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The Hypocrisy of Western States: Analyzing Statements on Accountability and Justice in Ukraine and Gaza

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Abstract

Since the full-scale invasion of Ukraine, and the seemingly unrestrained Israeli actions in Gaza, Western states have been discussing the need for accountability. A number of these states (The Netherlands, Germany, France and the United Kingdom), are states parties to the International Criminal Court (ICC). The Netherlands is the ICC host state. The United States has been, while not an ICC member, occasionally supportive of some accountability-related initiatives. The question this article will answer is *what* do these select Western states *say* about the violence in Ukraine and Gaza, especially about expectations of justice and accountability. The article presents empirical research conducted over four years, in four languages, and encompassing over 1500 statements. The research findings reflect a deep lack of adherence to principles and an abundance of hypocrisy, which, while not new, unmask undeniable inconsistencies which could cause irreparable harm to any remaining credibility of the international justice system.

Keywords

accountability – double standards – hypocrisy – ICC – ICJ – Palestine –Ukraine

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1 Introduction

Double standards and hypocrisy in international justice are nothing new.[1] However, organized, politically motivated violence in recent years in Ukraine, Sudan, Israel, Palestine, Iran and Lebanon, has reignited discussions about whose suffering matters on the international stage.[2] These discussions have been held across government ministries, parliaments, in media outlets, in civil society organizations; at universities, city squares, and online. Relentless armed attacks have raised questions about the effectiveness of international law more generally,[3] but also which (possibly criminal) acts get investigated by the international institution tasked with 'guaranteeing lasting respect for and the enforcement of international justice',[4] and how states respond to these investigations. There has been a lot of talk about international law being in a 'crisis'.[5] The more dramatic takes have even questioned if international law was, in fact, dead.[6]

This piece starts from the assumption that even if this hypocrisy is not new—and it clearly is not—it is still vital to document and understand it. This need does not stem from the mere desire to 'bring the receipts' and prove these claims of hypocrisy empirically, and thus advance scholarship on the topic. Beyond the scholarship, there is a necessity to *diagnose, yet again,* an ill so that those called upon to rectify it, which is primarily governments, can be further pressured to do so. It is furthermore a way of preventing even greater normalization of the practice of double standards. Moreover, in response to the findings of this article, a possibility also emerges of more educators in international law, international relations and contemporary history (in the

1 R. Dicker, 'The International Criminal Court (ICC) and Double Standards of International Justice', in C. Stahn (ed.) *The Law and Practice of the International Criminal Court*, 1st edn. (Oxford University Press, Oxford, 2015), pp. 3–12, doi: 10.1093/law/9780198705161.003.0001.

2 Amnesty International, *Three Years on, Warring Parties Intensify War against Civilians in Sudan*, available at www.amnesty.org/en/latest/news/2026/04/three-years-on-sudans-warring-parties-intensify-war-against-civilians/ (accessed 14 April 2026).

3 Yale Journal of International Law, *Does International Law Make A Difference? In Conversation with Oona A. Hathaway*, available at www.yjil.yale.edu/posts/2026-05-14-does-international-law-make-a-difference-in-conversation-with-oona-a-hathaway (accessed 14 May 2026).

4 Rome Statute of the International Criminal Court, available at www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf (accessed 31 July 2026).

5 N. Tzouvala, 'International law as a discipline in crisis', 79(1) *Australian Journal of International Affairs* (2025) 71–78, doi: 10.1080/10357718.2024.2416253.

6 L. Kinstler, 'Are We Witnessing the Death of International Law?' *The Guardian* (26 June 2025), available at www.theguardian.com/law/2025/jun/26/are-we-witnessing-the-death-of-international-law (accessed 26 June 2025).

states under scrutiny especially), revising their syllabi and moving readings away from the regular, rather hopeful texts about the liberal international order[7] to more critical stances.[8] The critical scholars have on this point of double standards and hypocrisy, after all, been largely vindicated.

When the Prosecutor of the International Criminal Court (ICC) issued arrest warrants against Vladimir Putin and his Presidential Child Rights Commissioner Maria Lvova-Belova in early 2023, observers lamented the speed and efficiency of the investigation, arguing that it was a result of it aligning with the interests of powerful Western states.[9] Debates about double standards intensified as time went on and the brutality of daily attacks in Gaza, and the death and maiming of civilians, especially children, the deprivation of basic necessities such as food and medicine, and the widespread levelling of civilian objects necessary for sustaining life led to ever louder accusations of genocide being perpetrated by Israeli forces.[10] These accusations came from various credible sources, from the UN Commission of Inquiry,[11] the UN special rapporteur,[12] and international human rights organizations.[13]

7 In the 1990s, with the establishment of the *ad hoc* tribunals, there were a lot of 'hopeful' publications, advocating for not only investigations, prosecutions and punishment, but also reconciliation. The expectations for these institutions were broad, and the intentions of those establishing them considered largely well-meaning, genuine and rooted in principles and values. This hope has carried on to the establishment of the ICC, and has continued for many years, in much of the literature.

8 More critical stances can be read in, for example, the TWAIL Review, Social & Legal Studies, or the Palestine Yearbook of International Law. There are, of course, individual books which presented more critical stances, such as Phil Clark's *Distant Justice,* from 2018.

9 C.A. Odinkalu and S. Nakandha, 'Putin Arrest Warrant: International Law and Perceptions of Double Standards', *Opinio Juris* (27 March 2023), available at www.opiniojuris.org/2023/03/27/putin-arrest-warrant-international-law-and-perceptions-of-double-standards/ (accessed 31 July 2026).

10 E. Nader, 'Israel Committing Genocide in Gaza, World's Leading Experts Say', *BBC*, available at www.bbc.com/news/articles/cde3eyzdr630 (accessed 31 July 2026).

11 OHCHR, *Israel Has Committed Genocide in the Gaza Strip, UN Commission Finds*, available at www.ohchr.org/en/press-releases/2025/09/israel-has-committed-genocide-gaza-strip-un-commission-finds (accessed 25 May 2026).

12 UN, 'Report: 'Gaza Genocide: A Collective Crime' by the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 (A/80/492)', *Question of Palestine*, available at www.un.org/unispal/document/special-rapporteur-report-gaza-genocide-a-collective-crime-20oct25/ (accessed 25 May 2026).

13 Amnesty International, *Amnesty International Concludes Israel Is Committing Genocide against Palestinians in Gaza*, available at www.amnesty.org/en/latest/news/2024/12/amnesty-international-concludes-israel-is-committing-genocide-against-palestinians-in-gaza/ (accessed 31 July 2026).

While the issuance of arrest warrants against high-level officials of states which are not ICC members—such as in the case of the Russian Federation and Israel—are rare, they do occur. One well-known example is the arrest warrant against former Sudanese president Omar Al Bashir, from 2009.[14] Sudan was one of the two situations which the United Nations Security Council referred to the ICC (the other being Libya), as permitted by the court's statute. The allegations include crimes against humanity, war crimes, and genocide in Darfur in the period between 2003 and 2008. This arrest warrant has not yet been executed, even though Al Bashir has been removed from power in 2019.[15] While not apprehending powerful figures is thus not new for the ICC, in the situations of Ukraine and Palestine arrests are likely to be even harder to achieve. Russia has a permanent seat on the Security Council, and Israel is protected by the US which has the same privilege.

Discussions about fairness and double standards were electrified when South Africa instigated proceedings against Israel at the International Court of Justice (ICJ) for alleged violations of the Genocide Convention.[16] These proceedings began in early 2024. The debates only intensified when the ICC Prosecutor requested judges to issue arrest warrants against not only Hamas leaders but also the Israeli Prime Minister Netanyahu and now former defense minister Yoav Gallant in May 2024.[17] The arrest warrants against Israeli leaders, still classified as 'secret', concern alleged crimes against humanity and war crimes committed from October 2023 and May of the following year. Passion-filled disagreements persisted, producing deeper reflections about how to teach international law going forward.[18] Conversations uncovered the widespread perception of many scholars and practitioners, and large swaths

14 ICC, *Al Bashir | International Criminal Court*, available at www.icc-cpi.int/darfur/albashir (accessed 5 June 2026).

15 E.C. Lubaale, 'Now Available but Still Not Accessible to the ICC: Bashir and Africa's Politics', in E.C. Lubaale and N. Dyani-Mhango (eds.), *National Accountability for International Crimes in Africa* (Springer, Cham, 2022), pp. 247–285, doi: 10.1007/978-3-030-88044-6_8.

16 ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip*, available at www.icj-cij.org/case/192 (accessed 18 May 2026).

17 ICC, *Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine | International Criminal Court*, available at www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state (accessed 25 May 2026).

