

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

By [Center for Constitutional Rights](#)

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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](#).

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.

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