sarajevo – specific incidents of mass civilian death used as evidence of unlawful attacks. In Gaza’s context, incidents like the marketplace bombing in Shuja’iyya (July 2014) or the Al-Shifa hospital courtyard strike (if proven to be Israeli) could serve a similar role. Karadžić’s conviction underscores that even in a conflict justified by security needs, intentionally causing disproportionate civilian terror is criminal. One key difference is scale and intent: Karadžić’s forces aimed to ethnically cleanse territory; Israel’s aim is officially to neutralize militants. But legally, if the methods are prohibited, the rationale matters little. Karadžić also was convicted under command responsibility (ICTY Statute Art. 7(3)) for not preventing subordinates’ crimes in some instances. Thus, the Karadžić precedent supports convicting a leader who oversaw large-scale civilian targeting, even if couched in a military campaign.

- Charles Taylor (Special Court for Sierra Leone) – Former Liberian President, convicted in 2012 of aiding and abetting war crimes and crimes against humanity (including murder, rape, sexual slavery, conscripting child soldiers, and terrorizing civilians). Taylor’s case is slightly different as he was found guilty mainly for supporting rebel forces in a neighboring country (Sierra Leone) who committed atrocities, rather than commanding his own troops in those crimes. Nevertheless, the court ruled that Taylor knew of the rebels’ widespread crimes against civilians (like mutilations and killings) and continued to provide arms and encouragement, thus sharing responsibility. Importantly, the verdict affirmed that “with leadership comes not just power... but also responsibility and accountability. No person, no matter how powerful, is above the law.”. Parallel to Netanyahu: While Netanyahu isn’t accused of aiding another faction’s crimes, the principle that a head of state can be accountable for civilian atrocities stands. Taylor’s conviction on murder and terrorizing civilians charges (as war crimes and crimes against humanity) shows that directing or enabling campaigns of violence against civilians – whether directly or indirectly – leads to personal criminal liability. One could analogize Israel’s bombardment of Gaza as a campaign that terrorized the civilian population (some human rights reports use the term “collective punishment”). If Netanyahu is seen as having enabled or ordered this campaign, even under the guise of fighting terror, he can be held to account just as Taylor was, despite being a head of government. Taylor’s case also demonstrates that even absent a smoking-gun order, consistent support for those committing crimes suffices. In Netanyahu’s scenario, his unwavering backing of the military tactics, even in face of high civilian casualties, could be construed as support/approval for the criminal conduct.
- Jean-Paul Akayesu (ICTR) – Mayor of Taba commune in Rwanda, convicted of genocide and crimes against humanity for his role in the 1994 genocide. Akayesu did not

personally kill all victims; rather, he incited violence and allowed militias and police to kill Tutsi civilians in his town . The ICTR found he had authority and that he initially tried to stop violence but then “later stopped trying... and sometimes gave orders himself”, effectively facilitating killings . He was also held liable under superior responsibility for failing to prevent or punish subordinates who committed murder and rape . Parallel to Netanyahu: Akayesu’s case highlights how local or national leaders can be convicted even if they did not pull the trigger, so long as they allowed the crimes. Netanyahu, of course, is a far more senior official. If anything, the standard applied to Akayesu would apply even more strongly to a prime minister. Akayesu’s conviction for incitement is also noteworthy: while Netanyahu has not been accused of overtly inciting genocidal acts, some of his rhetoric (and that of officials in his governments) could be scrutinized. For example, any dehumanizing or revengeful statements towards Palestinians could be used to show intent or endorsement of harsh tactics (though it likely wouldn’t rise to direct incitement unless he explicitly called for unlawful killings, which he has not). The key takeaway from Akayesu is the emphasis on duty to maintain order: the court rejected Akayesu’s defense that he was powerless, noting he was respected and obeyed locally . Likewise, Netanyahu cannot credibly claim powerlessness over the IDF. Internationally, the expectation is that he exercise his authority to ensure IHL compliance. Failure to do so, as with Akayesu, incurs liability.

