

Exporting Complicity: U.S. Arms to Israel and the Breakdown of Legal Accountability

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I. Introduction

1. On October 7, 2023, Hamas and other Palestinian armed groups carried out attacks in southern Israel, killing approximately 1,200 people and taking some 240 people hostage. Israel retaliated by launching a devastating large-scale military operation against Gaza. This massive attack, by land, air, and sea, utilized U.S.-made arms to destroy civilian infrastructure, displace most of the population in Gaza, and kill an overwhelming number of Palestinians.¹ Israel's attack on Gaza—which was accompanied by dehumanizing and racist rhetoric referring to Palestinians as “human animals”²—violates international humanitarian law and international human rights law.³ The United States (“U.S.”) has facilitated these violations by providing aid and weaponry to support the Israeli attack.
2. On January 15, 2025, Israel and Hamas reached a tentative ceasefire agreement. The ceasefire ended on March 18, when Israel launched a series of attacks that continue to date.⁴ Meanwhile, U.S. President Trump has proposed that the United States occupy and “redevelop” Gaza into “the Riviera of the Middle East,”⁵ to be accompanied by the removal of the Palestinian population in Gaza from their homeland—an act that would amount to deportation in violation of international law. Prime Minister Netanyahu and other leading Israeli politicians have welcomed President Trump's proposal, which came with a pledge of “one billion dollars in military assistance to Israel,” which follows the recently announced \$7 billion-plus arms sale to Israel.⁶ The United States' threat of ethnic cleansing is irrefutable evidence that Palestinians living in Gaza face continued discrimination, injury, displacement, and death.

II. U.S.-Supplied Weaponry Has Devastated Gaza and Killed Thousands

3. The United States' role as the principal arms supplier to Israel is inextricable from Israel's ongoing war crimes and violations of human rights law in Gaza. Israel is the single largest recipient of U.S. military aid.⁷ Since October 7, 2023, the United States has enacted legislation providing at least \$12.5 billion in direct military aid to Israel.⁸ In this period, the number of U.S. arms transfers to Israel surged, with the U.S. approving and delivering more than 100 separate foreign military sales to Israel between October 2023 and March 2024.⁹ These deliveries have included 57,000 artillery shells, 36,000 rounds of cannon ammunition, 20,000 M4A1 rifles, 13,981 anti-tank missiles, 8,700 MK-82, 500-pound bombs, 14,100 MK-84 2,000-pound bombs, and other weapons, munitions, and military equipment that are currently being used in the Gaza strip.¹⁰
4. These U.S.-manufactured arms have had a catastrophic impact in Gaza. In the first six weeks of the Israeli military offensive, Israel dropped nearly 500 2,000-pound bombs on Gaza, more than 40% of which were dropped in designated safe zones and areas where civilians had been instructed to flee.¹¹ By October 7, 2024, it was estimated that over 82,000 tons of explosives had been dropped on Gaza.¹²
5. Here are just some of the documented examples of US-provided arms causing mass civilian casualties in Gaza:

