

Going All-in for Israel May Make Biden Complicit in Genocide

Human rights lawyers warned Biden that his unconditional support for the war on Gaza may implicate the U.S. in Israel's crimes.

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The US government may be complicit under international law in Israel's unfolding genocide of the Palestinian people, a group of legal scholars warned the Biden administration and the prosecutor of the International Criminal Court.

Lawyers at the Center for Constitutional Rights issued the dire warning to President Joe Biden, Secretary of State Antony Blinken, and Secretary of Defense Lloyd Austin in a 44-page [emergency brief](#) on Wednesday, on the heels of Biden's trip to the Middle East. There, Biden reiterated his administration's unwavering support for Israel — even as the Israeli government wages an unprecedented bombing campaign on the occupied Gaza Strip in retaliation for a horrific attack by Hamas that killed more than 1,400 Israeli citizens.

"Israel's mass bombings and denial of food, water, and electricity are calculated to destroy the Palestinian population in Gaza," Katherine Gallagher, senior attorney with CCR and a legal representative for victims in the pending ICC investigation in Palestine, told The Intercept. "U.S. officials can be held responsible for their failure to prevent Israel's unfolding genocide, as well as for their complicity, by encouraging it and materially supporting it."

"We recognize that we make serious charges in this document — but they are not unfounded," she added. "There is a credible basis for these claims."

A State Department spokesperson declined to comment, saying,

"As a general matter, we don't offer public evaluations of reports or briefs by outside groups."

The White House and Pentagon did not immediately respond to a request for comment. On Wednesday, the U.S. [vetoed a United Nations Security Council resolution](#) that condemned all violence against civilians and urged humanitarian aid to Palestinians in Gaza. The U.S. opposed the resolution because it did not reference Israel's right to defend itself.

Israel has invoked that right in its assault on Gaza, which has already killed more than [4,200 Palestinians](#) and displaced more than 1 million. But collective punishment — including measures like Israel's blockade on fuel, food, and electricity into the occupied territory — and the indiscriminate targeting of civilians constitute war crimes under international law. A number of legal experts have argued the actions may also amount to crimes against humanity and genocide, as defined under the 1948 Genocide Convention. On Thursday, a panel of U.N. experts issued a [separate statement](#) that condemned the bombings of schools and hospitals in Gaza as crimes against humanity and warned that there is a risk the crimes might escalate to genocide.

"We are sounding the alarm: There is an ongoing campaign by Israel resulting in crimes against humanity in Gaza," the experts wrote. "Considering statements made by Israeli political leaders and their allies, accompanied by military action in Gaza and escalation of arrests and killing in the West Bank, there is also a risk of genocide against the [Palestinian] people."

While warnings about a potential genocide have grown more numerous in recent days, some international law experts [cautioned](#) that the war crimes and crimes against humanity — including the crime of apartheid — of which Israel has long been accused are no less serious. As one international law scholar [put it](#): "[T]here is no hierarchy of international crimes." The problem is that Israel has not been held accountable for any of its past crimes, making accountability for its ongoing offensive unlikely.

Under international law, the crime of genocide implicates not only those carrying out the crime, but also those complicit in it, including by "aiding and abetting."

According to the CCR brief, Israel is attempting to commit, if not already committing, the crime of genocide, specifically against the Palestinian people in the Gaza Strip. The U.S. government is failing to uphold its obligation to prevent a genocide from happening, the brief adds. Additionally, there is a "plausible and credible case" to be made that ongoing and unconditional U.S. military, diplomatic, and political support for Israel's military intervention against the people of Gaza may make it complicit in the genocide under international law. (The U.S. has its own [version of the law](#), making it a crime for any U.S. citizen — including the president — to commit, attempt, or incite genocide.)

"Rather than continuing to enable Israeli crimes, the U.S. should pressure Israel to stop its military operations and secure a ceasefire, and to ensure the provision of urgently needed humanitarian assistance and basic necessities for life to Palestinians in Gaza," Gallagher said.

The CCR briefing also calls on the government to address the root causes behind the recent violence, including Israel's 16-year siege on Gaza, its 56-year-long illegal occupation of the Palestinian territories, "and the apartheid regime across all of historic Palestine."

Unconditional Support

As Israel continues to plan for a [ground invasion](#) of Gaza, the U.S. sent it a [shipment](#) of armored vehicles on Thursday, following [shipments](#) of U.S-made advanced weaponry earlier this month. Biden is expected to [argue](#) for greater military support for Israel in a Thursday night address.

Israel has historically been the [largest recipient](#) of [U.S. military assistance](#) — to the tune of \$158 billion since the country's establishment in 1948. That funding has increasingly come [under scrutiny](#) in the U.S., including following Israeli forces' killings of several [U.S. citizens](#). On Wednesday, a senior State Department official resigned from his post, citing the U.S. government's ongoing provision of lethal arms to Israel.

"I cannot work in support of a set of major policy decisions, including rushing more arms to one side of the conflict, that I believe to be shortsighted, destructive, unjust, and contradictory to the very values that we publicly espouse," Josh Paul, the former director of congressional and public affairs for the State Department's Bureau of Political-Military Affairs, wrote in a [letter](#). "If we want a world shaped by what we perceive to be our values, it is only by conditioning strategic imperatives by moral ones, by holding our partners, and above all by holding ourselves, to those values, that we will see it."

Asked about the resignation on Thursday, State Department spokesperson Matthew Miller [said](#),

"We have made very clear that we strongly support Israel's right to defend itself, we're going to continue providing the security assistance that they need to defend themselves."

This week, legal experts also testified before the United Nations Human Rights Committee, specifically calling on members of the international body to urgently address the unfolding crimes and particularly hold the U.S. accountable for its role in them.

"If such a body fails in this particular genocidal moment to reassert its commitment to the right to life our collective humanity will be profoundly diminished," Ahmad Abuznaid, a human rights lawyer and director of the U.S. Campaign for Palestinian Rights, told the committee.

He also warned against the rippling effects of U.S. support for Israel and dehumanization of Palestinians, referring to the [killing](#) of a 6-year-old in Chicago last week. "As U.S. politicians and mainstream media beat the war drums for genocide, repeating dehumanizing rhetoric and misinformation about our people, that has not only emboldened Israel's genocidal acts but also had alarming consequences in the U.S."

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Featured image: Some of the wounded at al-Shifa hospital (Gaza Health Ministry)

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