18 J. Ezirigwe, 'Double Standards in International Law: Critical Reflections for an Academic Lens for Teaching and Research', *Opinio Juris* (21 July 2025), available at www.opiniojuris.org/2025/07/21/double-standards-in-international-law-critical-reflections-for-an-academic-lens-for-teaching-and-research/ (accessed 31 July 2026).

of the public, especially but not only those from the Global South, that there is a clear difference in Western responses to civilian suffering in Ukraine and Gaza, and that this is evidence of a long-standing hypocrisy. This article is a result of a multi-year effort to track, document, and analyse that hypocrisy.

For the purposes of this article, 'hypocrisy' will be defined simply by referring to how it is commonly understood. One definition states that it is 'behaviour in which someone pretends to have moral standards or opinions that they do not actually have.'[19] Another definition is 'a situation in which someone pretends to believe something that they do not really believe, or that is the opposite of what they do or say at another time.'[20] These two simple definitions provide an anchor to the analysis, which began with a search for the relevant actors seemingly *pretending,* and being *inconsistent*. Double standards, much along the same lines, refer to the practice in which an actor positions themselves differently than in another, comparable situation. Clearly, states pursue their interests as they understand them, and there is no perfect consistency or fully principled behaviour in politics and international relations. However, the instances this article discusses stand out as examples of hypocrisy and double standards and that has been reflected in the number of blogs, panels and debates, in and beyond the legal academy.[21] The topic of double standards in international law is everywhere.[22]

Sceptics may wonder what is new about the argument that the West is being hypocritical, or that some communities have been treated unfairly.[23] We see hypocrisy elsewhere, and Third World Approaches to International Law (TWAIL) scholars have been pointing to this hypocrisy in the practice of international law for decades.[24] In fact, long ago it was clear that, while there

19 Oxford Advanced American Dictionary, *Hypocrisy Noun – Definition, Pictures, Pronunciation and Usage Notes*, available at www.oxfordlearnersdictionaries.com/definition/american_english/hypocrisy (accessed 5 June 2026).

20 Cambridge Dictionary, *Hypocrisy*, available at https://dictionary.cambridge.org/dictionary/english/hypocrisy (accessed 5 June 2026).

21 A. Imseis, 'On Palestine and the Death of the West's International Legal Order', *EJIL: Talk!*, available at www.ejiltalk.org/on-palestine-and-the-death-of-the-wests-international-legal-order/ (accessed 25 November 2025).

22 C.N.M. Nguyen, 'Gaza and Ukraine: A Global South View on the Hypocrisy', *openDemocracy*, available at www.opendemocracy.net/en/gaza-ukraine-hypocrisy-geopolitics/ (accessed 15 June 2024).

23 N. Erakat, *Justice for Some: Law and the Question of Palestine* (Stanford University Press, Stanford, CA, 2019), available at www.sup.org/books/middle-east-studies/justice-some.

24 A. Anghie, 'Rethinking International Law: A TWAIL Retrospective', 34(1) *European Journal of International Law* (2023): 7–112, doi: 10.1093/ejil/chad005.

was not one 'coherent and distinctive' TWAIL, there was a shared 'anger', across the world, about the injustices imposed on many countries and peoples.[25] Why would the slowness of many in accepting these TWAIL critiques now result in a flood of articles like this one? As will be made clear later in the piece when examples of statements are put side by side, this article suggests that one does not need to be a TWAIL-minded scholar, or even a particularly critical one, to see what is staring us in the face.

The question this article will answer is *what* do select Western states *say* about the violence in Ukraine and Gaza,[26] and *how do they talk about it,* especially about any expectations of justice and accountability for possible international crimes. It centers accountability and justice, primarily focusing on international criminal responsibility, and it analyzes statements on these two situations because they came to represent *the* comparison that reveals the double standards.[27] The article engages with literature which has recently addressed the issue of international crimes and double standards,[28] and has captured the attention of both scholars and the broader public.[29]

Therefore, this article is more about *words* than actions. It will not analyze if these states continued trade, and how they voted in multilateral fora. It will also not develop a grand theory. That would make this article unwieldy. As is, this piece is already hefty because it relies on the analysis of over 1500 statements, collected since February 2022, in four different languages (English, French, Dutch and German, all of which I am able to read).[30] This is the starting point for the data collection as it quickly became clear that the full-scale invasion of Ukraine would significantly impact international justice institutions, mainly the ICC. The end point is the ceasefire in Gaza, from October 2025, which has been, given the continued civilian death toll, called 'a

25 K. Mickelson, 'Rhetoric and Rage: Third World Voices in International Legal Discourse', 16 *Wisconsin International Law Journal* (1997–1998) 353–420, available at https://repository.law.wisc.edu/s/uwlaw/item/28877 (accessed 31 July 2026).

26 Due to the limitations of time and space, the focus is on Gaza and not the West Bank, East Jerusalem or even South Lebanon (or Iran) where Israeli attacks have been intense in early 2026.

27 P.I. Labuda, 'Double Standards in International Criminal Law after the 'Ukraine Moment': Is the Glass Half Full or Half Empty?', in J. Giblin, O. Chub, P. Butchard and O. Senatorova (eds), *International Law After the Ukraine War* (Routledge, Abingdon, 2025), pp. 160–187.

28 J.A. Goldston, 'International Crimes and Double Standards: Old Wine in Many Bottles', 22(2) *Journal of International Criminal Justice* (2024): 241–262, doi: 10.1093/jicj/mqae028.

29 Kai Ambos, 'Ukraine and the Double Standards of the West', 20(4) *Journal of International Criminal Justice* (2022): 875–892, doi: 10.1093/jicj/mqac041.

30 Admittedly, the German-language reading proficiency claim is somewhat of a stretch.

ceasefire in name only'.[31] The statements that this article analyzes were all made by presidents, prime ministers, ministers of foreign affairs, or their official representatives. In certain cases, and when relevant for the analysis, others are included, like US senators. While elections have come and gone, as the article will show, statements have changed slightly and not substantively.[32]

The select states are The Netherlands, the United Kingdom (UK), France, Germany and the Biden-led United States (US).[33] The Netherlands is, of course, the ICC and the ICJ host state. The UK, France and Germany are all important voices when it comes to international justice and the institutions that constitute it. Like The Netherlands, these states are key donors for various accountability and justice initiatives globally. These four states are also ICC members. The fifth actor whose statements have been analysed are the United States, which are not an ICC member, and which have a peculiar and largely antagonistic relationship with the court.[34] However, on Ukraine and under Biden, the US was unusually supportive, in both rhetorical and practical terms.[35]

This article proceeds with outlining the approach to this research, and discussing the sources used, and some of the challenges encountered during the project and limitations of the findings. The piece progresses with the analysis, focusing first on Ukraine after the full-scale invasion, and breaking down how select Western states responded, in unison, with strong condemnation of the invasion, accurately describing it as a crime of aggression, which

31 M.R. Mhawish, *A Ceasefire in Name Only*, available at www.thenation.com/article/world/gaza-ceasefire-analysis/ (accessed 4 February 2026).

32 Due to the number of states, and elections, I cannot conduct a detailed analysis of individual states with respect to changing governments. However, examples of statements are provided across time, to show how states spoke about the two cases under different leadership.

33 Trump's statements, or the statements of his administration, are not included in this analysis of hypocrisy, because he does not pretend to care about international justice, and makes no principled statements on accountability to begin with, so it made no sense to include him in this part of the analysis.

34 J. Fraser and B. McGonigle Leyh (eds), *Intersections of Law and Culture at the International Criminal Court* (Edward Elgar, Cheltenham, 2020), available at www.e-elgar.com/shop/gbp/intersections-of-law-and-culture-at-the-international-criminal-court-9781839107290.html. The chapter by Brianne McGonigle Leyh on the ICC and the US is particularly useful here.

35 Human Rights Watch, *US Congress Helps Boost Justice in Ukraine*, available at www.hrw.org/news/2023/01/31/us-congress-helps-boost-justice-ukraine (accessed 31 July 2026).

also constituted a violation of the UN Charter, and demanding investigations and punishment for crimes against civilians, explicitly, and frequently. The section that follows presents the findings covering the aftermath of 7 October. These statements on operations in Gaza, unlike the messaging on Ukraine which was consistent over time and similar across the analyzed states, slightly shifted as conditions on the ground worsened. However, the broader positioning of states remained consistent in both cases indicating that the hypocrisy remained stable over time.

Finally, the conclusion emphasizes the stark differences in statements on alleged crimes in Ukraine and Gaza, and argues that there is no sustainable future for accountability and justice globally if those who claim to advocate for them are unmasked, yet again, as self-interested hypocrites. If Western advocates of accountability refuse to be guided by principles in situations where that would cost them something politically, domestically, or damage their relationships with allies, then any remaining credibility and legitimacy of the judicial system set up to punish international crimes may vanish. The consequences would be dire.

