

# Palestinians File Emergency Motion to Block US Aid for Israel's Genocide in Gaza

A federal lawsuit accuses Biden, Blinken and Austin of failure to prevent genocide and complicity in genocide.

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*On November 16, two Palestinian human rights organizations, three Palestinians and five Palestinian Americans [brought an emergency motion](#) in United States federal court to immediately force **President Joe Biden, Secretary of State Antony Blinken and Defense Secretary Lloyd Austin** to stop providing additional weapons, money, and military and diplomatic support to Israel, which is committing genocide in Gaza.*

"Our Palestinian clients are asking the court to urgently order Biden, Blinken and Austin to stop supporting Israel's genocide," said Maria LaHood, Deputy Legal Director of Center for Constitutional Rights which filed the lawsuit on behalf of the Palestinians, in an interview with *Truthout*. "Israeli officials stated their intent to eliminate everything in Gaza, and then proceeded to carpet-bomb it, killing more than 11,000 people, including nearly 5,000 children thus far — many more are missing, buried under rubble, crushed and suffocating before they die."

LaHood also pointed to Israel's ongoing siege in which Palestinians in Gaza remain cut off from food, water and electricity.

"Those still alive are starving and drinking contaminated water, fearing being bombed. Yet the U.S. continues to expedite weapons and other support, in defiance of its international law obligation to prevent genocide, not fuel it," LaHood told *Truthout*. "Our clients, who have already collectively lost more than 116 of their family members, are asking the court to provide preliminary relief so they do not suffer even more irreparable harm."

The motion for preliminary injunction is grounded in U.S. officials' legal duty to prevent —

not exacerbate — Israel’s ongoing genocide against the Palestinian people in Gaza. The motion says that an immediate court order is necessary to protect the plaintiffs from “irreparable harm.” Some of the plaintiffs face a grave risk of death from Israel’s war on Gaza.

## **Palestinians Sue Biden, Blinken and Austin**

The emergency motion that the group of Palestinians filed on November 16 came days after the same group of [Palestinian plaintiffs sued](#) Biden, Blinken and Austin in the U.S. District Court of Northern California for failure to prevent genocide and complicity in genocide.



Palestinians who fled their homes gather at al-Quds Hospital after Israeli air attacks on the Tel al-Hawa neighbourhood of Gaza City on October 31, 2023 [Mohammed Saber/EPA-EFE]

The complaint — which the group filed on November 13, after more than five weeks of Israel’s unrelenting slaughter in Gaza — alleges violations of the [Genocide Convention](#), the [Genocide Convention Implementation Act](#) and customary international law which forbids genocide.

Plaintiffs include [Defense for Children International - Palestine](#); [Al-Haq](#); three Palestinian individuals who reside in Gaza and five Palestinian Americans who have family in Gaza.

“To be honest, it’s difficult to revisit all the scenes of the past weeks. They open a door to hell when I recall them,” [said](#) Plaintiff Dr. Omar Al-Najjar, an intern physician at Nasser Medical Complex in Khan Yunis, Gaza. “I’ve lost five relatives, treated too many children who are the sole survivors of their families, received the bodies of my fellow medical students and their families, and seen the hospital turn into a shelter for tens of thousands of people as we all run out of fuel, electricity, food and water. The U.S. has to stop this genocide. Everyone in the world has to stop this.”

Team Biden continues to unequivocally and unconditionally enable Israel’s genocide in Gaza. But Biden, Blinken and Austin are finally being called to account in court — as well as in the streets around the world — for their unwavering and illegal support of Israeli

genocide.

The U.S. sends \$3.8 billion in annual military assistance to Israel, more than it provides to any other country. Israel has special access to U.S. military stockpiles, likely worth up to \$4.4 billion. The U.S. has long provided political and diplomatic cover to Israel by blocking resolutions in the United Nations Security Council condemning Israel's human rights violations, and [undermining efforts to hold Israel accountable](#) in the International Criminal Court (ICC).