- a. October 9, 2023: Israeli airstrikes hit a busy market in Jabalia refugee camp, killing at least 69 people using “one or two GBU-31 air dropped munitions.”¹³ The United Nations Office for the High Commissioner for Human Rights (OHCHR)¹⁴ and Amnesty International found no military objective at the time of the attack to justify the strike.¹⁵ Guided Bomb Units (“GBU”), including GBU-31 munitions, are manufactured by the US-based corporation Boeing for the US military.¹⁶
- b. October 17, 2023: After the Israeli military told Gazans to flee to Khan Younis for their safety, it bombed the al-Lamdani family house in Khan Younis.¹⁷ Between 15 and 40 people were killed in the attack. Remnants of a US-made MK-84 2,000-pound bomb were found at the site.¹⁸
- c. January 9, 2024: an Israeli attack on a residential building in a neighborhood that was in a “safe-zone” killed 18 people, including 10 children, and wounded at least eight others.¹⁹ No evidence was found or presented that the target could be a legitimate military target. Fragments of U.S.-manufactured GBU-39s were recovered from the rubble.²⁰
- d. January 13, 2024: The Israeli military had designated Deir al-Balah as a safe zone in October 2023. Israeli forces instructed Palestinians in northern Gaza to flee there on December 11, 2023 and told Palestinians in central Gaza the same thing on December 22, 2023. Nevertheless, Israel bombed homes, a mosque, and a hospital there in January 2024. Israeli forces dropped a US-made MK-84 2,000-pound bomb in Deir al-Balah, destroying a home and leaving a 40-foot size crater. By mid-January, Israeli bombing had leveled entire city blocks and dozens of family homes in Deir al-Balah.²¹
- e. May 13, 2024: Israeli forces bombed a school housing displaced civilians in Nuseirat, killing up to 30 people. A tail fin of a US-made GBU-39 was recovered at the location of the strike.²²
- f. June 6, 2024: In what was one of the more brazen attacks on a UN-run school, the al-Sardi school in Nuseirat in Central Gaza, at least two GBU-39 munitions were used in an Israeli airstrike that killed 40 people, including nine women and 14 children.²³ About 6,000 displaced Palestinians were sheltering at the school when it was bombed. The Israeli military denied that there were any civilian casualties. A US-made navigation device manufactured by Honeywell was also documented at the site.²⁴
- g. July 13, 2024: An Israeli strike on the Al-Mawasi—another Israeli military-designated “safe zone”—killed over 90 people and injured hundreds more. Remnants of a US-made JDAM were found at the scene, which based on the size, was likely fitted to either a 1,000- or 2,000-pound bomb.²⁵

- h. August 10, 2024: An Israeli airstrike on al-Tabin school and a mosque in Gaza City, which was being used to shelter displaced people, killed more than 100 Palestinians.²⁶ Remnants of at least two US-made GBU-39s were identified at the scene, where paramedics reported finding bodies that were “ripped to pieces.”²⁷
6. Israel’s U.S.-supplied military campaign in the Gaza strip has had devastating effects on the civilian population. As of April 5, 2025, the World Health Organization reported that 50,399 Palestinians in Gaza had been killed and 114,583 had been injured.²⁸ These figures likely underestimate the human toll given the breadth and intensity of the attacks on Gaza and the difficulty of gathering reliable data.²⁹
 7. U.S.-manufactured arms have also had a devastating effect on civilian infrastructure in Gaza. As of January 15, 2025, it was estimated that Israeli attacks had damaged 92% of housing units, 80% of commercial facilities, 88% of school buildings, and 68% of road networks in the Gaza strip.³⁰ Israel has also targeted important cultural sites, resulting in the complete or partial destruction of over 800 places of worship and 200 archeological or heritage sites.³¹ The attacks have also led to the mass displacement of the population, leaving over 1.875 million Palestinians forcibly displaced and in need of emergency shelter and essential household items as of March 2025.³²
 8. Israel has also specifically targeted civilian healthcare infrastructure. For example, between October 7, 2023 and November 20, 2024, the World Health Organization documented over 568 attacks on healthcare, leaving less than half of all health facilities in Gaza partially operational.³³ Evidence also suggests that Israeli forces have directly targeted and destroyed healthcare facilities that provide specific forms of care, including maternity wards, intensive care units, and facilities providing rehabilitation,³⁴ oncology,³⁵ and fertility services,³⁶ among others. Israeli forces have also carried out direct attacks on medical workers, medical transports, and patients in the act of seeking care.³⁷
 9. Restrictions on humanitarian aid into Gaza have further exacerbated the extent of civilian harm. Since October 7, 2023, Israel has strictly controlled the admission of all supplies into Gaza, including food and critical medical supplies, leading to a significant drop in aid entering the territory. Reports indicate a dramatic increase in levels of malnutrition, with recent data suggesting that 91% of the civilian population faces acute food insecurity with hundreds of thousands of individuals facing “catastrophic levels of hunger.”³⁸ Aid organizations, medical personnel, and patients alike have also reported severe deficiencies in access to critical medical supplies, ranging from life-saving medications to assistive devices to basic medical supplies, such as anesthesia, ventilators, and gauze.³⁹
 10. Reports also indicate a steady deterioration in clean water, sanitation, and hygiene conditions in Gaza as a result of Israeli military operations.⁴⁰ The complete destruction of the healthcare system and civilian infrastructure, the internal displacement of nearly the entire population, and the imposition of a complete siege depriving Gazans of access

