

Canada must break its silence about US threats against the International Criminal Court

Statement

28 August 2025

Lawyers' Rights Watch Canada (LRWC) is deeply troubled by Canada's conspicuous silence about unlawful sanctions by the United States (US) against jurists of the International Criminal Court (ICC) and the United Nations (UN) Human Rights Council's Special Procedures. Canada has made no public statements since February 2025 even in the face of the most recent US sanctions on 20 August 2025 which target a Canadian ICC Judge, Kimberly Prost.¹

The alarming pattern of accelerating sanctions by the US indicates a systematic effort to obstruct the work of the ICC so as to secure impunity for officials of the US, Israel, and other US allies, from accountability for suspected war crimes, crimes against humanity, and genocide.

Since 7 February 2025, the US government has issued sanctions against the ICC Prosecutor, two Deputy Prosecutors, six ICC Judges, and the UN Human Rights Council's Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (UN Special Rapporteur on the Occupied Palestinian Territory).² The US sanctions are unlawful, retaliatory measures aimed at punishing, intimidating, and silencing ICC officials in order to deter them from carrying out their lawful duties under the Rome Statute³ to investigate, determine, and remediate grave international crimes. The US sanctions also appear to be intended to deter States Parties to the Rome Statute from fulfilling their obligations to uphold the work of the ICC.⁴

The US and Israel, which are not parties to the Rome Statute, incorrectly state that the ICC has no jurisdiction in any case involving citizens of countries that are not States Parties to the treaty. Such a claim is manifestly incorrect at international law.⁵ ICC has jurisdiction over any Rome Statute crime taking place in the territory of a State Party, whatever the nationality of suspected perpetrators or victims.⁶ Both Afghanistan and Palestine are State Parties to the Rome Statute. Furthermore, all countries, whether or not they have ratified the Rome Statute, are obligated at customary international law to ensure impartial and independent justice for millions of victims of war crimes, crimes against humanity, and genocide, and to hold perpetrators accountable.⁷

Canada needs to demonstrate clear commitment to international law and international organizations by resisting US pressures and joining with other States in taking firm and consistent global leadership to protect the court and its judges, prosecutors and personnel from threats and obstruction. Canada also has a duty to ensure that Canadians are protected from unlawful threats and sanctions. See full recommendations, page three. LRWC's fully-referenced statement of 22 August 2025⁸ sets out details of how the US sanctions violate international law and standards.

Background summary on the US sanctions and Canada's failure to respond

Canadian ICC Judge Kimberly Prost presided in a March 2020 appeal case in which the ICC authorized the investigation of alleged crimes against humanity and war crimes committed in Afghanistan since 1 May 2003.⁹ In retaliation, on 2 September 2020, the first Trump administration issued sanctions against the previous ICC Prosecutor, Fatou Bensouda, who had undertaken the appeal.¹⁰ Canada issued a statement on 4 September 2020 expressing concern about the sanctions.

The sanctions had serious consequences for Ms. Bensouda and her relatives, including freezing of her assets, closure of her bank accounts and cancellation of her credit cards.¹¹ The Biden administration withdrew those sanctions in April 2021.

On 7 February 2025, US President Donald J. Trump imposed sanctions against the ICC Prosecutor Karim A.A. Khan KC (of the UK), after he obtained international arrest warrants from the ICC against Israel's President Benjamin Netanyahu and former Defence Minister Yoav Gallant for alleged international crimes committed in Gaza. The same day, Canada joined 79 Rome Statute Parties in a statement expressing concern that sanctions would severely undermine all situations currently under investigation and expressing regret for "any attempts to undermine the Court's independence, integrity and impartiality."¹²

Since February 2025, however, Canada has been silent on the US sanctions to undermine the ICC.