## Israel Is Committing Genocide in Gaza

Article II of the Genocide Convention defines genocide as specific acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." The acts include: 1.) killing members of the group; 2.) causing serious bodily or mental harm to members of the group; and 3.) deliberately inflicting conditions of life calculated to bring about its physical destruction in whole or in part.

[As of November 10](#), Israeli occupying forces had killed more than 11,078 Palestinians in Gaza, 4,506 of whom were children. Israeli forces had caused serious bodily and mental harm by injuring 27,490 people in Gaza. About 2,700 more, including approximately 1,500 children, were missing. Israel also forced the displacement of 1.5 million people, half the population of Gaza.

For the past five weeks, the Israeli government has intensified its preexisting and already severe blockade of Gaza, with a "total siege" by further restricting the entry into Gaza of basic necessities, including food, water, medicine and fuel, and by cutting off electricity.



Jabaliya refugee camp bombed in Gaza

In his declaration in support of the motion for preliminary injunction, Professor William Schabas, a leading expert on genocide who is also Jewish, wrote that the "avowed policy of depriving Gaza of water, food, medicine and electricity, bearing in mind the rather

desperate economic situation in the territory prior to the conflict and the fact that the borders are sealed, leaving the people of Gaza with nowhere to go, will inexorably lead to their physical destruction. If the siege and blockade continue, there can be no other outcome.”

Public statements by Israeli leaders constitute evidence of an “intent to destroy, in whole or in part” a “national group.” Palestinians in Gaza constitute a substantial part of the Palestinian nation.

Senior Israeli officials and politicians have used dehumanizing rhetoric to describe Palestinians in Gaza, calling them “human animals” and “children of darkness,” and refusing to distinguish between civilians and combatants, declaring that the whole population of Gaza is responsible for the Hamas-led October 7 attack.

[The New York Times reported](#) that, “Calls for Gaza to be ‘flattened,’ ‘erased’ or ‘destroyed’ had been mentioned about 18,000 times since Oct. 7 in Hebrew posts on X, the site formerly known as Twitter, said FakeReporter, an Israeli group that monitors disinformation and hate speech.”

## **Biden, Blinken and Austin Violated Legal Duty to Prevent Genocide**

Article I of the Genocide Convention imposes a duty on all States Parties, which include Israel and the U.S. who have ratified the treaty, to prevent genocide. The International Court of Justice said in the case of *Bosnia and Herzegovina v. Serbia and Montenegro* that “a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”

The Center for Constitutional Rights’s motion for preliminary injunction charges that, “Defendants have been on notice of the risk of genocide since at least October 9, if not already on October 7, through the public and widely circulated statements and actions by Israeli officials with whom they were in close, regular contact and consultation, as well as by warnings of indicators of genocide from United Nations officials and other sources that have only increased since then.”

Reports and images of Israel’s assault on the Palestinians in Gaza accompanied by words and actions of Israeli leaders revealing the intention to ethnically cleanse Gaza of Palestinians have been ubiquitous.

Yet instead of fulfilling their legal duty to prevent the unfolding genocide, Biden, Blinken and Austin poured gasoline on the fire by sending Israel vast amounts of weaponry, money and advisory support. On October 18, the U.S. vetoed a UN Security Council resolution that would have called for a ceasefire and urged Israel to rescind its order to 1.1 million Palestinians in northern Gaza to leave their homes and move to southern Gaza.

## **Biden, Blinken and Austin Are Complicit in Israel’s Genocide**

Complicity to commit genocide can only occur if there is a punishable act of genocide by another state or persons. The accomplice enables or facilitates the crime but doesn’t have to share the specific intent to commit genocide. A defendant may be liable for genocide if he knowingly provides assistance, encouragement or moral support for the crime.

Furnishing arms and ammunition and operational support and advice that armed forces use to commit atrocities can constitute aiding and abetting if the defendant knew his actions would assist the international law violation.

The lawsuit charges that defendants Biden, Blinken and Austin transferred a significant amount of weapons and military equipment to Israel. They asked Congress to appropriate \$14.1 billion in additional military assistance to Israel. Blinken authorized a \$320 million transfer of military equipment to an Israeli manufacturer of kits for precision bombs.