2 Approach and Sources

The approach to this research was simple, but not always easy to implement. Official government websites were systematically examined, statements downloaded in chronological order, read and tagged, and information fed into Excel sheets, with materials uploaded into shared folders. Key parts were translated, and the translations checked for accuracy. Relevant statements were read closely. The research would not have been possible without masters' students whom I have supervised over the years, and whose hard work, and native language proficiency, made this project possible.[36] The themes

36 The students were part of different cohorts of the MA program Conflict Studies and Human Rights at Utrecht University, and were part of the lab Accountability and Justice, led by the author. In alphabetical order, they were Bodine Bos, Alexane Boulogne, Zara Clune, Doğa Demirbaş, Matilde Gamba, Inès De Greef, Zuzana Kelnarová, Kira Liljegren, Maj Nieuwenhuijsen, Iris Pachen, Katherine To-Hauser, Cerena de Vries, Bianca Zaccari, and James Wakefield.

emerged slowly from the data—from the ground up—and the analysis itself was inspired by Content Analysis[37] and Critical Discourse Analysis.[38]

One notable challenge that requires mentioning is that some of the analyzed statements have been moved offline over time. One example, a set of website changes implemented in the spring of 2026, relates to France overhauling its government's online presence, leading to some statements being removed.[39] In other instances, such as Trump's return to the White House, many of the statements by his predecessor on sensitive issues such as relations with the Russian Federation were removed, and clicking on those links now returns a non-negotiable 'page not found'. Luckily, many positions by these high-ranking officials were shared numerous times in media interviews and no argument made in this piece relies on just one—untraceable—source.

No AI-fuelled tools, and no LLMs were used for two interconnected reasons. One is that I have conducted analyses on tens of thousands of items of evidence presented in various international criminal trials for other publications, and I concluded that this amount of data was manageable. Moreover, there is value in slow, deep work. In that sense, this is a very traditional piece of qualitative research in the discipline of history. While digital tools can make the previously unthinkable possible, with analyses of vast troves of data emerging quickly, I value the depth provided by reading, discussing, translating, reflecting and then going back in circles, in order to understand the material. Not being in a rush—not chasing efficiency—is a deliberate choice here.[40]

As already stated, this piece is more about words, than actions by select governments. This represents a clear limitation. Naturally, other states would also be fascinating to study, such as Slovenia, Spain and Ireland. These

37 H. Julien, L. Given, H. Olson and P. Mayring, 'Content Analysis', in L. Given (ed.), *The SAGE Encyclopedia of Qualitative Research Methods* (Sage, Thousand Oaks, CA, 2008), doi: 10.4135/9781412963909.

38 N. Fairclough, *Critical Discourse Analysis: The Critical Study of Language*, 2nd edn. (Routledge, Abingdon, 2013), doi: 10.4324/9781315834368.

39 T. Quach, 'Changement d'URL, nouvelle identité, pour ses 25 ans, le site officiel de l'administration française organise ses services aux particuliers et aux professionnels', *Direction de l'information légale et administrative – DILA*, available at www.dila.gouv.fr/actualites/presse/communiques/article/changement-d-url-nouvelle-identite-pour-ses-25-ans-le-site-officiel-de-l-administration-francaise-organise-ses-services-aux-particuliers-et-aux-professionnels (accessed 30 July 2026).

40 It is also a privilege I am not oblivious to. Having a permanent position at a good university, where my job does not depend on constantly chasing publications and citations, is something I am keenly aware is a rare luxury.

countries have been explicitly rhetorically committed to justice and accountability and have advocated robustly on behalf of Palestinian victims. In Europe, that has made them stand out. Furthermore, the analysis should extend to others, to see what kinds of responses to the violence in Ukraine and Gaza, and which demands for justice and accountability were articulated in Latin America, Africa, and Asia. Investigating those responses in light of the rapidly changing geopolitical context would further add a new valuable dimension to our understanding of how and why states position themselves in certain ways when it comes to political violence, allegations of international crimes, and the work of institutions such as the ICC. It would furthermore be revealing to determine how the tone and content of the messaging in different places shifted, if it did, and what influenced the changes.[41] All of that will have to be addressed by other authors—not least because of language proficiency needs—in other pieces.

3 'Justice Will Be Done' in Ukraine

'…a murderous dictator, a pure thug who is waging an immoral war against the people of Ukraine'

These were the words then-US president Biden used for his Russian counterpart in March 2022, just weeks after the full-scale invasion of Ukraine.[42] While such statements have since been removed from the White House website, this is illustrative of how Biden spoke of Putin. He also called him 'a war criminal'.[43] The Europeans varied in how they expressed their disdain for Putin and Russia's actions but, overall, they kept saying the invasion was illegal, and that investigations and prosecutions must follow.[44] Here are examples from the same period, not long after the full-scale invasion, from The Netherlands:

41 Al Jazeera, *World Reacts to ICC Arrest Warrants for Israel's Netanyahu, Gallan*t, available at www.aljazeera.com/news/2024/11/21/world-reacts-to-icc-arrest-warrants-for-israels-netanyahu-gallant (accessed 26 May 2026).

42 M. Vazquez and N. Carvajal, 'Biden Calls Putin a 'Murderous Dictator' and 'Pure Thug'', *CNN* (17 March 2022), available at www.cnn.com/2022/03/17/politics/biden-putin-pure-thug (accessed 30 July 2026).

43 S. Fossum and K. Liptak, 'Biden on Putin: 'I Think He Is a War Criminal'', *CNN* (16 March 2022), available at www.edition.cnn.com/2022/03/16/politics/biden-calls-putin-a-war-criminal/index.html (accessed 30 July 2026).

44 Hungary under Orbán was a long-standing outlier in the EU.

'The international community underlines the importance of a thorough investigation into these war crimes.'[45] 'In the field of accountability, we strengthen our efforts when it comes to sexual violence against women.'[46] In 2023, on the one-year anniversary of the full-scale invasion, the then-Minister of Foreign Affairs, Hoekstra, spoke about the 'horrendous reports of sexual and gender-based violence abductions of children', affirming, again, the Dutch commitment to accountability and justice.[47] Months later, in late summer 2023, the minister informed the Dutch parliament about what the government was doing to support accountability in Ukraine. It included various initiatives, with Eurojust, the Council of Europe, and other partners.[48] Later that year, a different minister, Hanke Bruins Slot, said that 'Russia must be held accountable for its crime of aggression', and that 'war crimes against Ukrainian people must not go unpunished'.[49]

That Russia was perpetrating international crimes, and accountability was needed, was broadly accepted across Europe and the US under Biden. Before diving deeper into the findings, we must situate these words in context.

Just days after the full-scale invasion, 39 states parties referred the situation to the ICC.[50] This was the largest referral in the court's history. Western governments provided additional funding for the ICC Ukraine investigations,

45 Ministerie van Buitenlandse Zaken, *Betreft inzet Nederlands forensisch- en opsporingsteam m.b.t. oorlogsmisdrijven gepleegd in Oekraine*, available at https://open.overheid.nl/documenten/ronl-663daaa0ee5d97414f0fee0a111d56aa52e7e8e5/pdf (accessed 30 July 2026).

46 Ministerie van Buitenlandse Zaken, *Betreft Steun aan (vrouwelijke) slachtoffers van oorlogsmisdaden in Oekraine*, available at https://open.overheid.nl/documenten/ronl-56e40f57cede534c32c7c4fd9ecc683debbf9183/pdf (accessed 30 July 2026).

47 Ministerie van Buitenlandse Zaken, *Speech by H.E. Minister of Foreign Affairs and Deputy Prime Minister of the Kingdom of the Netherlands, Wopke Hoekstra, on Behalf of the Group of Friends of Accountability Following the Aggression against Ukraine*, available at https://www.government.nl/documents/2023/02/24/speech-by-h.e.-minister-of-foreign-affairs-and-deputy-prime-minister-of-the-kingdom-of-the-netherlands-wopke-hoekstra-on-behalf-of-the-group-of-friends-of-accountability-following-the-aggression-against-ukraine (accessed 25 June 2026).

48 Ministerie van Buitenlandse Zaken, *Betreft Nederlandse steun aan Oekraine*, https://open.overheid.nl/documenten/1eff0eb0-573e-4c37-9aa7-c3885d0ade77/file (accessed 26 June 2026).

49 Ministerie van Buitenlandse Zaken, *Speech by Minister of Foreign Affairs Hanke Bruins Slot at the EU Heads of Mission*, available at https://www.government.nl/documents/2023/10/26/speech-by-minister-of-foreign-affairs-hanke-bruins-slot-at-the-eu-heads-of-mission-homs-lunch-26-october-2023 (accessed 30 July 2026).

