



Israel's Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide

Emergency Legal Briefing Paper
October 18, 2023

As President Biden visited Israel, and the Palestinian death toll in Gaza passed 3,300, the U.S.-based Center for Constitutional Rights released a legal and factual analysis of Israel's unfolding genocide against the Palestinian people and U.S. complicity. The emergency briefing paper came on the heels of the U.S. veto of a United Nations Security Council resolution condemning both Hamas's attack on Israel and all violence against civilians and calling for humanitarian access to Gaza.

The Center for Constitutional Rights produced this legal analysis in the midst of a situation still unfolding with devastating speed, in response to questions from journalists, activists, and within the legal community. This analysis is necessarily incomplete. However, given the proclamations about the trajectory and intensity of the upcoming Israeli ground invasion and bombing of Gaza, we fear the unfolding genocide will not abate and may well intensify.

The Center for Constitutional Rights recognizes that Palestinians and Palestinian human rights organizations have long warned of the likelihood of genocide being the inevitable frame through which to assess the widespread and systematic violations being committed against their people across the occupied Palestinian territory, and urged States to take action before it advanced.



Since October 7, 2023, Israel has escalated its 16-year closure over 2.2 million Palestinians in Gaza where approximately half the population is under 18, indiscriminately and repeatedly bombing civilians while cutting off access to all basic necessities, including food, water, electricity, and medical supplies, and on October 13 ordered a forced “evacuation” of 1.1 million Palestinians out of northern Gaza.

As this briefing paper was being finalized on the evening of October 17, 2023, there were an estimated 500 fatalities following a reported Israeli airstrike at Al-Ahli Arab Hospital in Gaza City where many were seeking shelter. Excluding those killed at Al-Ahli Hospital, as of October 17, 2023, the Palestinian Ministry of Health had confirmed that 3,000 Palestinians had already been killed, including at least 1,030 children and hundreds of family units; in 11 days, more than 12,500 people had been injured, one million Palestinians displaced, and thousands of homes destroyed, with reports of 1,200 missing people believed to be trapped under the rubble. As set forth in the paper in both the detailed factual overview and the findings, there is clear evidence that **Israel is attempting to commit, if not actively committing, genocide in the occupied Palestinian territory, and specifically against the Palestinian people in the Gaza Strip.** The gravest of crimes under international law, genocide refers to specific actions — such as killing or deliberately inflicting conditions of life calculated to bring about the destruction of the group in whole or in part — taken with the intention of destroying, in whole or in part, the group targeted, including on ethnic or national grounds.

The United States has been obligated, from the instant of learning of the serious risk of genocide of the Palestinian people, to exercise its influence on Israel to prevent the crime. **The United States is not only failing to uphold its obligation to prevent the commission of genocide, but there is a plausible and credible case to be made that the United States’ actions to further the Israeli military operation, closure, and campaign against the Palestinian population in Gaza rise to the level of complicity.** The United States — and U.S. citizens, including and up to the President — can be held responsible for their role in furthering genocide.

Read our [full legal and factual analysis](#).

See our [FAQ on Israel's Unfolding Crime of Genocide in Gaza](#).

We credit and honor Palestinian organizations such as Al-Haq, Al Mezan Center for Human Rights, Defense for Children International-Palestine, and Palestinian Center for Human Rights, and

many others, for their tireless work under dangerous and unimaginably difficult conditions to gather information included in this paper and for their analysis of the human rights violations and crimes being committed by Israel and its officials. We also honor the people of Gaza who, despite being under constant bombardment with dwindling access to electricity, have nevertheless written, tweeted, posted, made calls, or otherwise reported on the Israeli assault, including when it has wiped out their own families.

National and International Advocacy Efforts

The Center for Constitutional Rights has shared this analysis with national and international stakeholders to provide evidence of the unfolding Israeli genocide against the Palestinian population in Gaza and U.S. complicity in it, and to urge them to take all measures to stop the crimes and to call for an immediate ceasefire and the end of U.S. military, economic, and diplomatic support of the Israeli government's violations.

On July 19, 2024, the Center for Constitutional Rights wrote to the U.S. Department of Justice's Human Rights and Special Prosecutions Section, urging it to open a criminal investigation of Israeli officials and others who committed or authorized genocide, war crimes, and torture against Palestinians in Gaza since October 8, 2023, including Israeli Prime Minister Benjamin Netanyahu, ahead of his trip to the United States planned for the week of July 22, 2024. [See our letter here.](#)

For U.S. decision makers, our message is clear: you are on notice of the plausible and credible case of your complicity in the crime of genocide. Prosecutions for genocide have no statute of limitations and can be pursued through U.S. domestic courts, as well as at the International Criminal Court and under the principle of universal jurisdiction.

See our letters to:

- [President Joseph Biden, cc'ing Secretary of State Antony Blinken and Secretary of Defense Lloyd Austin](#)
- [Chairman Ben Cardin and Ranking Member Jim Risch of the Senate Foreign Relations Committee and Chairman Michael McCaul and Ranking Member Gregory Meeks of the House Foreign Affairs Committee](#)

- [Ambassador Linda Thomas-Greenfield, Representative of the U.S. to the United Nations](#)
- [Mr. Karim Khan, Prosecutor of the International Criminal Court](#)

Additionally, the emergency legal brief was sent to UN High Commissioner for Human Rights Volker Türk; UN Special Rapporteurs and Working Groups; and Special Advisers Alice Wairimu Nderitu and George Okoth-Obbo of the United Nations Office on Genocide Prevention and the Responsibility to Protect.

Attachments

-  [Israel's Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide](#)
-  [Letter to President Biden \(Emergency Brief on 2023 Genocide\)](#)
-  [Letter to Senate Foreign Relations Committee and House Foreign Affairs Committee \(Emergency Brief on 2023 Genocide\)](#)
-  [Letter to US UN Ambassador Thomas-Greenfield \(Emergency Brief on 2023 Genocide\)](#)
-  [Letter to ICC Prosecutor Khan \(Emergency Brief on 2023 Genocide\)](#)
-  [FAQ - Israeli Genocide in Palestine](#)
-  [Letter to DOJ Human Rights and Special Prosecutions Section for Criminal Investigation of Netanyahu](#)
-  [Letter to Gaza Humanitarian Foundation Warning of Legal Liability arising out of Complicity in Atrocity Crimes](#)

Learn more

[Rights Lawyers Release Legal Analysis of U.S. Complicity in Israel's Unfolding Genocide Against Palestinians in Gaza](#)

October 18, 2023

The United States is not only failing to prevent genocide, but is complicit

[Defense for Children International - Palestine v. Biden](#)

Palestinian human rights organizations, together with Palestinians in Gaza and the U.S., filed a lawsuit in U.S. federal court against President Biden, Secretary of State Blinken,

and Secretary of...

Accountability for International Crimes in Palestine

On January 2, 2015, the State of Palestine acceded to the Rome Statute of the International Criminal Court (ICC), and, on April 1, 2015, Palestine became the 123rd Member State of the ICC . Palestine...

June 11, 2025

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666 Broadway
7th Floor
New York, NY 10012

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