



Policy Brief - State Duties regarding Immigration and Visa Waiver policies

Ensure war criminals are not allowed into national territory and/or prosecute them for their crimes. To this end, amend immigration and visa waiver policies to align with international legal obligations towards ending genocide, apartheid, and all other atrocity crimes.

Apartheid Israel, in full partnership with the US and other powers in the colonial West, is escalating its livestreamed genocide in Gaza to an unprecedented level of brutality. It is massacring, maiming, and starving the 2.3 million Palestinians of the besieged territory. At this critical juncture, only meaningful – preferably coordinated – state accountability measures, especially from the Global South, can stop this genocidal war machine.

Israel's impunity in its genocide and its obliteration of the international legal system can only be stopped by states imposing concrete lawful sanctions. This includes denying safe haven to suspected war criminals by amending immigration and visa waiver policies. This would be in accordance with key [UNGA resolutions](#), International Court of Justice [provisional orders](#) and [advisory opinion](#), ongoing International Criminal Court [investigations](#), and reports/recommendations by UN human rights experts as well as Palestinian and [international](#) rights organizations pertaining to Israel's ongoing genocide in Gaza and its illegal regime of military occupation and apartheid.

Precedents:

Several states have [screenings for war crimes](#) as part of their visa application and immigration policy. Recently, the European Union has amended its mechanism of [suspending short-stay](#) visa-free travel to include human rights violations as grounds for suspension. While such measures theoretically prioritize international law and human rights, their consistent and thorough implementation remains to be seen. It is incumbent on these states to eschew the hypocrisy they have shown so far in not only shielding the genocidal Israeli regime from serious accountability but also continuing to provide it military, financial, trade, diplomatic and academic support while it escalates its genocide. It is equally important that such policies do not become tools of reinforcing violent

immigration regimes, which already target the poor, refugees, migrants, and people of colour.

Lately, such policy changes have begun to target potential Israeli war criminals. Colombia has announced a [reversal](#) of its short stay visa-free policy for Israeli citizens, though it is yet to be implemented. Visa screenings have led to [denial of entry](#), and in other cases [investigations](#) have been launched against suspected Israeli war criminals and genocidaires when their presence was flagged.

Recommendations:

Amend immigration and visa policies to align with international legal standards and obligations. Specifically:

- (a) Terminate all visa waiver agreements with Israel.
- (b) Institute screenings at immigration borders to check individuals carrying Israeli or other citizenship for possible involvement in war crimes, crimes against humanity, and genocide, including against Palestinians. Anyone credibly suspected to be responsible for involvement in such atrocity crimes should face accountability measures, including denial of entry and, where possible, legal action.
- (c) If individuals suspected of involvement in international crimes slip through or somehow evade the screening process and are found within the third state borders, relevant authorities must investigate and, if warranted, prosecute them to the fullest extent of the law.

These measures are in line with legal obligations under international law, including the duty to not commit, not be complicit in, as well as to prevent, prosecute, and punish genocide, apartheid, and other atrocity crimes.

Focusing on complicity, not identity, the following scrutiny criteria can assist screening processes:

- a. Anyone, regardless of carrying Israeli citizenship or otherwise, who has served in the Israeli military (including logistical and intelligence units) since 7 October 2023.
- b. Anyone who is reasonably suspected of aiding, assisting, or conspiring in the commission of war crimes, crimes against humanity or genocide at *anytime*, whether during military service or not.

- c. Anyone who is reasonably suspected of involvement in public incitement to commit war crimes, crimes against humanity or genocide at *anytime*, whether during military service or not.

Also, any Israeli who resides or works in, and any Israeli or international who provides material support to, an illegal Israeli colonial settlement in the occupied Palestinian territory (OPT), including East Jerusalem, or in the occupied Syrian Golan Heights, is knowingly participating in a war crime and must therefore be held accountable.

Conclusion:

Implementing screenings for war crimes, crimes against humanity, and genocide before granting visas to suspected Israeli war criminals, genocidaires and illegal colonial settlers is the first step in the direction of holding them accountable. It also would protect the safety and wellbeing of people across the world from those suspected war criminals. This extends beyond a few individuals at the top. Hundreds of thousands of Israeli men and women have served in the military during this ongoing genocide, and the probability of their involvement in the commission of atrocity crimes is extremely high. All of them must be investigated and, if warranted, prosecuted to the full extent of the law. Without such concrete measures, there is no deterrence against committing such crimes.

For further inquiries and discussion, please reach out to: Saleh Hijazi, BDS Policy Coordinator, Saleh@bdsmovement.net & Apoorva Gautam, Asia-Pacific Campaigns Coordinator, apoorva.gautam@bdsmovement.net