50 ICC, *Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation | International Criminal*

leading to critique about fast-tracking efforts which served their political interest.[51] The difference in state behavior and the speed and efficiency of it, in comparison with other instances of widescale political violence both before and after, was remarkable.[52] The Netherlands pledged one million euros of additional funds, and the Foreign Minister stated that 'The Netherlands wants to see justice for all victims of Russia's invasion'.[53] It also sent forensic teams to support investigations.[54] The UK seconded staff to the ICC, and has sent millions of pounds since 2022 to support documentation efforts in Ukraine.[55] The French joined too, and in late April 2022 declared their intention to respond to a request of the Ukrainian authorities to send a team of experts to help collect evidence.[56]

In terms of European messaging, from The Netherlands, France, Germany and the United Kingdom, their consistency and explicitness made this part of the analysis simple. After the full-scale invasion, most select states made

Court, available at www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-receipt-referrals-39-states (accessed 10 May 2026).

51 Mark Kersten, 'Should the ICC Accept Western Funding for Its Probe in Ukraine?', *Al Jazeera* (7 April 2024), available at www.aljazeera.com/opinions/2022/4/7/should-the-icc-accept-western-funding-for-its-probe-in-ukraine (accessed 10 May 2026).

52 S. Vasiliev, 'Watershed Moment or Same Old?: Ukraine and the Future of International Criminal Justice', 20(4) *Journal of International Criminal Justice* (2022): 893–909, doi: 10.1093/jicj/mqac044.

53 Ministerie van Buitenlandse Zaken, *Netherlands Says More Funding Needed for Efforts to Combat Impunity Worldwide*, available at https://www.government.nl/latest/news/2022/04/11/netherlands-says-more-funding-needed-for-efforts-to-combat-impunity-worldwide (accessed 10 May 2026).

54 Ministerie van Justitie en Veiligheid, *The Netherlands to Dispatch Forensic Investigation Team to Ukraine*, available at https://www.government.nl/latest/news/2022/05/02/the-netherlands-to-dispatch-forensic-investigation-team-to-ukraine (accessed 10 May 2026).

55 GOV.UK, *UK Continues to Step up for Ukraine as New Funding Announced to Bring War Criminals to Justice*, available at www.gov.uk/government/news/uk-continues-to-step-up-for-ukraine-as-new-funding-announced-to-bring-war-criminals-to-justice (accessed 9 May 2026).

56 Elysee, *Entretien téléphonique avec le Président de l'Ukraine Volody*, available at https://www.elysee.fr/emmanuel-macron/2022/04/30/entretien-telephonique-avec-le-president-de-lukraine-volodymyr-zelensky (accessed 30 June 2026).

similar statements. The wording was 'invasion'[57] and 'aggression',[58] and both are frequently coupled with 'Putin'. A war of Putin's 'choice',[59] and often also followed by 'brutal',[60] 'barbaric',[61] or something similar when it came to incidents such as the killings of civilians were discovered in Bucha in April 2022, or when missiles hit neighbourhoods later that year. Calls for justice and accountability included strengthened cooperation with domestic Ukrainian authorities on 'gravest crimes', in the case of the UK.[62] These calls started as soon as the full-scale invasion began, and they were frequently repeated as news broke of Russian attacks on hospitals or other civilian objects, and resulting in civilian deaths.[63]

The UK minced no words in May 2022:

> We are determined to ensure those responsible for the vile atrocities committed in Ukraine are held to account. The UK has already made a

57 GOV.UK, *Russia's Illegal Aggression in Ukraine Has Led to a Disturbing Increase in Conflict-Related Sexual Violence—UK Statement at the UN Security Council*, available at www.gov.uk/government/speeches/russias-illegal-aggression-in-ukraine-has-led-to-a-disturbing-increase-in-conflict-related-sexual-violence-uk-statement-at-the-un-security-council (accessed 10 June 2026).

58 GOV.UK, *Declaration between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ukraine*, available at www.gov.uk/government/publications/uk-ukraine-declaration-of-unity/declaration-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-of-ukraine (accessed 5 June 2026).

59 Elysee, *Conférence de presse à la suite de la réunion extraordinaire*, available at www.elysee.fr/emmanuel-macron/2022/02/25/conference-de-presse-a-la-suite-de-la-reunion-extraordinaire-du-conseil-europeen-sur-la-situation-en-ukraine (accessed 5 June 2026).

60 German Federal Foreign Office, *Auswärtiges Amt, 'Statement of the G7 Foreign Ministers on Russia's War of Aggression against Ukraine*, available at www.auswaertiges-amt.de/en/newsroom/news/g7-rus-ukr-2521802 (accessed 5 June 2026).

61 GOV.UK, *Ukraine's Civilians Are Paying the Price for Russia's Barbaric Actions: UK Statement to the OSCE*, available at www.gov.uk/government/speeches/ukraines-civilians-are-paying-the-price-for-russias-barbaric-actions-uk-statement-to-the-osce (accessed 5 June 2026).

62 GOV.UK, *Memorandum on cooperation between the Prosecutor General's Office* (*Ukraine*) *and the Attorney General's Office of the United Kingdom of Great Britain and Northern Ireland over the gravest crimes of concern to the entire international community*, available at https://assets.publishing.service.gov.uk/media/622b62638fa8f56c24c94c02/Memorandum_between_UK_and_Ukraine_March_22.pdf (accessed 5 June 2026).

63 GOV.UK, *We Will Never Forget the Cruelties the People of Bucha Have Been Forced to Endure: UK Statement to the OSCE*, available at https://www.gov.uk/government/speeches/we-will-never-forget-the-cruelties-the-people-of-bucha-have-been-forced-to-endure-uk-statement-to-the-osce (accessed 6 June 2026).

> clear commitment to supporting Ukraine in its investigations, including through deploying war crimes experts to the region and releasing additional funding to aid the ICC in their investigations. We are now stepping up our efforts through this landmark initiative with our partners in the US and EU. Justice will be done.[64]

The Dutch were sending the same message: 'War crimes against Ukrainian people must not go unpunished' and 'evidence of the atrocities committed during this conflict is visible in many places in Ukraine'.[65]

The French were decisive and concrete too:

> France recalls its firm condemnation of Russia's aggression against Ukraine, which is unjustifiable, illegal and unprovoked. Those responsible for the atrocities committed in the context of this aggression must be prosecuted in the name of the essential fight against impunity (…) consequently, France, which unwaveringly supports the essential work carried out by the ICC, will provide the latter with magistrates, investigators and experts, in order to enable the Prosecutor to carry out his investigation in the best conditions. It will also provide the Court, via the budget of the Ministry of Europe and Foreign Affairs, with exceptional financial support of €500,000. This financial assistance can be supplemented later if necessary. For the record, France is already the third largest contributor to the ICC budget.[66]

Furthermore:

'We will work, in conjunction with our partners, the Ukrainian authorities and the competent international courts, in particular the International

64 GOV.UK, *EU, US, and UK Establish Atrocity Crimes Advisory Group (ACA) for Ukraine: Joint Statement*, available at https://www.gov.uk/government/news/joint-statement-eu-us-and-uk-establish-atrocity-crimes-advisory-group-aca-for-ukraine (accessed 7 June 2026).

65 Ministerie van Buitenlandse Zaken, *Minister Bruins Slot Pledges €17 Million in Justice Funding during Visit to Ukraine: 'War Crimes against the Ukrainian People Must Not Go Unpunished,'* available at https://www.government.nl/latest/news/2023/12/05/minister-bruins-slot-pledges-17-million-euro-in-justice-funding-during-visit-to-ukraine, accessed 8 June 2026.

66 French Ministry for Europe and Foreign Affairs (3 March 2022), Statement previously available at: https://www.diplomatie.gouv.fr/fr/dossiers-pays/ukraine/evenements/article/enquete-de-la-cour-penale-internationale-sur-les-crimes-commis-en-ukraine (accessed December 2025).

Criminal Court, to ensure that these acts do not go unpunished and that those responsible are tried and convicted.'[67]

This level of decisiveness and clarity, as well as support for investigations was nowhere to be seen in relation to Gaza, as the next section will show, nor in any other situation which merited a decisive response.[68] A new Register of Damage for Ukraine was established within the Council of Europe (CoE).[69] There was also a new International Centre for the Prosecution of the Crime of Aggression against Ukraine set up within Eurojust, the EU's Agency for Criminal Justice Cooperation, in The Hague.[70] A new Special Tribunal for the Crime of Aggression against Ukraine, also with the CoE, was established after long negotiations between Ukraine and its partners and supporters, who had fierce disagreements about the kinds of immunities that should apply when it came to the highest sitting state officials.[71] Predictably, Western states were concerned about any precedents going forward[72]—ones which could come and haunt them in the future.[73]

There is something remarkable that this article can only address in passing, but that needs to be noted when discussing hypocrisy and double standards.

67 French Ministry for Europe and Foreign Affairs (3 April 2022), Statement previously available at: https://www.diplomatie.gouv.fr/fr/dossiers-pays/ukraine/evenements/article/ukraine-declaration-du-ministre-de-l-europe-et-des-affaires-etrangeres-3-04-22 (accessed December 2025).

