

United States sanctions: Threat to independence of the International Criminal Court and Special Procedures of the UN Human Rights Council

Statement

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Introduction

Lawyers' Rights Watch Canada (LRWC) condemns the unlawful sanctions imposed by the United States (US) government against persons conducting legitimate activities pursuant to mandates of the International Criminal Court (ICC) and the United Nations (UN) Human Rights Council. The US sanctions constitute a flagrant attempt to thwart the right and duty of 125 States Parties to the *Rome Statute of the International Criminal Court* (Rome Statute)¹ to implement its terms. The US sanctions are intended to ensure impunity for alleged perpetrators of “unimaginable atrocities that deeply shock the conscience of humanity,”² thereby withholding impartial and independent justice from millions of victims of “the most serious crimes of international concern,” including war crimes, crimes against humanity, and genocide.³

Since February 2025, the US government has successively imposed unlawful sanctions⁴ against the ICC Prosecutor, two ICC Deputy Prosecutors, six ICC judges, and the UN Human Rights Council's Special Rapporteur on the situation of human rights in the occupied Palestinian territories (UN Special Rapporteur on the Occupied Palestinian Territory), pursuant to the US President Donald J. Trump's Executive Order (EO) 14203.⁵ The terms of the EO also provide potential for sanctions or criminal proceedings against lawyers or human rights advocates who engage with the ICC, its judges, or the Special Rapporteur on the Occupied Palestinian Territory.

The unlawful sanctions, imposed by US executive fiat, have resulted in severe consequences to the individuals sanctioned. The US sanctions include asset freezes and preclude financial transactions or credit cards with US banks, denial of entry to the US, and threats of criminalization.⁶ Such sanctions, issued without any regard for due process, serve no lawful or legitimate purpose. Rather they are retaliatory measures intended to intimidate, silence, and punish those carrying out duties to ensure the investigation, determination and remediation of alleged grave violations of international crimes set out in the Rome Statute.⁷

LRWC urges all States Parties to the Rome Statute and all other UN member States 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;

- 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)⁸ and the UN Charter,⁹ including the Charter's fundamental purposes to uphold human rights and the international rule of law;
- 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;
- 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),¹⁰ as well as international human rights standards such as the UN *Basic Principles on the Independence of the Judiciary*,¹¹ the UN *Guidelines on the Role of Prosecutors*,¹² the UN *Basic Principles on the Role of Lawyers*,¹³ and the UN Declaration on Human Rights Defenders,¹⁴ 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;
- 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*,¹⁵ or, in the case of the sanctions against ICC officials and judges, violate Article 70 of the Rome Statute.¹⁶

Unlawful reprisals against independent international courts

The ICC has jurisdiction over any Rome Statute crimes committed by Palestinian nationals or occurring on Palestinian territory.¹⁷ Claims to the contrary have been found to be manifestly incorrect at international law.¹⁸

The Rome Statute establishes the ICC as the court of last resort for prosecution of individuals accused of atrocity crimes when national governments with jurisdiction are unable or unwilling to investigate and prosecute in independent, impartial courts. The UN officially recognizes the ICC as an independent, permanent judicial institution in relationship with the UN with legal capacity “as may be necessary for the exercise of its functions and the fulfilment of its purposes.”¹⁹

The State of Palestine has ratified the Rome Statute. The ICC has jurisdiction to investigate any Rome Statute atrocity crimes by Palestinians wherever the crimes are committed. The ICC also has jurisdiction over Rome Statute crimes committed on Palestinian territory, regardless of perpetrators' nationality.²⁰ The ICC's Pre-Trial Chamber I confirmed on 5 February 2021 that “the Court could exercise its criminal jurisdiction in ... Gaza and the West Bank, including East Jerusalem.”²¹ All the actions found to be plausible genocide by the ICJ and those alleged by the ICC Prosecutor to be violations of the Rome Statute, and subject to current ICC warrants for the arrest of Israeli nationals, have taken place in the Occupied Palestinian Territory. The ICC also issued warrants for the arrest of two Palestinian nationals for alleged war crimes and crimes against humanity committed in Israel and Palestinian Territory (Gaza), but the ICC terminated the proceedings against the two Palestinians after their deaths.²²

It should be noted that atrocity crimes punishable under the Rome Statute are also part of customary international law which obligates all States (whether States Parties to the Rome Statute or not) to take effective counter-measures against such crimes and to ensure that the perpetrators are held accountable in impartial and independent courts.²³