to basic supplies and clean water have cumulatively resulted in the rapid spread of disease.⁴¹ As of February 2024, military operations had damaged or destroyed approximately half of all water and sanitation facilities, leaving the majority of the population without access to non-contaminated water sources.⁴² The compromised water quality, coupled with inadequate sanitation and hygiene conditions across shelters, hospitals, and other facilities, has precipitated numerous health crises, including widespread intestinal and skin diseases, dehydration, and influenza outbreaks throughout the territory.⁴³

III. The U.S. Has Failed to Ensure its Weapons Are Used for Legitimate Purposes

11. The executive and legislative branches of the U.S. government have several mechanisms in place to limit the export of arms that are used in violation of international humanitarian law. The Arms Export Control Act, which governs all arms exports, provides:

[D]efense articles and services may be transferred solely for internal security, for legitimate self-defense,⁴⁴ for preventing or hindering the proliferation of weapons of mass destruction, and of the means of delivering such weapons, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations . . . [and] to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.⁴⁵

12. Within the above framework, there are several provisions regarding human rights violations which grant Congress and other entities external to the Executive Branch the right to intercede and prevent arms transfers when blatant violations occur. They include:

- a. **Section 502B of the Foreign Assistance Act (FAA):** Section 502B of the FAA prohibits security assistance to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.⁴⁶ The statute provides that a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries.⁴⁷ Specifically, the statute defines these obligations as those “set forth in the Charter of the United Nations” and imbued in the constitutional heritage of the U.S. to “promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction to race, sex, language, or religion.”⁴⁸ Finally, the statute *directs* the President to avoid identification “with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States” as expressed in the statute or otherwise.⁴⁹ The statute goes on to establish a mandatory reporting requirement to Congress on human rights practices in any country receiving U.S. security assistance, granting congressional authority to adopt a joint resolution terminating, restricting, or continuing assistance for a country’s failure to comply.⁵⁰ Congress

may block or modify an arms sale at any time up to the point of delivery of the items involved.⁵¹

- b. **Section 620I of the FAA:** Section 620I of the FAA prohibits security assistance from being provided to any country when it is made known to the President that the government of such a country “prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.”⁵² In March 2024, 25 humanitarian, human rights, and arms control organizations wrote a letter to former President Biden demanding compliance with U.S. law for Israel’s restriction of U.S. aid into Gaza, specifically citing Section 620I of the FAA.⁵³ Nevertheless, arms exports continued unabated.
 - c. **Leahy Laws:** The Leahy laws are two statutory provisions that prohibit U.S. arms exports to foreign security force units where there is credible information implicating the unit in the commission of gross violations of human rights (“GVHRs”), including torture, extrajudicial killings, enforced disappearance, and rape under color of law.⁵⁴ One provision applies to the Department of State (“State”) and the other applies to Department of Defense (“DoD”):
 - i. State Leahy Law: Section 620M of the Foreign Assistance Act (FAA) of 1961 as amended in 2020 states that no assistance shall be furnished . . . to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights.⁵⁵
 - ii. DoD Leahy Law: Similarly, the Secretary of Defense may not use DoD funds for foreign security forces if there is credible information of their involvement in GVHR.⁵⁶ Consultation with the Secretary of State is required before assistance is given, ensuring full consideration of any relevant GVHR information.⁵⁷
13. According to a former State Department official, “[I]t is clear that the U.S. government is failing not only to execute due diligence required under existing U.S. laws, but is actively creating and utilizing processes that help insulate Israel from accountability or sanctions in accordance with existing U.S. laws and policies.”⁵⁸ Unfettered arms exports to Israel, despite the overwhelming evidence of misuse, have enabled Israel to carry out widespread, discriminatory, and unjustified attacks on civilians and civilian infrastructure.