68 R. Wilde, 'Hamster in a Wheel: International Law, Crisis, Exceptionalism, Whataboutery, Speaking Truth to Power, and Sociopathic, Racist Gaslighting', *Opinio Juris*, available at https://opiniojuris.org/2022/03/17/hamster-in-a-wheel-international-law-crisis-exceptionalism-whataboutery-speaking-truth-to-power-and-sociopathic-racist-gaslighting/ (accessed 31 July 2026).

69 Patrick W. Pearsall, 'The International Compensation Mechanism for Ukraine', *Just Security*, available at www.justsecurity.org/138292/international-compensation-mechanism-ukraine-update/ (accessed 8 June 2026).

70 Eurojust, 'International Centre for the Prosecution of the Crime of Aggression against Ukraine | Eurojust | European Union Agency for Criminal Justice Cooperation', available at www.eurojust.europa.eu/international-centre-for-the-prosecution-of-the-crime-of-aggression-against-ukraine (accessed 16 May 2026).

71 Council of Europe, *About the Special Tribunal – Special Tribunal for the Crime of Aggression against Ukraine*, available at www.coe.int/en/web/special-tribunal-ukraine/about, accessed 9 May 2026.

72 K. Ambos, 'A Ukraine Special Tribunal with Legitimacy Problems?', *Verfassungsblog*, doi: 10.17176/20230107-001550-0 (accessed 12 June 2026).

73 C. McDougall, 'Why Creating a Special Tribunal for Aggression Against Ukraine Is the Best Available Option: A Reply to Kevin Jon Heller and Other Critics', *Opinio Juris*, available at https://opiniojuris.org/2022/03/15/why-creating-a-special-tribunal-for-aggression-against-ukraine-is-the-best-available-option-a-reply-to-kevin-jon-heller-and-other-critics/ (accessed 31 July 2026).

Some of the states which have been great advocates of the new special tribunal are the same ones which torpedoed the broader jurisdictional regime for the crime of aggression during the Rome Statute review conference in Kampala, in 2010, and after.[74] Had these states not severely limited the jurisdictional regime for the crime of aggression at the ICC while it was being negotiated, there would never have been a need for a special tribunal in the first place—the ICC would have jurisdiction.[75] This fact, among much else, stands as a testament to the hypocrisy which some states have been shamelessly practicing for years, across different governments.

When it comes to statements, the calls for punishment in a criminal proceeding were frequent, explicit, and consistent across the four analyzed European states, and they were at times about Putin personally, blaming him for causing 'appalling injustice' and saying his actions showed an 'utter lack of scruples'.[76] This was an easy finding to make. The US was of course a somewhat different case, where under Biden's administration, there was an enthusiastic acceptance of investigations and prosecutions, and of the ICC's arrest warrant in particular.[77] Russia is an opponent, and supporting justice and accountability, as well as punishment against an opponent (like Putin) made sense, so the US under Biden supported it. Sterio described this going back and forth on accountability (especially on the ICC), supporting it sometimes, threatening at other times, as a pendulum which 'keeps swinging.'[78]

Selective US support for contemporary international justice dates back to the 1990s, when it backed efforts to investigate and prosecute crimes

74 J. Trahan, 'Crime of Aggression Negotiations Blocked by France, the United Kingdom, and Canada', *Opinio Juris*, available at https://opiniojuris.org/2025/07/31/crime-of-aggression-negotiations-blocked-by-france-the-united-kingdom-and-canada/ (accessed 31 July 2025).

75 J. Trahan, *The Crime of Aggression and Russia's Invasion of Ukraine* (T.M.C. Asser Press, The Hague, 2026).

76 Website of the Federal Government, *Policy Statement by Olaf Scholz, Chancellor of the Federal Republic of Germany and Member of the German Bundestag, 27 February 2022 in Berlin*, available at www.bundesregierung.de/breg-en/service/archive/policy-statement-by-olaf-scholz-chancellor-of-the-federal-republic-of-germany-and-member-of-the-german-bundestag-27-february-2022-in-berlin-2008378 (accessed 10 June 2026).

77 BBC, '*Putin Arrest Warrant: Biden Welcomes ICC's War Crimes Charges*', available at https://www.bbc.com/news/world-europe-64998165 (accessed 10 July 2026).

78 M. Sterio, 'United States Sanctions Against the International Criminal Court: A Threat to the Global Pursuit of Justice', *Journal of International Criminal Justice* (26 May 2026), doi: 10.1093/jicj/mqag028.

committed in the former Yugoslavia.[79] Concrete backing for the International Criminal Tribunal for the former Yugoslavia is consistent with how the pre-Trump US foreign relations establishment behaved. Sometimes it was at odds with accountability efforts internationally, and sometimes it was supportive (with an emphasis on the fact that the US itself is not subject to it).[80]

After Trump came to power, predictably, the tone shifted. This is someone who has never pretended to be interested in international law, multilateralism, or justice, or institutions for that matter, unless they bend to his will. Trump has sanctioned ICC staff over investigations he did not approve of during his first term (primarily, into alleged crimes in Afghanistan, as they seemingly included investigating American servicemembers[81]), which were then revoked by the then-new Biden administration in 2021. Fatou Bensouda, the ICC prosecutor sanctioned by Trump, remembered this set of US actions as 'thuggish and inappropriate', as well as an instance of 'bullying'.[82] She also lamented, as the first ICC official to be sanctioned, the lack of practical support and commitment from ICC member states to protect her and her office. The host state—The Netherlands—was singled out as not having done enough.[83]

In some ways, upon close inspection, when it comes to the US and its allies, the US position under Biden and then under sanctions-issuing Trump are not *that* different when it comes to accountability and justice. The US and its allies are not to be investigated by international courts. That is the position. The difference is in how they go about ensuring that key premise is respected. Biden's Secretary of State, Anthony Blinken, emphasized he disagreed with the ICC investigations in Afghanistan 'strongly', but that sanctions 'were

79 ICTY, *Support from the United States of America to the ICTY Outreach Programme*, available at www.icty.org/en/press/support-united-states-america-icty-outreach-programme (accessed 5 June 2026).

80 Bureau of Public Affairs Department of State. The Office of Electronic Information, *U.S. Perspectives on International Criminal Justice*, available at https://2001-2009.state.gov/s/l/rls/111859.htm (accessed 10 June 2026).

81 White House, *Executive Order on Blocking Property Of Certain Persons Associated With The International Criminal Court*, available at https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-blocking-property-certain-persons-associated-international-criminal-court/ (accessed 5 June 2026).

82 The Rights Forum, *Failure to Protect the ICC – Panel with Fatou Bensouda*, 2026, available at https://www.youtube.com/watch?v=SzOBjHX5Kgc (accessed 30 July 2026).

83 Al Jazeera English, *Fatou Bensouda on Israeli Threats against Her and the ICC | Talk to Al Jazeera*, available at https://www.youtube.com/watch?v=d8mhSUGhuC4 (accessed 30 July 2026).

inappropriate and ineffective'.[84] The difference is thus mostly over degree and manner, of US action, but the position of supporting accountability and justice *only* when it is politically acceptable and resisting any ICC jurisdictions over itself or its allies—that remains obvious. The US long-standing attitude of resistance to the ICC finally culminated with arrest warrants for Israeli officials, when sanctions were instituted again by the White House early in Trump's second term, and this time, they were even more damaging and far-reaching.[85] These sanctions which threaten judicial independence and may present an 'existential' threat to the ICC came over Gaza.[86]

4 Alliances and Interests over Principles in Gaza

'We would have to see how we act when the prime minister of Israel were to come to The Netherlands. There are possible scenarios, also within international law, in which he would be able to come to The Netherlands without being arrested.'

This is how the then-Prime Minister of the ICC host state, Dick Schoof, spoke about the possible visit of the Israeli Prime Minister, then under an ICC arrest warrant.[87] These comments came after the Foreign Minister said there would, in fact, be an arrest as 'we act on arrest warrants for people who are on Dutch territory'.[88] Arresting someone—even a serving high-level official of a state which is not an ICC member—sought by the ICC is, of course, an

84 BBC, *US Lifts Trump-Era Sanctions against ICC Prosecutor*, available at www.bbc.com/news/world-us-canada-56620915 (accessed 30 July 2026).

85 A. Kassam, 'Credit Cards Cancelled, Google Accounts Closed: ICC Judges on Life under Trump Sanctions', Law, *The Guardian* (18 February 2026), available at www.theguardian.com/law/2026/feb/18/international-criminal-court-icc-judges-trump-sanctions (accessed 10 March 2026).

86 Amnesty International, *Israel/ OPT: US Sanctions against Palestinian NGOs a Blatant Attack on Human Rights*, available at www.amnesty.org/en/latest/news/2025/09/israel-opt-us-sanctions-against-palestinian-ngos-a-blatant-attack-on-human-rights/ (accessed 10 June 2026).