On 5 June 2025, the US imposed sanctions against four ICC judges, Vice-President Reine Adelaide Sophie Alapini Gansou (Benin), Judge Solomy Balungi Bossa (Uganda), Judge Luz del Carmen Ibáñez Carranza (Peru), and Judge Beti Hohler (Slovenia).¹³ Canada was missing from the list of 50 countries expressing deep concern at the UN Human Rights Council on 25 June 2025 that the sanctions are "regrettable attempts to undermine the judicial independence of the Court and the integrity of the Rome Statute system."¹⁴

Canada was also not among the 48 States joining a 7 July 2025 statement confirming that the ICC, its officials, and its staff "must be able to carry out their mandate and professional duties without intimidation, coercion or duress."¹⁵

Canada continued its silence when the US sanctioned UN Special Rapporteur on the Occupied Palestinian Territory, Francesca Albanese, on 9 July 2025 following her report to the UN Human Rights Council documenting apparent complicity of US corporations in atrocity crimes in Gaza.¹⁶ The US justified its sanctions by saying Prof. Albanese "directly engaged" with the ICC "in efforts to investigate, arrest, detain, or prosecute nationals of the United States or Israel, without the consent of those two countries."

On 20 August 2025, the US Secretary of State Marco Rubio issued sanctions against ICC Judge Kimberly Prost of Canada, ICC Judge Nicolas Guillou of France, and ICC Deputy Prosecutors Nazhat Shameem Khan of Fiji and Mame Mandiaye Niang of Senegal as reprisals for their participation in ongoing investigations and arrest warrants¹⁷ against Israeli and Palestinian individuals suspected of international crimes allegedly committed in Israel and the Occupied Palestinian Territories.

To date, Canada has made no public statement even as the continuing series of US sanctions now targets a Canadian jurist. Canada appears to have limited its intervention to an unspecified private expression of reported discontent to Secretary of State Marco Rubio, as reportedly leaked by an unnamed senior official.¹⁸ This lack of response contrasts dramatically with the immediate public statements by the ICC and numerous other States, including France and Senegal, whose nationals were also targeted by the 20 August 2025 sanctions.

LRWC urges Canada to end its silence and to take immediate and effective measures to:

- insist that the US revoke its sanctions against the ICC Prosecutor, Deputy Prosecutors and judges, and the UN Human Rights Council's UN Special Rapporteur on the Occupied Palestinian Territory, and desist from any further such sanctions;
- take firm, unequivocal stands and measures against intimidation, threats, attacks, or reprisals directed at ICC officials or UN human rights mechanisms or mandate-holders and, in particular, to denounce the US sanctions against ICC officials and judges and the UN Special Rapporteur on the Occupied Palestinian Territory;
- refuse to cooperate in any implementation of these sanctions, given that any such cooperation would violate the privileges and immunities accorded to all UN Human Rights Council Special Procedures mandate holders pursuant to the *Convention on the Privileges and Immunities of the United Nations*,¹⁹ or, in the case of the sanctions against ICC officials and judges, violate Article 70 of the Rome Statute;²⁰
- urge the US to comply with its international law obligations, particularly arising from the UN *Convention to Prevent and Punish the Crime of Genocide* (Genocide Convention)²¹ and the UN Charter,²² including the Charter's fundamental purposes to uphold human rights and the international rule of law;
- fully respect all rulings of the International Court of Justice (ICJ) and ICC, including by implementing ICC arrest warrants;
- uphold all multilateral obligations under international human rights law, including rights to freedom of expression and due process guaranteed by the *International Covenant on Civil and Political Rights* (ICCPR),²³ as well as international human rights standards such as the UN *Basic Principles on the Independence of the Judiciary*,²⁴ the UN *Guidelines on the Role of Prosecutors*,²⁵ the UN *Basic Principles on the Role of Lawyers*,²⁶ and the UN Declaration on Human Rights Defenders,²⁷ which require all States to ensure that judges, prosecutors, lawyers, and human rights defenders are able to perform their legitimate functions without interference, intimidation, hindrance, or harassment.

About Lawyers' Rights Watch Canada

Lawyers' Rights Watch Canada (LRWC) is a Canadian organization of lawyers and other human rights defenders who promote the implementation of international law and standards for protection of the independence and security of lawyers and other human rights defenders worldwide. LRWC has held special consultative status at the UN Economic and Social Council (ECOSOC) since 2005.

References

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