

Suing Antony Blinken for “Gross Violations of Human Rights”: The US State Department, Israel and the Leahy Law

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On December 17, a number of Palestinians alleging human rights violations by Israel in Gaza and the West Bank filed a [federal lawsuit](#) pursuant to the Administrative Procedure Act (APA) against the US Secretary of State, **Antony Blinken**.

Their contention: that the US State Department has failed to implement the strictures of the Leahy Law. The law, comprising one segment covering the State Department, and the other the Department of Defense, [prohibits the use](#) of US assistance to the units of foreign security forces suspected of committing gross violations of human rights (GVHRs). The proviso for restoring that assistance can only take place if the offending entity in question takes adequate steps to address the violations.

Examples of such violations include torture, extrajudicial killing, prolonged detention without charges and trial, enforced disappearance, rape and, as broadly noted in the Leahy Law’s own definition “other flagrant denials of the right to life, liberty, or the security of the person.”

The action, supported by Democracy for the Arab World Now (DAWN), seeks declaratory and injunctive relief based on Blinken’s “*de facto* refusal to implement the statute prohibiting US assistance to Israeli security force units about which there is credible information that they have committed gross violations of human rights”.

Blinken’s record when applying the Leahy Law to Israeli units is disturbingly scrappy. In May, for instance, he explained to Congress that the punishments meted out to soldiers and officers in four cases prior to the Hamas attacks of October 7, 2023, were adequate. One example deserves attention, involving an officer in the Shahar Search and Rescue Battalion of the IDF.

The soldier in question shot and killed Ahmed Manasra, an unarmed Palestinian, in March 2019. A plea deal reached between the military prosecutor and the soldier, subsequently approved by a panel of military judges, proved exceedingly generous to the soldier as it was degrading to Manasra: a three-month term of community service, and a three-month suspended sentence. Blinken accordingly found, as outlined in his [memorandum of justification](#), that the Israeli government “is taking effective steps to bring to justice the responsible member of the Shahar Battalion.” It was a decision [perplexing](#) to Tim Rieser, a longtime aide to the chief author of the relevant statute, **Sen. Patrick Leahy** (D-Vt). Blinken’s justification was inconsistent “with how the law is written and how it was intended

to be applied.”

Former State Department officials linked to the original Leahy Law have been less than impressed by the lethargic actions of their former employer. Former Department member **Stephen Rickard**, who was also a former senior staff member of the Senate Foreign Relations Committee, [confirms](#) the favourable prejudice within the Department towards Israeli units, adopting what he calls a “‘see no evil, hear no evil’ policy”. “If the State Department will not comply with the law, then it is time for the courts to vindicate the rule of law and order it to do so.”

Former State Department **Josh Paul**, before a press conference discussing the lawsuit, was also [candid](#).

“I sat as part of the Israel Leahy Vetting Forum [ILVF] and saw repeatedly cases of gross violations of human rights being brought forward and senior officials being unwilling to act upon them because of fear of political consequences.”

The Forum has been more active of late, signalling, [according](#) to ProPublica, a marked departure “after years of deferential treatment of Israel”. That said, the lawsuit [contends](#) that the ILVF’s vetting operations are, for the most part, “unique, complex, lengthy, high-level”, not to mention “arbitrary and capricious, and is not rationally related to advancing the purpose of the Leahy Law.” This complexity is pure bureaucratic pantomime, intended to mask what is, at heart, a simple policy goal: exempting the conduct of Israeli forces from the level of scrutiny reserved for their international counterparts.

As the lawsuit contends, the State Department “annually vets hundreds of thousands of non-Israeli foreign security force units for compliance with the Leahy Law and ultimately suspends and deems thousands of them ineligible for US assistance.” Since the law’s enactment in 1997, the department had failed to suspend or deem ineligible “a single Israeli unit despite overwhelming information of widespread GVHRs committed by Israel”.

In 2019, Congress amended the Leahy Law to require the Secretary of State to provide foreign governments a list of ineligible units under the law and receive assurances that those governments would comply with the Leahy prohibition and block US assistance to such units before transferring assistance in cases of “untraceable assistance”. Despite this amendment, the IVLF failed to identify a single ineligible Israeli Unit responsible for gross human rights violations.

The failure to apply the law, the plaintiffs continue to argue, was “particularly shocking in the face of the unprecedented escalation of Israeli GVHRs since the Gaza War erupted on October 7, 2023.” The provisional orders of the International Court of Justice directing Israel to cease depriving Palestinians of essential items for their survival, and heeding the UN Genocide Convention, along with arrest warrants issued by the International Criminal Court for Israeli **Prime Minister Benjamin Netanyahu** and former **Defence Minister Yoav Gallant**, underlined that point.

This legal action is taking place in the footsteps of previous efforts launched in US courts. In November 2023, a lawsuit was [filed](#) in the US District Court for the Northern District of California by the Center for Constitutional Rights, acting for a number of Palestinian human rights organisations, along with Palestinians in Gaza and the United States. It sought an order from the Court “requiring that the President of the United States, the Secretary of

State, and the Secretary of Defense adhere to their duty to prevent, and not further, the unfolding genocide of Palestinian people in Gaza.”

The relevant duty arose by virtue of the UN Genocide Convention, being “judicially enforceable as a peremptory norm of customary international law.” The complaint further argued that the genocidal conditions in Gaza had been “made possible because of unconditional support given [to Israel] by” **President Joseph Biden, Secretary of State Blinken** and Secretary of **Defense Lloyd Austin**.

The applicants failed to convince the judge that they had jurisdictional grounds to sue the officials in question, despite the judge declaring that there had been plausible grounds that Israel was contributing to genocidal conditions. This was [subsequently affirmed](#) on appeal by a three-judge panel of the Ninth Circuit, primarily on the political question doctrine. The principle holds that courts are not to review instances where allegations of international law violations have taken place if there are substantial questions of foreign policy involved. An expansive reading of this is arguably unwarranted, given that US obligations at international law would presumably fall within the bounds of curial assessment. The litigants remain undeterred, and to challenge this further.

The litigation being steered by DAWN is likely to face similar arguments about jurisdiction: that assistance to foreign security units is a matter for the executive and therefore beyond a court’s assessment. But trite as it is, courts are there to guard the appropriate application of statutes. The Leahy Law, as evidence of Congressional instruction to the State Department, is unequivocal in its purpose and scope regarding gross human rights violations. The time, it would seem, has come for those instructions to be applied to Israel without deferential favour.

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Featured image: US Secretary of State Antony Blinken meets with Israeli Prime Minister Benjamin Netanyahu in Tel Aviv, Oct. 12, 2023. – Secretary Antony Blinken on X

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