

Military observers say U.S. overlooks Israeli genocide and abuses in Gaza to justify arms transfers

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Washington, March 28 (RHC)-- Israel has killed more than 32,000 Palestinians in Gaza, displaced more than 80 percent of the population, destroyed large parts of the territory and imposed a suffocating blockade, bringing the enclave to the verge of famine.

But nearly six months into the war, the United States says it has not determined that Israel has violated international humanitarian law.

Washington's assertion, made public this week as part of an oversight process on US weapons transfers to allies, has spurred bewilderment and condemnation from human rights groups. "It's absurd," said Sarah Leah Whitson, director of Democracy for the Arab World Now. "It invites global mockery and disdain to hear such a statement issued in front of the world by the Biden administration."

U.S. laws prohibit arming countries engaged in human rights abuses. But advocates say the administration of President Joe Biden is bending the facts and denying well-documented Israeli violations to appear to be in compliance with the rules.

Whitson noted that Biden himself has described Israel's bombing of Gaza as "indiscriminate", which would make it a war crime, and that Washington has openly recognised that Israel is impeding aid to the territory. The Biden administration has been facing increasing pressure to enforce US law when it comes to arming Israel. A recent public opinion poll suggested that the majority of Americans disapprove of Israel's actions in Gaza.

Last month, the Biden administration issued a memorandum, dubbed NSM-20, requiring credible, written assurances from the recipients of American weapons that the arms are not being used in rights violations.

The allies must also certify that American defence articles are not being used to "arbitrarily deny, restrict, or otherwise impede, directly or indirectly, the transport or delivery" of US humanitarian aid.

On Monday, the U.S. Department of State said it received the assurances from Israel and found them "credible". "We have not found them [Israel] to be in violation of international humanitarian law, either when it comes to the conduct of the war or when it comes to the provision of humanitarian assistance," State Department spokesperson Matthew Miller told reporters.

A day later, he said the U.S. is conducting its own assessments of the war — not merely taking Israel at its word.

"We look at those assurances, and we look at them informed by the assessments that we have had ongoing," Miller added. "And as I said, we have not reached the conclusion with respect to Israel that they have violated international humanitarian law."

International humanitarian law is a set of rules meant to protect non-combatants in armed conflict. It consists of the Geneva Conventions of 1949 and subsequent international treaties aimed at limiting civilian suffering during war.

According to Whitson, apparent Israeli violations of international humanitarian law run the gamut: Israel has been accused of targeting civilians, indiscriminate bombing and disproportionate attacks. "What we've seen throughout Gaza, particularly in the north, is widespread destruction of residential areas, farms, schools, universities, churches, mosques, hospitals — highlighting the indiscriminate nature of Israeli bombardment," she told Al Jazeera.

"Even if they were targeting something arguably with a military value to them, the fact that they are doing this in such a wanton, reckless, widespread, catastrophic manner is evidence of the indiscriminate nature of the bombing."

Moreover, witnesses and rights groups, including Amnesty International, have accused Israel of mistreating and torturing detainees during the war.

Last month, United Nations experts also raised concern about reports that Palestinian women in Israeli custody have been subjected to "multiple forms of sexual assault." There has been a growing number of reports about extrajudicial executions by Israeli forces in Gaza.

Earlier this month, Al Jazeera obtained footage from an Israeli drone showing the targeting of four unarmed Palestinians on an open road in southern Gaza. While the U.S.'s assessment of Israeli attacks is continuing, Miller said "none" have been found to be in violation of international humanitarian law.

Brian Finucane, a senior U.S. program adviser at the International Crisis Group think tank, said there is "abundant reason for concern" that the Biden administration is not doing more to address violations of humanitarian law that are impeding its own efforts in Gaza.

He pointed out that, because of Israel's blockade, the US has already resorted to "desperate workarounds" to get food into Gaza, including air drops and building a temporary pier. The U.S. has even acknowledged Israeli efforts to block aid. Earlier this year, Israeli Finance Minister Bezalel Smotrich publicly stated that he is blocking US-provided flour for Gaza, prompting a White House response.

"I wish I could tell you that that flour was moving in, but I can't do that right now," White House national security spokesperson John Kirby told reporters on February 15.

At Monday's State Department news briefing, Miller also reasserted that Israeli settlements in the occupied West Bank are "inconsistent with international humanitarian law." His comment was in response to Israel's seizure of 800 hectares (1,977 acres) in the West Bank last week.

Speaking to Al Jazeera, Finacune expressed befuddlement that the US is accepting Israel's assurances that it is abiding by international humanitarian law.

"The US has already concluded that Israel is violating international humanitarian law, so to turn around and accept the Israeli assurances is head-scratching to say the least," he said. "Any sort of favourable conclusion on the assurances — at a minimum — would disregard what's going on in the West Bank. And it seems highly unlikely that US defence articles are not being used as a way to support or defend West Bank settlements."

On May 8, the Biden administration is expected to submit a report to Congress about the implementation of NSM-20, which should ensure compliance with international law. But Finucane does not expect the report to be thorough or damning — due to political considerations.

"To the extent the White House has decided that US military support is going to be unconditional, it's highly unlikely that the president's subordinates are going to reach public conclusions that are at odds with that," he said.

Top US officials, including Biden, have often stressed that Washington's commitment to Israel remains "ironclad".

The US is Israel's main weapons provider. Washington provides at least \$3.8 billion in aid to Israel annually, and the White House is working with Congress to secure \$14bn in additional assistance to the US ally this year.

"Unless there's a fundamental change in the White House in terms of a course correction in Gaza policy, I think we're unfortunately going to see more of the same," Finucane said.

The US Congress could potentially exercise oversight powers over the government, as established under the Constitution. But Capitol Hill is overwhelmingly pro-Israel — arguably more than the White House — and such a review is therefore unlikely.

Nevertheless, Hassan El-Tayyab, legislative director for Middle East policy at the Friends Committee on National Legislation, urged lawmakers to pressure the administration not to rubber-stamp Israel's assurances that it is complying with humanitarian law.

“We have to keep pressing members of Congress to take action for accountability before any more innocent lives are lost: Palestinian civilians in Gaza and Israeli hostages and Palestinian prisoners,” El-Tayyab told Al Jazeera.

“This is an absolute nightmare. We do not want to see this boil over into a larger war, and it’s time to get a ceasefire.”

Hours before the State Department signalled that it would accept Israel’s assurances, the Biden administration decided not to veto a UN Security Council resolution demanding a ceasefire in Gaza, allowing it to pass.

But Washington was quick to play down the measure and call it “non-binding”.

“They’re trying to do is really build a dome to make military assistance to Israel untouchable, even if rhetorical criticism for Israel increases. So they want to have their cake and eat it, too,” Whitson said of the administration’s position.

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