- Others: We could also mention Omar al-Bashir (former President of Sudan, indicted by ICC in 2009 for genocide and war crimes in Darfur), to note that sitting heads of state have been pursued for mass atrocities. Bashir’s charges include intentionally directing attacks against civilians and using starvation as a method of warfare, similar to what is alleged for Netanyahu (indeed, starvation as a war crime is now part of the Gaza case) . Bashir has not been arrested, but the fact that the ICC issued warrants signaled that political status does not equal impunity. Similarly, Hissène Habré, ex-President of Chad, was convicted by an African Union-backed court in 2016 for crimes against humanity including torture and large-scale political killings – affirming that domestic or international courts can convict former leaders for systematic abuses. These cases collectively demonstrate a trend: if evidence shows a leader at the helm during systematic or heinous crimes, courts are willing to convict, provided jurisdictional and procedural hurdles can be overcome.

In comparing Netanyahu to these figures, one can argue that Netanyahu’s actions (or omissions) fit within the same legal paradigms, even if the geopolitical context differs. The scale of Palestinian civilian deaths and suffering during his tenure, the patterns of conduct (blockades, repeated high-casualty offensives), and the reports from reputable bodies all create a picture that is uncomfortably close to those of leaders who ended up in the dock. One difference is that Israel is a stable, internationally connected state, whereas many past defendants led pariah regimes or conflicts already internationalized by UN tribunals. This political difference doesn’t change the legal assessment of the acts, but it can affect whether charges are brought. However, the question posits an ideal scenario of a “competent international court” trying

Netanyahu on the merits. In that scenario, the precedents suggest a substantial likelihood of conviction: Like Milošević or Karadžić, Netanyahu is accused of overseeing military campaigns with foreseeable and extensive civilian victimization; like Taylor, he's accused of enabling tactics that terrorize civilians; like Akayesu, he's accused of failing to stop subordinate excesses. In each of those instances, the leaders were held legally accountable.

Likelihood of Conviction – A Reasoned Legal Estimate

Considering the above, if Benjamin Netanyahu were to be tried by an impartial, competent international court for war crimes and related charges, the probability of a conviction is significant. The legal case against him – while not yet adjudicated – is supported by considerable factual documentation and aligns with established modes of liability. Key points influencing this likelihood include:

- **Extensive Evidence of IHL Violations:** Multiple independent inquiries (UN commissions, NGOs, ICC investigators) have amassed evidence of actions under Netanyahu that violate the laws of war. These include direct attacks on civilians, disproportionate attacks, and the collective punishment/starvation siege of Gaza . This evidentiary groundwork is analogous to the evidence presented in successful prosecutions of other leaders. The fact that an ICC Pre-Trial Chamber has already found the evidence sufficient to issue arrest warrants for Netanyahu on charges of war crimes and crimes against humanity is a strong indicator of the legal viability of a case against him . While an arrest warrant is not a conviction, it reflects a judicial finding of “reasonable grounds” that he bears responsibility – a significant step that most accused war criminals in history passed on the way to conviction.
- **Command Responsibility and Policy-Level Involvement:** Netanyahu’s potential culpability is not based on isolated rogue acts, but on policies and patterns. The charges would likely assert that he either ordered, planned, or at least knowingly permitted the conduct in question. This is a more robust basis for conviction than trying to pin a leader for every low-level atrocity. Prosecutors would emphasize incidents like the prolonged blockade (a policy decision) and high-casualty operations (approved by the security cabinet) to tie Netanyahu directly to the means and methods employed. In contrast, cases that fail often do so because the link between the leader and crimes is tenuous or the evidence of intent is weak. Here, Netanyahu’s fingerprints are clearer: for instance, his public vow that “there will be no electricity, no food, no fuel [in Gaza]” until hostages are freed was effectively an admission of using deprivation against civilians as leverage . Such statements could be damning at trial, demonstrating mens rea (intent/knowledge) behind the policies causing civilian harm.
- **Precedent Leaders Were Convicted on Comparable (or Less) Evidence:** If we compare, say, Charles Taylor’s case – he was found guilty largely on circumstantial evidence of support to rebels, without a “smoking gun” order to commit specific crimes . Yet the court drew inferences from the context and his continuous backing of criminal actors. In