IV. International Human Rights Commitments and Past Recommendations to the United States

14. The United States has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”), the Convention Against Torture (“CAT”), and the International Covenant on Civil and Political Rights (“ICCPR”), which by virtue of the U.S. Constitution, constitute “the supreme Law of the Land.”⁵⁹ In order to comply with its obligations under these conventions, the United States must refrain from taking any action that supports violations, including by other states parties. By supporting Israel

through weaponry and financial aid that has been used to violate the rights of Palestinians under these conventions, the United States is complicit in Israel's violations of human rights and humanitarian law in its attack on Gaza.

15. Third Party States, such as the United States, are responsible for violations of international law caused by their actions, even when the harm occurs outside their territory. UN tribunals and treaty bodies have taken an expansive approach to this question.⁶⁰
16. Additionally, under customary international law, third states are under an obligation not to recognize or assist illegal acts.⁶¹ The United States, which has undertaken obligations to comply with the ICCPR, the ICERD, the CAT, the Genocide Convention, the Geneva Conventions, and other customary international human rights law, may not recognize or assist in violating those laws. Furthermore, because some of these commitments, such as the prohibitions against torture and discrimination are *jus cogens* norms,⁶² they give rise to obligations *erga omnes*.⁶³ This means third states must refrain from recognizing or aiding violations and cooperate to bring an end to such violations.⁶⁴
17. On July 19, 2024, the ICJ released its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* ("ICJ Advisory Opinion") finding Israel's prolonged presence in the OPT, including Gaza, to be unlawful.⁶⁵ The ICJ recognized that "the obligation to respect the right of the Palestinian people to self-determination," which is violated by Israel's occupation of the Palestinian Territory, is an obligation *erga omnes*.⁶⁶ The ICJ called on all States to refrain from rendering aid or assistance to Israel's international law violations and cooperate to bring Israel's violations to an end.⁶⁷
18. Consequently, the U.S. is liable for its actions, including arms exports to Israel, that contribute to violations of the ICCPR, the CAT, the ICERD, and the Genocide Convention, even if outside of its borders.

V. Conclusion and Recommendations

19. The U.S. federal government, including Congress and federal agencies as well as state, local, and tribal governments, can and must take concrete action to ensure U.S. arms exports do not contribute to violations of domestic and international law in Gaza. Specifically, the U.S. should:
 - a. Ensure compliance with its obligations under the ICCPR, the CAT, the ICERD and other international human rights law by:
 - i. Ending all military assistance and support to Israel, including prohibiting the sale, transfer, and export licensing of all U.S.-origin weapons to Israel.
 - ii. Ratify the Arms Trade Treaty (ATT) to demonstrate a commitment to international standards governing the responsible trade and transfer of conventional arms.