87 Ministerie van Algemene Zaken, *Letterlijke tekst persconferentie na ministerraad 7 februari 2025 – Mediatekst – Rijksoverheid.nl*, available at https://www.rijksoverheid.nl/documenten/2025/02/07/letterlijke-tekst-persconferentie-na-ministerraad-7-februari-2025 (accessed 10 June 2026).

88 Reuters, *Dutch See Options for Netanyahu to Visit despite ICC Arrest Warrant*, available at https://www.reuters.com/world/dutch-see-options-netanyahu-visit-despite-icc-arrest-warrant-2024-11-29/ (accessed 31 July 2026). The same article contains the previous quote as well.

obligation of ICC members.[89] However, in relation to Israel, many Western states tried to weasel their way out of this obligation. Here, again, the hypocrisy is obvious. If head of state and high-level official immunity was not a problem for Putin—a President of a non-member state—then it cannot be a problem for Netanyahu, as neither of the two come from ICC member states. One either holds a principled opposition to the jurisdiction of the International Criminal Court over the high-level officials of non-ICC members, or one does not. One cannot have it both ways. Some Western states have tried to have it both ways.

This resistance, among many Western states, to accountability for the alleged crimes by Israeli forces and those who command them is longstanding, and key actors in the present cases knew it. When Prosecutor Khan —then still in office—announced he was seeking arrest warrants for three Hamas leaders and two Israeli officials, there were several signs showing his acute awareness of the backlash which he would soon encounter over the latter pair. Two are worth noting here. When making the public announcement about filling applications on 20 May 2024, Khan was, not without reason, flanked by two experienced senior prosecutors well known to those who follow international criminal courts. One was Brenda Hollis, an American prosecutor who worked at the Special Court for Sierra Leone, and the Extraordinary Chambers in the Courts of Cambodia, among others. The other was the British barrister Andrew Cayley, who worked at the International Criminal Tribunal for the former Yugoslavia (ICTY), and the ICC. So, on that important day, an American and a Brit stood somberly by Khan's side.[90]

The second notable indication that Khan was carefully signaling that this application was neither frivolous nor driven by rogue staff harboring dubious intentions, was seeking the stamp of approval of experts. They were there to confirm that the analysis of the evidence and the law was sound, and that Khan was right in seeking the arrest warrants for Netanyahu and his now former defence minister Yoav Gallant for alleged crimes such as 'starvation of civilians as a method of warfare', and 'wilfully causing great suffering'. This step is highly unusual, as the prosecutor does not normally seek external

89 ICC, *Decision under Article 87(7) of the Rome Statute on the Non-Compliance by Jordan with the Request by the Court for the Arrest and Surrender or Omar Al-Bashir*, 11 December 2017, available at https://www.icc-cpi.int/court-record/icc-02/05-01/09-309 (accessed 31 July 2026).

90 ICC, *Statement of ICC Prosecutor Karim A.A. Khan KC*, available at https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state (accessed 31 July 2026).

validation for arrest warrant applications. In fact, he has dozens and dozens of exceptional lawyers working for him.

Not accidentally, again, the experts involved were respected individuals from the US and the UK. Sir Adrian Fulford, former Lord Justice of Appeal and former International Criminal Court Judge; Baroness Helena Kennedy, President of the International Bar Association's Human Rights Institute; Elizabeth Wilmshurst, former Deputy Legal Adviser at the UK Foreign and Commonwealth Office; Danny Friedman; and finally, Amal Clooney and Judge Theodor Meron.[91] The latter—a Holocaust survivor originally from Poland—worked, decades ago, for the Israeli Ministry of Foreign Affairs and served as a judge and president of the ICTY. These names were there to signal that the analysis and allegations were approved not by mavericks and activists, but by senior experts highly respected in the West.

However, the coming applications were not a total surprise, and some high-level officials decided to make their disagreements known in advance of their arrival. Apparently, the UK, upon hearing about arrest warrants coming for Netanyahu and Gallant, threatened to 'defund the international criminal court and leave the Rome Statute'.[92] Others were brutish, using language fitting a playground bully. The best example of this bully approach is the letter sent by US senators (one of which is today the Secretary of State, Marco Rubio), on 24 April 2024:

'The United States will not tolerate politicized attacks by the ICC on our allies. Target Israel and we will target you. If you move forward with the measures indicated in the report, we will move to end all American support for the ICC, sanction your employees and associates, and bar you and your families from the United States. You have been warned.'[93]

There are other examples of not only hypocrisy but a shameful disregard of any sense of equality before the law. Lindsey Graham, the long-serving

91 ICC, Panel of Experts in International Law, Convened by the Prosecutor of the International Criminal Court, *Report of the Panel of Experts in International Law*, available at https://www.icc-cpi.int/sites/default/files/2024-05/240520-panel-report-eng.pdf (accessed 25 May 2026).

92 P. Wintour, 'Britain Threatened to Defund ICC over Netanyahu Arrest Warrant, Claims Prosecutor', *The Guardian* (11 December 2025), available at www.theguardian.com/law/2025/dec/11/britain-icc-funding-netanyahu-arrest-warrant (accessed 10 May 2026).

93 E. Driscoll, 'Republican US Senators Send Threatening Letter to ICC Prosecutor over Possible Netanyahu Arrest Warrant', *jurist.com*, available at https://www.jurist.org/news/2024/05/us-senators-send-threatening-letter-to-icc-prosecutor-saying-target-israel-and-we-will-target-you/ (accessed 30 July 2026).

Republican US senator from South Carolina, who passed away in July 2026, stated:

'The Court is a dangerous joke. It is now time for the US Senate to act and sanction this irresponsible body. The Court defied every concept of fundamental fairness and legitimized a corrupt prosecutor's actions.'[94]

Senator Graham went a step further and even submitted 'written observations' arguing that the court lacked jurisdiction over Gaza (as well as the West Bank and East Jerusalem), or Israel and Israeli officials for that matter.[95]

Just a year before, in an identical legal situation, when the Prosecutor pursued arrest warrants for high-level officials of another non-member, he had this to say: 'The decision by the ICC to issue an arrest warrant for Vladimir Putin is a giant step in the right direction for the international community. It is more than justified by the evidence.'[96]

When the letter from April did not result in the arrest warrants disappearing, a bipartisan effort emerged in the US Senate in late October 2024, and six senators (again with Graham leading the charge), sent a letter to the President of the Assembly of States Parties, Päivi Kaukoranta, who leads the oversight and legislative body of the ICC, which is comprised of representatives from countries who joined the Rome Statute, the international treaty which established the court. This letter is less threatening in tone and uses the then-recently made public allegations of sexual misconduct against the prosecutor to discredit the investigation but conveys the same message in substance: you have no business investigating any Israeli actions.[97]

The US officials were not alone in this twisting and turning in their positions when it came to Gaza or Israel. France, for example, engaged in such manoeuvres around the issue of immunities of officials of non-members that

94 T. Suter, 'Graham Slams ICC's Netanyahu Warrant', *The Hill*, available at https://thehill.com/policy/international/5002123-graham-knocks-icc-over-netanyahu-warrant/ (accessed 10 June 2026).

95 ICC, Judge Iulia Motoc and Judge Nicolas Guillou, *Situation in Palestine*, available at https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180923d41.pdf (accessed on 26 May 2026).

96 United States Senator Lindsey Graham, *Graham On ICC Issuing Arrest Warrant For Putin*, available at https://www.lgraham.senate.gov/public/index.cfm/2023/3/graham-on-icc-issuing-arrest-warrant-for-putin (accessed 11 May 2026).

97 United States Senate, *Chair Cardin, Bipartisan Senate Colleagues Call for Investigation into Misconduct Allegations Against Prosecutor Karim Khan | United States Senate Committee on Foreign Relations*, available at https://www.foreign.senate.gov/press/dem/release/chair-cardin-bipartisan-senate-colleagues-call-for-investigation-into-misconduct-allegations-against-prosecutor-karim-khan (accessed 30 July 2026).

these have been referred to as 'legal acrobatics', making statements which neither denied, nor endorsed compliance with the ICC arrest warrants.[98] French representatives said Israeli officials had immunity as the state was not an ICC member, but they had no such qualms about the Russian Federation.[99] In fact, France scolded Mongolia publicly, when that state failed to arrest Putin during his visit in September 2024.[100] Not long after, it was considering doing what Mongolia did, and was being criticized for, which is to roll out a red carpet for an ICC fugitive.

Germany's statement on the ICC arrest warrants, once confirmed by judges, was also an example of sitting on the fence. It reiterated the country's commitment to the ICC but also emphasized its ties and support for Israel (the so-called *Staatsräson,* or 'reason of the state'), saying that it will consider domestic steps in relation to a potential arrest only if the visit of the Israeli Prime Minister becomes 'foreseeable'.[101]

Another commonly seen theme in the analyzed statements was the rejection of the alleged 'false moral equivalence' between Israel and Hamas, when the news of the application for the arrest warrants was made public, in May 2024. One prominent example was then-president Biden who was explicit about his rejection of it and found the arrest warrants 'outrageous'.[102] However, as many legal advisors certainly understand, establishing 'moral equivalence' is not an exercise the prosecutor's office engages in. The individuals leading Hamas and the Israeli government, allegedly responsible for crimes under ICC's jurisdiction, are not being compared to one another. Their actions, in fact, are being 'compared', or assessed, in relation to the law.