Netanyahu's case, there is both context and direct documentation (e.g. official military statements, cabinet records, etc.) of the actions in question. Radovan Karadžić was convicted of persecuting civilians mainly by showing he set objectives (like shelling Sarajevo) that inevitably entailed unlawful killings. Netanyahu's setting of objectives (e.g. "dealing with" Hamas tunnels by massive fire, or responding to Hamas attacks with overwhelming force) similarly could be seen as state policies from which war crimes flowed foreseeably. Notably, none of the precedent leaders had the explicit backing of as many official inquiries as exist regarding Israel. For example, the Goldstone Report (2009) and the Schabas/Davis Commission (2014), and others, although not judicial determinations, painstakingly documented incidents that a court could rely on. Therefore, a case against Netanyahu might actually have stronger factual underpinnings than some earlier tribunals had against their accused at the start of trial.

- **Possible Charges and Their Strength:** The probability of conviction varies by charge. Starvation of civilians as a method of warfare – this is quite straightforward to prove given the public record of Gaza's siege in 2023. The ICC judges already found reasonable grounds for this war crime. Should a trial occur, the main question would be whether Netanyahu's actions indeed caused starvation and whether any justification (military necessity) could override the absolute prohibition (likely not, since starvation of civilians is unequivocally unlawful). Likelihood: High for this charge. Intentionally directing attacks against civilians – here, a conviction would require proof beyond reasonable doubt of deliberate targeting. This depends on evidence from specific incidents. If the prosecution can bring classified IDF communications or credible insider testimony confirming orders to "hit" certain civilian sites (or at least disregard civilian presence), the likelihood rises. Even without a "smoking gun" order, pattern evidence (like in Karadžić's case) can satisfy judges. Given that the ICC warrant identified two instances already, it suggests confidence in at least those. Likelihood: Moderate to high, depending on incident proof. Murder as a crime against humanity – to convict, the court must see the killings of civilians as part of a widespread or systematic attack on a civilian population, and that Netanyahu had knowledge of the attack. The widespread nature is obvious (thousands killed over multiple operations). The systematic element could be shown by consistent tactics (e.g. repeated bombardment of homes). Netanyahu's knowledge is evident. Thus, if jurisdictional issues are overcome, he could very well be convicted on one or several counts of murder (CAH) for the aggregate of unlawful killings. Likelihood: High, contingent on proving the underlying acts were unlawful (which ties to the war crimes proof). Proportionality offenses – these might be slightly harder to get a clear conviction on, as defense will argue military necessity and that Hamas's tactics forced difficult choices. However, if a specific event like the Rafah "Black Friday" is prosecuted, it is such an extreme case that disproportionality is apparent. Likelihood: Moderate (courts might subsume this into persecution or other charges rather than stand alone).
- **Defense Factors:** Of course, Netanyahu would have defenses. Legally, he could argue lack of intent – that Israel took steps to avoid harm and any civilian deaths were

regrettable accidents or due to Hamas's unlawful tactics (e.g. using human shields, embedding fighters among civilians). He would highlight that Israel warned civilians to evacuate, that it targeted what it believed were military positions, and that international humanitarian law does not outlaw all civilian deaths. A competent court would evaluate these defenses seriously. The question is whether they create reasonable doubt. In scenarios like the 2018 sniper killings of medics or the indiscriminate shelling recorded, a panel of judges may find the defenses unpersuasive (as the UN commission did, calling Israel's justifications "inadequate" in those cases). Another defense is jurisdiction or bias – Israel would argue the court lacks jurisdiction (since Israel isn't an ICC member) or that the inquiry is politically motivated. However, our scenario assumes a competent court bypassing those issues (and indeed the ICC has ruled it has territorial jurisdiction via Palestine). So we focus on merits. On the merits, while the defense can introduce ambiguity (fog of war, mistaken targeting, etc.), the systematic nature of civilian harm documented over years undermines a pure "accident" narrative. For a conviction, the judges must be convinced beyond a reasonable doubt. They may not convict on every count (for example, if an incident's evidence is ambiguous, they might acquit on that). But given the breadth of incidents and evidence, the prosecution could afford to focus on the clearest violations.