U.S. leaders are intimately involved in day-to-day assistance to Israel as it bombards Gaza. On October 30, **Defense Deputy Press Secretary Sabrina Singh** stated that Defense Department and other officials, “all the way up to the president have certainly informed and at least guided some of what the Israelis are doing on the ground in their ground operation,” the complaint says.



President Joe Biden participates in a restricted bilateral meeting with Prime Minister Benjamin Netanyahu at the Hotel Kempinski in Tel Aviv, Israel, Wednesday, October 18, 2023. (Official White House Photo by Cameron Smith)

U.S. officials refuse to place any limitations on Israel’s use of U.S.-furnished weaponry to carry out its genocidal assault on the Palestinians in Gaza. On November 7, Singh admitted that “we don’t put conditions on weapons that ... we’re sending or that Israel is using.”

Further, Biden continues to refuse to call for a ceasefire. On November 9, when asked at a press briefing about the chances of a ceasefire, he replied, “None. No possibility.”

The complaint states,

“As Israel’s closest ally and strongest supporter, being its biggest provider of military assistance by a large margin and with Israel being the largest cumulative recipient of U.S. foreign assistance since World War II, the United States has the means available to have a deterrent effect on Israeli officials now pursuing genocidal acts against the Palestinian people in Gaza.”

## Lawsuit Seeks Declaratory and Injunctive Relief

In their lawsuit, the Palestinian plaintiffs are asking the court to declare that defendants Biden, Blinken and Austin violated their duty under customary international law, as part of federal common law:

1. to take all measures within their power to prevent Israel from committing genocide against the Palestinian people in Gaza;
2. that prohibits their complicity in genocide, by knowingly continuing to provide assistance that enables and facilitates Israel's commission of genocidal acts against the Palestinian people in Gaza.

The plaintiffs are also seeking an injunction ordering defendants to take all measures within their power to prevent Israel's commission of genocidal acts against the Palestinians in Gaza, including but not limited to ordering defendants to exert influence over Israel to:

1. end its bombing of the Palestinian people of Gaza, resulting in mass killing and serious injury;
2. lift the siege on Gaza and allow all electricity, fuel, food, water and humanitarian aid into Gaza; and
3. prevent the "evacuation" or forcible transfer and expulsion of Palestinians from Gaza and ensure freedom of movement.

Finally, plaintiffs are asking the court to issue an injunction to prohibit defendants from:

1. providing, facilitating, or coordinating military assistance and financing to Israel, including sales, transfer or delivery of weapons and arms to Israel, and providing military equipment and personnel, advancing Israel's commission of genocidal acts;
2. obstructing attempts by the international community, including at the UN, to implement a ceasefire and lift the siege on Gaza.

The lawsuit says that even the crimes committed by the military wing of Hamas on October 7 that killed approximately 1,200 Israelis, including many civilians, and kidnapped 240 others, cannot legally justify the targeting of an entire population and collective punishment the Israeli government has meted out, let alone genocide.

Israel, as an occupying power, [cannot claim self-defense](#) against the people it occupies, the lawsuit maintains. Moreover, the intent to commit genocide repeatedly expressed by Israeli officials belies any claim to self-defense.

"Article 51 of the U.N. Charter, which sets the confines for the invocation and use of self-defense by States, is inapplicable when the threat originates from a territory over which Israel exercises control," the lawsuit states, citing the International Court of Justice's Advisory Opinion in "Legal Consequences of Construction of a Wall in Occupied Palestinian Territory."

Congress is considering the request by Biden, Blinken and Austin to authorize more than \$14 billion in additional military assistance to Israel. On November 3, the National Lawyers Guild, Center for Constitutional Rights and Palestine Legal [sent a letter](#) to congressmembers alerting them that they could face legal liability for aiding, abetting, inciting or conspiring to

commit genocide by appropriating funds to support Israel's ongoing genocide.

A hearing on the plaintiffs' motion for preliminary injunction is set for January 11, 2024, in the Oakland, California, courtroom of Judge Donna M. Ryu.

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