98 A. Zammit Borda, 'Head of State Immunity and the International Criminal Court: Re-Reading the Immunity Debate Through Wight's Three Traditions', *International Criminal Law Review* (2026), doi: 10.1163/15718123-bja10274 (accessed 10 May 2026).

99 J. Borger, 'France Says Netanyahu Is Immune from ICC Warrant as Israel Is Not Member of Court', *The Guardian* (27 November 2024), available at www.theguardian.com/world/2024/nov/27/france-says-netanyahu-is-immune-from-icc-warrant-as-israel-is-not-member-of-court (accessed 10 May 2026).

100 T. McBrien, 'France's Convoluted and Contradictory ICC Immunity Position', *Lawfare*, available at www.lawfaremedia.org/article/france-s-convoluted-and-contradictory-icc-immunity-position (accessed 30 June 2026).

101 German Federal Government, *Erklärung der Bundesregierung zum Beschluss des Internationalen Strafgerichtshofs*, available at https://www.bundesregierung.de/breg-de/service/archiv-bundesregierung/erklaerung-der-bundesregierung-zum-beschluss-des-internationalen-strafgerichtshofs-2321638 (accessed 10 June 2026).

102 R. Tait, 'Biden Attacks Request by ICC Prosecutor for Netanyahu Arrest Warrant', *The Guardian* (20 May 2024), available at www.theguardian.com/us-news/article/2024/may/20/biden-icc-warrant-netanyahu (accessed 10 June 2026).

What was observable among Israel's allies was a sense of trust in the way Israel conducted itself. The German Chancellor Scholz stated:

'Israel is a democratic state governed by the rule of law and led by very humanitarian principles. And therefore one can be certain that the Israeli army will adhere to the rules of international law in the actions it takes. Of that I have no doubt.'[103]

In the analysed statements relating to Gaza, what was prominent were calls to respect international (IHL) and allow access to Gaza for necessities.[104] This remained one of the dominant framings, even when, as time passed, it was rather clear that these calls were not having much effect.[105] The tone shifted modestly over time. Immediately after 7 October, there was an outpouring of compassion and support (which was understandable given the civilian death toll and abductions), and the insistence on the 'right to self-defence'.[106] As many readers will know, the 'right to self-defence' in this case remains a hotly debated issue legally, tied to Israel's status of being an occupying power—or not—in Gaza (and this was merely one of the complex legal questions raised).[107] That debate surpasses the bounds of this article, but this framing of 'right to self-defence' was frequently invoked.[108]

As time passed, the number of dead Palestinian civilians rose, and it seemed that Israel's allies had started feeling uneasy about what exactly they were defending. Some internal discomfort and debates within governments were becoming increasingly visible, and vocal, as with the Dutch civil servants

103 Dutschlandfunk, 'EU-Gipfel – Ringen um Position zu Israel', *Die Nachrichten*, available at https://www.deutschlandfunk.de/ringen-um-position-zu-israel-102.html (accessed 10 May 2026).

104 Vie Publique, *Prononcé le 18 octobre 2023 – élisabeth borne 18102023 aide humanitaire palestiniens situation Gaza*, available at https://www.vie-publique.fr/discours/291664-elisabeth-borne-18102023-aide-humanitaire-palestiniens-situation-gaza (accessed 10 May 2026).

105 Ministerie van Algemene Zaken, *Letterlijke tekst persconferentie na ministerraad 13 december 2024 – Mediatekst – Rijksoverheid.nl*, available at https://www.rijksoverheid.nl/documenten/mediateksten/2024/12/13/letterlijke-tekst-persconferentie-na-ministerraad-13-december-2024 (accessed 10 May 2026).

106 R. Picciotto, 'Biden, Macron, Others Have Voiced Support for Israel Following Deadly Hamas Attack', *CNBC*, available at https://www.cnbc.com/2023/10/07/biden-macron-others-voice-support-for-israel-after-hamas-attack.html (accessed 10 May 2026).

107 M. Milanovic, 'Does Israel Have the Right to Defend Itself?', *EJIL: Talk!*, available at https://www.ejiltalk.org/does-israel-have-the-right-to-defend-itself/ (accessed 10 June 2026).

108 GOV.UK, *Six Months since the Brutal Attacks by Hamas on October 7: Article by the Foreign Secretary*, available at www.gov.uk/government/speeches/six-months-since-the-brutal-attacks-by-hamas-on-october-7-article-by-the-foreign-secretary (accessed 10 June 2026).

who protested for two years about how the Netherlands was positioning itself in relation to Israel.[109]

Even Germany, arguably Israel's staunchest supporter in Europe, was becoming a little more critical. Chancellor Friedrich Merz, in May 2025:

> I frankly no longer understand the goal of what the Israeli army is currently doing in the Gaza strip. To cause so much suffering among the civilian population, as has increasingly been the case, is no longer justifiable as a fight against the terrorism of Hamas. [...] When boundaries are crossed where international humanitarian law is really being violated, then even Germany, even the German chancellor, must say something. [...] The Israeli government must not do anything that eventually even its best friends can no longer accept.[110]

Alongside arrest warrants at the ICC—and more may be coming, and with them more sanctions[111]—the other judicial procedure which has unleashed critique and pressures is the ICJ South Africa versus Israel case (which is ongoing). As soon as those proceedings were set in motion, which preceded the ICC arrest warrants, the Western allies kicked into defensive mode, emphasizing Israel's need to defend itself and defeat Hamas. These kinds of statements continued for months. Biden was clear in May 2024: 'what's happening is not genocide'.[112]

Besides the ICC and ICJ proceedings to which states responded, it is important to briefly note the broader framing of the violence. In the analyzed statements, the war in Ukraine is clearly described as a consequence of human action. States rightfully condemned the violence and demanded punishment. The operations in Gaza—one which many experts, NGOs and UN agencies were describing as genocidal—were often framed as a humanitarian problem. The language of 'humanitarian catastrophe'[113] was frequent

109 RTL Nieuws, *Twee jaar, honderd sit-ins: wie zijn de ambtenaren die demonstreren voor Gaza?*, available at https://www.rtl.nl/nieuws/binnenland/artikel/5545477/ambtenaren-protesten-gaza-sit-ins-ministerie-buitenlandse-zaken (accessed 10 May 2026).

110 German Federal Government, *Bundeskanzler Merz beim WDR-Europaforum | Bundesregierung*, available at www.bundesregierung.de/breg-de/aktuelles/bk-merz-europaforum-2350254 (accessed 10 May 2026).

111 BBC, *Israeli Minister Smotrich Says ICC Prosecutor Seeking Warrant for His Arrest*, available at www.bbc.com/news/articles/c5y9jq2r9070 (accessed 30 July 2026).

112 Tait, *supra* note 102.

113 GOV.UK, *PM Statement on Gaza: 24 July 2025*, available at www.gov.uk/government/news/pm-statement-on-gaza-24-july-2025 (accessed 29 May 2026).

and calls to reinstate the deliveries of 'electricity and goods',[114] allow 'immediate access for humanitarian organisations'[115] were common.

Finally, one example of statements by Western officials becoming harsher was when international aid workers were targeted—especially if the targeted aid workers were their own citizens. Such was the case of the attack on the World Central Kitchen vehicles. Biden condemned the attack in early April 2024 and said he was 'outraged and heartbroken' and added that 'this was not a stand-alone incident'.[116] This was followed by an assessment that Israel 'has not done enough' to protect aid workers and civilians. The then-British PM Sunak was 'appalled', claiming 'too many aid workers and ordinary civilians have lost their lives in Gaza and the situation is increasingly intolerable'. They 'lost' their lives. They were not targeted and killed. The actor who was responsible remained unnamed.[117]

5 Conclusion

'One may disagree with Israel over the methods [...] but one cannot say that Israel is the aggressor.'[118]

This is how French president Macron described Israel's actions in April 2024, almost three months after the ICJ issued provisional measures and warned that there was a risk that the rights of Palestinians, protected by the Genocide Convention, were being violated.[119] Being dismissive, especially in

114 Auswärtiges Amt, *Erklärungen des Auswärtigen Amts in der Regierungs—Pressekonferenz vom 12.03.2025*, available at www.auswaertiges-amt.de/de/newsroom/regierungspressekonferenz-2705428 (accessed 31 May 2026).