On 21 November 2024, the ICC Pre-Trial Chamber issued arrest warrants against Israel's Prime Minister Netanyahu and former Foreign Minister Yoav Gallant, for suspected war crimes and crimes against humanity occurring in the Occupied Palestinian Territory.²⁴ On 6 February 2025, the newly inaugurated US President Donald J. Trump issued Executive Order 14203 (EO 14203)²⁵ to impose sanctions on the ICC. EO 14203 named the Chief Prosecutor of the ICC. Under the sanctions, "[a]ll property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in." EO 14203 also issues broad prohibitions against "any speech-based services that benefit the Prosecutor, regardless of whether those beneficial services relate to an ICC investigation of the United States, Israel, or another US ally." On 1 July 2025, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) published regulations to implement EO 14203.²⁶

Meanwhile, legal challenges to EO 14203 have been ongoing in US Federal Courts since April 2025 with claims that it violates the right to freedom of expression and restricts rights of advocates to conduct legal analyses or engage in advocacy relating to ICC matters.²⁷ On 18 July 2025, two human rights advocates who have cooperated with the ICC on matters regarding Bangladesh, Myanmar, and Afghanistan, were successful in obtaining a Federal Court preliminary injunction to block implementation of EO 14203 on the grounds that it violates US Constitutional guarantees of free speech.²⁸

Prior to the issuing of sanctions, a number of UN independent experts had been raising concerns with the US government about threats against the ICC by US officials, including members of the House of Representatives and Senate.²⁹ The UN experts warned that "threats against justice operators, including at the international level, can diminish the rule of law, jeopardize the judges' and lawyers' personal and professional interests, and undermine judicial independence." Such threats violate UN human rights law and standards. The UN *Basic Principles on the Independence of the Judiciary* provide "that the judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason."³⁰

No fewer than fifteen UN independent experts have opined that the sanctions "would appear to amount to offenses against the administration of justice under Article 70 of the Rome Statute. Article 70 punishes efforts to impede or intimidate an official of the Court or to retaliate against an official of the Court on account of duties performed by that official."³¹

The US sanctions are an overt attempt to interfere with the legitimate work of the ICC Prosecutor, Deputy Prosecutors, judges, and staff, and to prevent enforcement of the Rome Statute in clear

violation of international law, including customary international law and international human rights law and standards.

The ICC has issued statements³² deploring the US sanctions, pointing out that:

These sanctions are a flagrant attack against the independence of an impartial judicial institution which operates under the mandate from 125 States Parties from all regions. They constitute also an affront against the Court's States Parties, the rules-based international order and, above all, millions of innocent victims across the world.³³

US sanctions against the UN Special Rapporteur on the Occupied Palestinian Territory

On 3 July 2025, the UN Special Rapporteur on the Occupied Palestinian Territory delivered her official report to the UN Human Rights Council on the role of businesses, including US firms, in “sustaining Israel’s ... project of displacement and replacement of the Palestinians in the occupied territory.” The Special Rapporteur stated that “far too many corporate entities have profited from Israel’s economy of illegal occupation, apartheid and now, genocide.”³⁴

The Special Rapporteur’s report referred to the order of the ICJ on 26 January 2024, which found allegations of violation of the Genocide Convention “plausible,”³⁵ warranting the Court to indicate provisional measures requiring Israel to “take all measures within its power” to prevent the commission of acts of genocide. She also referred to the ICC’s 21 November 2024 arrest warrant for Israel’s Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant for alleged war crimes and crimes against humanity committed in Gaza.³⁶ Her report pointed out that:

Placing States on explicit notice of this risk of genocide, the ICJ orders engaged the obligation under Article 1 of the Genocide Convention to ‘prevent and punish’ genocide, thereby exposing all those who continue to aid, abet or assist Israel in committing such acts to potential international responsibility for complicity in genocide.³⁷

On 9 July 2025, the US Secretary of State announced the imposition of sanctions against the Special Rapporteur on the Occupied Palestinian Territory on the grounds that she “has directly engaged with the International Criminal Court (ICC) in efforts to investigate, arrest, detain, or prosecute nationals of the United States or Israel, without the consent of those two countries. Neither the United States nor Israel is party to the Rome Statute.”³⁸ The US claims that the Special Rapporteur’s actions constitute “a gross infringement on the sovereignty of both countries.”

The US government’s claim that the Special Rapporteur on the Occupied Palestinian Territory has infringed on the sovereignty of the US and Israel has no basis at international law. The Special Rapporteur is an independent, unpaid expert mandated by the UN Human Rights Council to investigate, receive communications, hear witnesses, and provide opinions and recommendations pursuant to the mandate established by the UN Commission on Human Rights in 1993, which mandate continues until the end of Israel’s occupation of the Occupied Palestinian Territory.³⁹ The Special Rapporteur’s expert opinions are grounded in international law, rulings of the ICJ and ICC, and opinions of numerous international human rights experts. The expression of opinions and recommendations by a UN Special Procedures mandate holder cannot be held to be a violation of any State’s sovereignty.