- iii. Enact mandatory human rights due diligence (HRDD) laws and regulations for the arms sector.
 - iv. Take all necessary measures to prevent Israel's commission of war crimes, including crimes against humanity and genocide.
 - v. Rescind Executive Order 14203 sanctioning the International Criminal Court and its staff.
 - vi. Express public support for a permanent mutual ceasefire and the immediate release of all hostages, including Palestinian political prisoners and those held in administrative detention without charge.
 - vii. Retract statements calling for an annexation of Gaza and refraining from taking further action to promote the forcible transfer of Palestinians from the occupied West Bank, including East Jerusalem, and Gaza.
 - viii. Call on Israel to end blockades interfering with Palestinians' access to, *inter alia*, medical care, food, clean water, and other necessities, as well as their freedom of movement and association.
 - ix. Lift the freeze on funding to UNRWA.
- b. Engage in international cooperation to realize the aims of the ICCPR, the CAT and the ICERD, including the provision of urgent humanitarian aid in sufficient quantities to Gaza and the acceptance of refugees from Gaza.
 - c. Engage in international cooperation to advocate for and fund the rebuilding of essential services and infrastructure in Gaza to benefit Palestinians living in the territory, including, but not limited to, the health care system, education system, cultural and religious institutions, roads, housing, food and water supplies, and sanitation systems.

Endnotes

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⁵⁹ U.S. Const. art. VI.

⁶⁰ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Order of Provisional Measures, 208 I.C.J. 353, ¶109 (15 October 2008).

⁶¹ The ICJ underscored this cardinal principal of international law in its *Namibia Advisory Opinion*, where it held that there was an obligation on the part of all states “to recognize the illegality and invalidity of South Africa’s continued presence” in Namibia and “to refrain from lending any support or any form of assistance to South Africa with reference to its occupation of Namibia.” *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276*, *Advisory Opinion*, 1971 I.C.J., ¶ 119 (June 1971); Similarly, in the context of territories under Portuguese colonial control in 1965, the Security Council “[requested] all states to refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the people of the Territories under its administration.” S.C. Res. 218, at ¶ 6 (Nov. 23, 1965); Finally, in Resolution 3414, 5 December 1975, the General Assembly “[r]equest[ed] all States to desist from supplying Israel with any military or economic aid as long as it continues to occupy Arab territories and deny the inalienable national rights of the Palestinian people.” G.A. Res. 3414 (XXX), at ¶ 3 (Dec. 5, 1975).

⁶² *Draft articles on responsibility of States for internationally wrongful acts*, [2001] 2(2) Y.B. Int’l L. Comm’n 26, 85, U.N. Doc. A/56/10; *Report of the International Law Commission on the Work of Its Seventy-First Session*, U.N. Doc. A/74/10, ch. V (2019), <https://legal.un.org/ilc/reports/2019/english/chp5.pdf>. [United Nations Office of Legal Affairs+3](#).

⁶³ Committee on the Elimination of Racial Discrimination, *Inter-State communication submitted by the State of Palestine against Israel: decision on jurisdiction*, U.N. Doc. CERD/C/100/5, at ¶67(b) (June 16, 2021).

⁶⁴ *Draft articles on responsibility of States for internationally wrongful acts*, [2001] 2(2) Y.B. Int’l L. Comm’n 26, p. 113, U.N. Doc. A/56/10; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, *Advisory Opinion*, 2004 I.C.J., ¶¶ 156-159 (2004); Third state responsibilities are triggered “when a serious breach of a peremptory norm of general international law or a breach of an obligation owed to the international community as a whole is committed.” Annie Bird, *Third State Responsibility for Human Rights Violations*, 21 EUR. J. INT’L L. VOL. 883, 884 (2010); DIAKONIA INTERNATIONAL HUMANITARIAN LAW CENTRE; RESPONSIBILITY OF THIRD STATES

AND INTERNATIONAL ORGANISATIONS EMANATING FROM THE FINDINGS OF THE ICJ’S ADVISORY OPINION OF 19 JULY 2024 (2024), <https://apidiakoniase.cdn.triggerfish.cloud/uploads/sites/2/2024/10/Responsibility-of-Third-States-and-International-Organisations-Emanating-from-the-Findings-of-the-ICJs-Advisory-Opinion.pdf>.

⁶⁵ ICJ Advisory Opinion on the Occupation of Palestine, ¶¶ 278-79.

⁶⁶ Ibid., ¶ 274.

⁶⁷ Ibid. at ¶ 278.