



666 Broadway, 7th Floor  
New York, New York 10012  
212-614-6464  
ccrjustice.org

October 25, 2023

Chairman Ben Cardin  
Ranking Member Jim Risch  
Senate Foreign Relations Committee  
United States Congress  
423 Dirksen Senate Office Building  
Washington, DC 20515

Chairman Michael McCaul  
Ranking Member Gregory Meeks  
House Foreign Affairs Committee  
United States Congress  
2170 Rayburn House Office Building  
Washington, DC 20515

### **URGENT: Israel's Unfolding Genocide and U.S. Complicity Against the Palestinian People**

Dear Chairman Cardin, Ranking Member Risch, Chairman McCaul, and Ranking Member Meeks:

We urge your immediate attention to the enclosed legal brief assessing Israel's unfolding crime of genocide of the Palestinian people and complicity by United States officials. This brief was published on October 18th. Since then, Israel has killed over 2,000 more Palestinian people, raising the death toll to over 6,500 of whom more than 2,704 are children.

There is a plausible and credible case, based on the statements and actions undertaken by current and former Israeli officials, and the deadly impact, serious physical and mental harm, and intention and increasing effect of conditions imposed calculated to bring about the physical destruction of the Palestinian population under siege in Gaza, that Israel is attempting to commit, if not actively committing, the crime of genocide in the occupied Palestinian territory, and specifically against the Palestinian people in the Gaza Strip. In addition, there is a plausible and credible case 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.

Like both Palestine and Israel, the United States is a signatory to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the first human rights treaty adopted by the United Nations General Assembly and considered the building block of the international human rights system. The Genocide Convention places a duty on all 153 signatories to both prevent and punish genocide, criminalizing not just the commission of genocide, but incitement and attempts to commit genocide, as well as complicity in genocide.

We need not remind you that genocide is the gravest of crimes under international law, consisting of 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 time learning of the serious risk of genocide of the Palestinian people, to exercise its influence on Israel to prevent the crime. Indeed, whether a State has breached its duty to prevent depends on the State's ability to effectively influence the actions of the people likely to commit, or already committing, genocide. The United States has tremendous influence on the actions of the Israeli government, and **the United States — and U.S. citizens, including and up to the President — can be held responsible for their role in furthering genocide.**

Since October 7, 2023, the United States, and its senior officials up to and including President Biden, offered to supply “all appropriate means of support” and did in fact supply material aid and assistance to Israel to further its military campaign in and siege of Gaza. This aid, and the daily pledges of unqualified and unconditioned support, have been made with full knowledge of Israeli officials' statements and Israel's action from which genocidal intent against the Palestinian civil population can be inferred; accordingly, there is a plausible and credible case to be made that the United States' actions rise to the level of complicity in genocide under article 25 of the Rome Statute and under U.S. criminal code 18 U.S.C. §§ 2(a) and 2(b). Since the brief was published, the United States has not only failed to call for a ceasefire, but has continued providing unconditional military support to Israel, including military advisors, equipment, and other aid: on October 20, President Biden requested an additional \$14 billion in military assistance for Israel.

We reiterate the urgency of the moment, as well as the unique capacity of the United States government to halt the unfolding genocide and secure an immediate ceasefire. We also hope that our briefing paper contributes to the Senate Foreign Relations and House Foreign Affairs Committees' efforts to pressure Israel to end all military operations, and to immediately secure the provision of food, water, medical supplies, emergency housing, and other humanitarian assistance to Palestinians in Gaza.

Thank you in advance for your immediate attention to this correspondence.

Sincerely,



Nadia Ben-Youssef  
Advocacy Director  
Center for Constitutional Rights

Encl.

cc: Chris Lynch, Chief of Staff, Office of U.S. Senator Ben Cardin  
Ryan White, Chief of Staff, Office of U.S. Senator Jim Risch  
Andrew Ross, Chief of Staff, Office of U.S. Representative Michael McCaul  
Kayla Williams, Chief of Staff, Office of U.S. Representative Gregory Meeks