115 GOV.UK, *UK Announces £10 Million Humanitarian Aid for Civilians in Occupied Palestinian Territories*, available at www.gov.uk/government/news/uk-announces-10m-humanitarian-aid-for-civilians-in-occupied-palestinian-territories, (accessed 31 May 2026).

116 U. S. Embassy Jakarta, 'Statement from President Joe Biden on the Death of World Central Kitchen Workers in Gaza', *U.S. Embassy & Consulates in Indonesia*, available at https://id.usembassy.gov/statement-from-president-joe-biden-on-the-death-of-world-central-kitchen-workers-in-gaza/ (accessed 10 May 2026).

117 A. Toth, 'Gaza Aid Convoy Attack: How Has Israel, US and UK Responded?', *The Independent*, available at www.independent.co.uk/news/world/middle-east/gaza-aid-workers-killed-british-world-kitchen-b2522601.html (accessed 31 July 2026).

118 *Prononcé le 15 avril 2024 – Emmanuel Macron 15042024 RMC Jeux olympiques 2024 | Vie publique* (15 April 2024), available at https://www.vie-publique.fr/discours/293881-emmanuel-macron-15042024-rmc-jeux-olympiques-2024.

119 BBC, *BBC World Service – The Interview, Joan Donoghue: Has the ICJ Ruling Changed Anything in Gaza?*, available at www.bbc.co.uk/programmes/w3ct5stw (accessed 30 May 2026).

light of the decades-long unlawful occupation (which, according to the ICJ in a separate, advisory case, should end 'as rapidly as possible'[120]) and violence against Palestinians which pre-dates the current terror, not only erodes the credibility of the Western states and the system they say they promote, but also plays into the hands of opponents. For years, Russia and other adversaries have called the West hypocritical.[121] Positioning themselves as they have been only proves them right.[122]

Again, double standards in international justice are nothing new, and neither is hypocrisy in international relations. In *The Atlantic,* in May 2012, David Rhode wrote:

> 'The most powerful states – among whom there are great distinctions in commitment to the rule of law – nonetheless hold themselves at a distance or beyond these international justice standards,' Dicker said, 'creating the perception – and the reality – of hypocrisy and a double standard. And that needs to change.'[123]

States pursue their own interests as they perceive them to be. Yet, in the last few years, the double standards applied by especially Western states such as the ones analyzed in this article have become increasingly obvious and thus undeniable. The states whose statements were studied here did not position themselves identically to one another, and changed course slightly, as events unfolded. However, no state fundamentally altered its position.

The main differences in statements on alleged crimes in Ukraine, and Gaza, are in tone and focus. After the full-scale invasion of February 2022, the select Western states analysed here had similar responses. They rightly and explicitly condemned the aggression, as well as the seemingly unlawful attacks on civilians and civilian infrastructure and they consistently called for

120 ICJ, *The Court Gives Its Advisory Opinion and Responds to the Questions Posed by the General Assembly* (19 July 2024), available at https://www.icj-cij.org/node/204175 (accessed 31 May 2026).

121 Ministry of Foreign Affairs of the Russian Federation, *Брифинг Официального Представителя МИД России М.В.Захаровой, Москва, 30 Октября 2024 Года – Министерство Иностранных Дел Российской Федерации*, available at https://www.mid.ru/ru/foreign_policy/news/1978331/ (accessed 31 July 2026).

122 DawnNews English, *Russia Slams West's Hypocrisy on Gaza at UNSC*, available at www.youtube.com/watch?v=IFHCZHn56Og (accessed 10 June 2026).

123 D. Rohde, 'Ending NATO's Double Standard on International Justice', *The Atlantic*, available at www.theatlantic.com/international/archive/2012/05/ending-natos-double-standard-on-international-justice/257400/ (accessed 30 July 2026).

accountability and justice. They demanded punishment, and they singled out Putin. On Gaza, the framing was completely different. Netanyahu was not spoken about as a potential criminal. Never. In fact, in his last interview before leaving office, Biden called him a 'friend'.[124] When the situation was discussed, the suffering of the civilians was spoken about almost like it was a consequence of a weather event, and it was often framed in humanitarian terms. When it came to Israel, a lot of faith was placed in its respect for IHL, and when various reports suggested otherwise, the Western states called upon their ally to respect them. There was no call for punishment and there were only a few explicit demands for investigations, such as in instances when their own Western citizens were harmed. At times, meek calls for domestic investigations followed attacks on hospitals and the killing of journalists.[125] Even then, it was about investigating lower-level staff, and not political or military leaders.

Why is this behavior by states which largely, and in the case of the US until recently, presented themselves as supporting international justice, so harmful? This obvious pretending and inconsistency are damaging on multiple levels. First, they are insulting to the observers because whoever follows these developments sees this behaviour plainly as hypocritical and claiming it is otherwise insults their intelligence. One cannot insult people around the world, pretend they are fools, and then expect cooperation and goodwill. Secondly, it is an act of trading long-term progress and stability for short-term political gain. No one in the leadership of these states is apparently willing to risk electoral loss or critique by allies or some of its own citizens. They are therefore willing to gamble away the future and stability of the international justice system, which cannot withstand such hypocrisy long-term. They risk diminishing any chance for advancement on a cause which ultimately serves all peoples around the world. It is also an issue of credibility for these states as actors on the international stage. Next time the UK, France, The Netherlands, the US, or Germany want to send diplomats to tell others how important the rule of law is, as they did in the former Yugoslavia and Ukraine, and many other places, they will be laughed out of the room, and rightly so.

124 J. Yoon and Z. Montague, 'Biden Says He Urged Netanyahu to Accommodate Palestinians' 'Legitimate Concerns',' *The New York Times* (17 January 2025), available at https://www.nytimes.com/2025/01/17/world/middleeast/biden-interview-gaza-netanyahu.html (accessed 10 June 2026).

125 A. Smith, 'Israel's Gaza Hospital Double Strike 'Indefensible', UK PM Says, as IDF Orders Inquiry – Live Updates', *BBC*, available at https://www.bbc.com/news/live/cn725ny0ryjt (accessed 10 June 2026).

In light of these findings, if there is one positive aspect of this lack of consistent support for accountability and the ease with which vocal Western proponents of justice neglect principles, it is the diagnostic potential that this situation provides. There is undeniable clarity now. Critics will say, it has been clear all along. They may be right. But it seems that now, finally, broader groups of scholars, advocates, policy makers and the public realize just how hypocritical these states have been. This diagnostic moment provides an opportunity to change course. The ill has been diagnosed, and it is politics and political will. The law, as flawed as it may be, is usable. It is politics that are the problem.

This is not the moment to play games and pursue selfish interests. The court is under incredible pressure, and it is facing an existential crisis. The ICC prosecutor has just been removed by an unprecedented ASP vote, on allegations of sexual misconduct.[126] There will be, in due course, a process to elect a new prosecutor (and it should be a competent, experienced official of 'high moral character',[127] who is willing to fight off the multiple attacks on the court and conduct fair and efficient investigations). Recently, Venezuela and Chad announced their departure from the court, bringing the number of states leaving to five (Mali, Niger and Burkina Faso announced their departure earlier in 2026).[128] Finally, sanctions against not only court officials but the court as an institution may be coming, as recently the US secretary of state announced, with much fanfare, the effort to dismantle the ICC 'brick by brick'.[129] If states, especially ICC members, do not wake up and take decisive action, soon there may not be much to protect anymore.

As many have noted, Palestine is a 'litmus test' for both international law and the broader field of transitional justice.[130] There simply is no sustainable future for accountability and justice globally if those who claim to advocate

126 M. Quell, 'ICC Chief Prosecutor Removed over Sexual Misconduct Allegations', *AP News*, available at https://apnews.com/article/icc-court-prosecutor-karim-khan-united-nations-5a9490e98b74f3bf13f5eae26fb3c3d7 (accessed 30 July 2026).

127 Rome Statute of the International Criminal Court, Article 42, available at https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf (accessed 31 July 2026).

128 AFP and Reuters, 'Chad to Join Raft of Withdrawals from International Criminal Court', *Al Jazeera*, available at www.aljazeera.com/news/2026/7/27/chad-to-join-raft-of-withdrawals-from-international-criminal-court (accessed 30 July 2026).

129 CNN, *Rubio Vows to 'Dismantle' International Criminal Court | CNN Politics*, available at https://edition.cnn.com/2026/07/13/politics/rubio-dismantle-international-criminal-court (accessed 30 July 2026).

130 Matiangai V. S. Sirleaf, 'Palestine as a Litmus Test for Transitional Justice', *International Journal of Transitional Justice* 18, no. 1 (2024): 162–88, doi: 10.1093/ijtj/ijae012.

for them remain self-interested hypocrites, still stuck in the post-World War II order which favoured them above anyone else. Those refusing to be guided by any principles gamble with the credibility and legitimacy of the judicial system set up to investigate and prosecute international crimes as a whole. Gambling with that is both reckless and dangerous and the damage—once caused—may be irreparable.