

FAQ: The Charge of Genocide

Since the beginning of the war between Israel and Hamas, critics of Israel in the streets, on campuses, in Congress, and elsewhere have weaponized the charge of genocide in their condemnation of Israel's response to the October 7 attacks. This is particularly painful for Israelis and Jews for multiple reasons, including the fact that Hamas explicitly calls for the genocide of Israelis and Jews; and the not-so-distant history of the Holocaust, the premiere example of genocide. This FAQ explores the definition of genocide and considers the merits of the charges against Israel. As these questions and answers demonstrate, the term genocide does not describe Israel's actions in Gaza.

LEGAL DEFINITION AND HISTORICAL EXAMPLES

Where does the term genocide come from?

In the wake of the Holocaust and World War II, Jewish lawyer Raphael Lemkin developed the term genocide, and its legal definition was codified by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

What is the legal definition of genocide?

According to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:

“Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group.”

What are the key components of this legal definition of genocide?

The two main components of genocide commonly understood from the above legal definition are intention and physical destruction. According to the [United Nations](#),

“To constitute genocide, there must be a proven intent on the part of perpetrators to physically destroy a national, ethnical, racial, or religious group. Cultural destruction does not suffice, nor does an intention to simply disperse a group....

“Importantly, the victims of genocide are deliberately targeted—not randomly—because of their real or perceived membership of one of the four groups protected under the Convention [national,

ethnic, racial or religious group]... This means that the target of destruction must be the group, as such, and not its members as individuals.”

What are some historical examples of genocide?

The **Holocaust** is, perhaps, the most well-known genocide. The Nazis organized a state-sponsored system of mass murder of Jews with intent to eradicate the Jewish people. Since the legal codification of genocide did not take place until after the Holocaust and the Nuremberg Trials, no Nazi leaders were formally convicted of crimes of genocide. Nonetheless, the Holocaust was classified retroactively as a genocide and has served as a precedent to identify and prosecute later genocides.

The **Rwandan Genocide** refers to a systematic killing spree organized by Hutu leaders and militias against the minority Tutsi ethnic group in Rwanda between April and July 1994. After the Rwandan president was killed in a plane crash, Hutu extremists blamed Tutsi rebels and began orchestrating systematic killings, rapes, and harassment of the ethnic minority. Hutu militias were given lists of Tutsis to kill, roadblocks were set up to identify Tutsis for slaughter, and radio broadcasts shared addresses of Tutsis and called for the eradication of the group. Approximately 800,000 Tutsis were killed during the genocide. Subsequently, many Hutu leaders were convicted of crimes of genocide.

The **Bosnian Genocide** took place in 1995 in Srebrenica, when approximately 8,000 Bosnian Muslims were systematically slaughtered. In addition, over 25,000 women and children were expelled by the Bosnian Serb Army and rampant sexual violence occurred. The genocide took place in the context of the dissolution of Yugoslavia and the Bosnian War, and many claim that the genocide suffered by Bosnian Muslims extended beyond the massacres at Srebrenica. After the conclusion of the Bosnian War in 1995, the events at Srebrenica were deemed a genocide at The Hague and several leaders of the Serb army were convicted of crimes of genocide.

CONTEMPORARY CHARGES OF GENOCIDE

Who is charging Israel with genocide?

Charges that Israel’s actions in Gaza constitute genocide have come from anti-Israel activists and activist groups in addition to some politicians, journalists, and academics. Some examples include U.S. Representative Rashida Tlaib (D-MI), Students for Justice in Palestine, the Colombian and South African governments, and Palestinian UN envoy Riyad Mansour. Several Palestinian human rights organizations have turned to international courts to bring genocide suits against Israeli leaders—and President Biden for not preventing genocide. Few international lawyers or legal experts—even among those who maintain that Israeli actions have been excessive—agree that these charges have merit.

South Africa has turned to the International Court of Justice in the Hague to charge Israel with committing genocide against the Palestinians. Under the terms of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, any country that is a signatory to the convention (as both Israel and South Africa are) can levy a charge against another country. The case, which is being defended vigorously by Israel and has been called baseless by US officials, is expected to take years to adjudicate.

What *legal grounds* are cited by experts who reject the claim that Israel is committing genocide?

Legal experts point to a lack of evidence of both genocidal actions and genocidal intent on the part of the IDF and Israeli leaders. Despite extreme statements made by some Israeli ministers and politicians, Israel declares that its intention is to attack Hamas, not the Palestinian population in Gaza. Many of Israel's actions, including allowing the entry of humanitarian aid into Gaza, the opening of safe passage routes for civilians, and warning civilians of imminent attacks, offer evidence against genocidal activity or intent.

What *socio-historical grounds* are cited by experts who reject the claim that Israel is committing genocide?

Many journalists, academics, and political pundits caution against the increasingly common use of the term “genocide” to define actions perceived as evil or to describe events in which a large group of civilians is endangered or killed. These experts caution against the widespread and legally incorrect use of the term “genocide,” fearing that it will diminish the meaning of the term (see this article from the [Atlantic](#)).

Can someone reject the charge of genocide and still be critical of Israeli actions in Gaza or elsewhere?

Yes. The assertion that Israel is not committing genocide is a negation of a specific charge being used to describe the events unfolding in Gaza. One can reject the charge of genocide while still criticizing Israeli actions or policies. Critics can—and should—highlight specific actions that they believe are excessive or unjust, without succumbing to the temptation to use terms with legal definitions in inflammatory and inaccurate ways.