- Context of Precedents: International courts have shown reluctance to convict without strong evidence, but when the evidence is strong, they have not hesitated to convict top leaders (as seen with Karadžić, Taylor, Habré, etc.). In Netanyahu's case, by analogizing to those trials, one sees more similarities than differences in terms of criminal conduct. The primary difference is political: Israel is a close ally of some powerful states, and historically there was a political shield against accountability. But the question posits a scenario where a court does try him – in that scenario, the law is applied equally. And legally, there is little that immunizes Netanyahu's actions from the same judgments passed on others who oversaw large-scale civilian atrocities.

Taking all of this into account, the estimated probability of conviction is high if the case is limited to the major, well-documented events. It is likely that Netanyahu would be convicted on several counts of war crimes and possibly crimes against humanity, much as the leaders cited above were. The ICC's own actions reinforce this estimate: by issuing an arrest warrant, the ICC signaled it believes there is a strong prima facie case . It is telling that the warrant includes charges of "murder, persecution... as part of a widespread and systematic attack against the civilian population of Gaza" – essentially marking Netanyahu with the same crime against humanity (persecution/murder) that got Karadžić and Taylor lengthy sentences. If those cases are a guide, conviction is more probable than not, assuming Netanyahu were in the dock and evidence heard in full.

Conclusion

In conclusion, from a purely legal standpoint – stripping away questions of diplomatic immunity or political feasibility – Benjamin Netanyahu faces a substantial risk of conviction for war crimes and related offenses were he to be tried before an international court. The actions of the Israeli military under his leadership have repeatedly triggered the application of international criminal law norms: indiscriminate and disproportionate attacks causing high civilian casualties, and policies like the Gaza blockade that intentionally inflict civilian suffering, are precisely the kind of conduct that international tribunals have condemned in past cases . Applying the principles of command responsibility, Netanyahu could be held accountable for failing to prevent or punish these violations . Applying the principles of distinction and proportionality, many of the strikes and tactics used (with his approval) can be adjudged unlawful by the standards of the Geneva Conventions and the Rome Statute . And considering intent, while Netanyahu may not have explicitly ordered civilians to be killed, the foreseeable consequences of his decisions – as evidenced by patterns of harm and even his own statements – strongly indicate the requisite intent or knowledge for criminal liability .

Comparative precedent reinforces this outcome: leaders who have presided over systematic or widespread attacks on civilians have been successfully prosecuted, even when they claimed security justifications. Nothing in international law exempts Netanyahu’s conduct from similar scrutiny. In fact, the ICC’s ongoing case (and the unprecedented arrest warrant against a sitting Israeli PM) is a testament to the legal consensus that grave breaches of humanitarian law – whether by a major democratic state or a rogue regime – deserve judicial examination . Should such examination take place, the body of evidence available as of 2025 – including UN findings and the pattern of IDF operations – provides a strong basis for conviction on multiple counts.

In realistic terms, the probability of conviction can be characterized as high for certain war crimes (like the use of starvation and intentional attacks on civilians) and at least fair for others (like disproportionate bombardment), yielding an overall assessment that Netanyahu would more likely than not be found guilty of serious international crimes. The precise charges and outcome would depend on the evidence presented, but as this report has detailed, that evidence is both voluminous and consistent with past situations where convictions were obtained. In summary, if Benjamin Netanyahu were made to stand trial before an impartial international tribunal for the conduct of Israeli forces during his tenure, there is a well-founded legal likelihood that he would be convicted of war crimes and possibly crimes against humanity, facing personal accountability akin to that of Milošević, Karadžić, Taylor, and others who have been judged by the international community’s legal standards.

Sources: International Criminal Court Pre-Trial Chamber Decision (2024) ; Rome Statute of the ICC, Arts. 7, 8, 28 ; Geneva Conventions (IV) and Customary IHL rules on distinction/proportionality ; UN Human Rights Council Commissions of Inquiry reports (2015, 2019) ; Amnesty International Rafah Investigation (2015) ; ICTY judgments in Prosecutor v. Karadžić ; SCSL judgment in Prosecutor v. Taylor ; ICTR judgment in Prosecutor v. Akayesu . These and other legal records demonstrate the factual allegations and legal standards forming the basis of this evaluation.