The US government's vilification, threats, and sanctions against the Special Rapporteur on the Occupied Palestinian Territory are stark violations of US obligations under international law. The US is a State Party to the ICCPR,⁴⁰ and is thus obligated to uphold the independence and integrity of independent and impartial courts, as well as the Special Rapporteur's freedom of opinion and expression. The US is also a State Party to the Genocide Convention.

The US threats and sanctions also violate resolutions of the UN Human Rights Council. In 2017, the US was among the member States of the Human Rights Council that voted in favour of Resolution 36/21,⁴¹ which condemns "all acts of intimidation or reprisal by States and non-State actors against individuals and groups who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights."

The sanctions against the UN Special Rapporteur violate US treaty obligations under the 1946 *Convention on the Privileges and Immunities of the United Nations*,⁴² which in Article VI, Section 22(b), provides that, "Experts ... shall be accorded ... in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind." The UN Legal Council has reportedly written to the US Mission to point out the Special Rapporteur's UN mandate, privileges and immunities.⁴³

On 8 August 2025, more than 60 UN independent experts denounced the sanctions, pointing out that the US violation of the 1946 Convention constitutes "a direct attack on the integrity of the UN human rights system ..., threatens the independence of the Special Procedures system," and has "a chilling effect on global human rights advocacy." The UN experts emphasised that instead, "States that disagree with the views of UN experts should constructively engage with them through established processes of diplomatic dialogue."⁴⁴

Conclusions and recommendations

The US sanctions against the ICC Prosecutor, Deputy Prosecutors, and judges, and the Special Rapporteur on the Occupied Palestinian Territory are overtly unlawful attempts to interfere with the legitimate work of the ICC and the Special Procedures of the Human Rights Council to address atrocity crimes and other grave violations of international law allegedly occurring in the Occupied Palestinian Territory, including war crimes, crimes against humanity, and genocide. The threats contained in the US President's EO 14203 also create a chilling climate for lawyers and human rights defenders cooperating with the lawful actions of the ICC and Special Procedures of the Human Rights Council, and violate US obligations under international human rights law and standards. Such violations constitute a global threat to the international legal order and the rule of law.

LRWC urges all States Parties to the Rome Statute of the ICC and all other UN member States 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 Special Rapporteur on the Occupied Palestinian Territory, and desist from any further such sanctions;

- urge the US to comply with its international law obligations, particularly arising from the Genocide Convention⁴⁵ and the UN Charter,⁴⁶ including the Charter's fundamental purposes to uphold human rights and the international rule of law;
- take firm, unequivocal stands and implement effective 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 Special Rapporteur on the Occupied Palestinian Territory;
- fully respect all rulings of the 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),⁴⁷ as well as international human rights standards such as the UN *Basic Principles on the Independence of the Judiciary*,⁴⁸ the UN *Guidelines on the Role of Prosecutors*,⁴⁹ the UN *Basic Principles on the Role of Lawyers*,⁵⁰ and the UN Declaration on Human Rights Defenders,⁵¹ 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;
- 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*,⁵² or, in the case of the sanctions against ICC officials and judges, violate Article 70 of the Rome Statute.⁵³

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. Contact: lrwc@lrwc.org.

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* Note that this statement is an updated version of the LRWC statement issued 15 August 2025, found at https://www.lrwc.org/wp-content/uploads/2025/08/USA.Sanctions.ICC_.SR_.15August2025.F.pdf.

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² *Ibid.*, Rome Statute, Preamble.

³ *Ibid.*

⁴ President of the United States, "Imposing Sanctions on the International Criminal Court," US Executive Order 14203, 7 February 2025, <https://www.federalregister.gov/documents/2025/02/12/2025-02612/imposing-sanctions-on-the-international-criminal-court>; US Secretary of State Marco Rubio, "Imposing Sanctions in Response to the ICC's Illegitimate Actions Targeting the United States and Israel," 5 June 2025, <https://www.state.gov/releases/2025/06/imposing-sanctions-in-response-to-the-iccs-illegitimate->

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²⁶ Part 528 *International Criminal Court-Related Sanctions Regulations*, 31 CFR Part 528, July 1, 2025, <https://www.ecfr.gov/current/title-31/subtitle-B/chapter-V/part-528>.

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sessions, until the end of the Israeli occupation of those territories. The Commission was succeeded by the Human Rights Council in 2006.

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⁴⁷ *Supra* note 13.

⁴⁸ *Supra* note 14.

⁴⁹ *Supra* note 15.

⁵⁰ *Supra* note 16.

⁵¹ *Supra* note 17.

⁵² *Supra* note 18.

⁵³ *Supra* note 10.