

From [Center for Constitutional Rights](#) | Original Article

Leading Genocide and Holocaust Experts Submit Declarations in Support of Federal Case

November 13, 2023, San Francisco – Today, Palestinians asked a federal court to enjoin President Biden, Secretary of State Blinken, and Secretary of Defense Austin from providing further arms, money, and diplomatic support to Israel on grounds that there is an unfolding genocide by the State of Israel against the civilian population of Gaza and the U.S. officials have a legal duty to prevent, and not further, this most serious of crimes.

Biden, Blinken, and Austin, as outlined in the complaint, are sued in their official capacity for failing to prevent an unfolding genocide where they have influence over the State of Israel to do so, and directly abetting its development with weapons, funds, and diplomatic cover, in breach of duties enshrined in the Genocide Convention and customary international law. The filing is accompanied by a declaration from the leading legal expert on genocide, William Schabas, who identifies features of the Israeli government's statements, deadly military assault, and total siege as signs of genocide and affirms the United States' breach of its legal duty to prevent genocide. A separate expert declaration by the genocide and Holocaust scholars Drs. John Cox, Victoria Sanford, and Barry Trachtenberg, explains how the genocidal intentions and actions of Israeli leadership resemble other genocides in recent history.

The complaint, which seeks declaratory and injunctive relief, cites the U.S. government's unconditional support for Israel as it bombs the people of Gaza and deprives them of food, water, and other necessities. The complaint states that even the crimes committed by the military wing of Hamas on October 7th that killed an estimated 1,200 Israeli people, including many civilians, and kidnapped 240, cannot legally justify the forms of targeting an entire population and collective punishment meted out by the Israeli government, let alone genocide. Since October 8th, Israel has killed over 11,000 Palestinians in the Gaza Strip – mostly civilians, including more than 4,600 children – and displaced 1.5 million. Thousands of Palestinians remain missing, and Israel's destruction of hospitals, schools, and most infrastructure in Gaza – as well as intentional deprivation of access to food, water, electricity, and medicine – has rendered life in Gaza impossible.

“To be honest, it’s difficult to revisit all the scenes of the past weeks. They open a door to hell when I recall them,” said **Dr. Omar Al-Najjar, a 24-year-old intern physician at Nasser Medical Complex in Khan Yunis and a plaintiff in the case.** “I’ve lost five relatives, treated too many children who are the sole survivors of their families, received the bodies of my fellow medical students and their families, and seen the hospital turn into a shelter for tens of thousands of people as we all run out of fuel, electricity, food, and water. The U.S. has to stop this genocide. Everyone in the world has to stop this.”

In addition to Dr. Al-Najjar, the other plaintiffs in the case are the Palestinian human rights organizations Defense for Children International–Palestine and Al-Haq; the individuals Ahmed Abu Artema, and Mohammed Ahmed Abu Rokbeh, who are in Gaza; and Mohammad Monadel Herzallah, Laila Elhaddad, Waeil Elbhassi, Basim Elkarra, and “A.N.,” who are U.S. citizens with family in Gaza. All have had multiple family members killed, subjected to the closure of Gaza, and displaced.

Filed on the plaintiffs’ behalf by the Center for Constitutional Rights with the law firm of Van Der Hout, LLP, the complaint provides extensive evidence that the acts of the Israeli government represent an unfolding genocide, which the Genocide Convention defines as acts committed “with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group,” and which can be accomplished through killing, inflicting serious bodily or mental harm upon a targeted group, or by “inflicting upon the group conditions of life calculated to bring about its physical destruction in whole or in part.”

The Israeli military has targeted civilian areas and infrastructure, including using chemical weapons, and deprived Palestinians of basic necessities for life, the complaint says, while dehumanizing Palestinians as “human animals” that are undeserving of human rights protections and vowing to “eliminate everything,” making clear the “emphasis is on damage and not accuracy.” Gaza had already been subject to five prior bombing campaigns and a nearly 17-year military closure and ongoing occupation that had made Gaza an open air prison.

“For the last five weeks, President Biden and Secretaries Blinken and Austin have stood shoulder-to-shoulder with an Israeli government that has made clear its intention to destroy the Palestinian population in Gaza. As neighborhood after neighborhood, hospital after hospital, and sheltering displaced Palestinians were bombed, while subject to a total siege and closure that denies 2.2 million people basic necessities for life, they have continued to provide both military and political support for Israel’s unfolding genocidal campaign while imposing no red lines,” said [Katherine Gallagher](#), **a senior attorney at the Center for Constitutional Rights and one of the lawyers who brought the case**. “The United States has a clear and binding obligation to prevent, not further, genocide. They have

failed in meeting their legal and moral duty to use their considerable power to end this horror. They must do so.”

The United States has a duty under Article 1 of the Genocide Convention to prevent and punish acts of genocide, an obligation the U.S. Congress made law in 1988 when it ratified the Convention and passed the Genocide Convention Implementation Act (18 U.S.C. § 1091). The duty to prevent is heightened given the United States’ considerable influence on Israel. The Biden administration, plaintiffs say, is not merely failing to prevent Israel’s genocide of Palestinians, it is actively abetting it. From the start of the bombing, Biden has repeatedly reaffirmed, through word and deed, [“unwavering”](#) U.S. support.

Courts have identified the providing of weapons and other materials to the perpetrators of genocide as a form of complicity. To be culpable, the provider need not share the recipients’ genocidal intent.

William Schabas, the world’s leading legal expert on genocide, wrote in his declaration in the case, “I conclude that there is a serious risk of genocide committed against the Palestinian population of Gaza and that the United States of America is in breach of its obligation, under both the 1948 Genocide Convention to which it is a party as well as customary international law, to use its position of influence with the Government of Israel and to take the best measures within its power to prevent the crime taking place.”

“Palestinian children in Gaza are undoubtedly targets as repeated Israeli military offensives destroy their homes, schools, and neighborhoods, as Israeli forces use U.S.-made and funded weapons to kill them and their families with impunity,” said **Khaled Quzmar, general director at Defense for Children International – Palestine**

. “While people protest in the streets, world leaders show, day after day, that they lack the temerity to end the catastrophic and unprecedented destruction of Palestinian life in Gaza. We need the American people to join us to force an end to this genocide.”

Local counsel **Marc Van Der Hout of the law firm of Van Der Hout, LLP**, said, “The United States must fulfill its obligations under the Genocide Convention and international law to prevent escalating atrocities in Gaza. The killings and kidnappings perpetrated by Hamas on Oct 7th, horrendous as they were, in no conceivable way justify the massacres now being perpetrated by the State of Israel with the unconditional support and acquiescence of the United States. The courts must now force the U.S. to comply with its obligations under the law.”

“We have lost so many people, but there are still many more who are living, and we owe it to them to do everything possible to stop this genocide,” said **Mohammad Herzallah, one of the plaintiffs in the case who has family in Gaza.**

“I have done everything in my power: I have participated in protests, sit-ins, wrote letters to my representatives, civil disobedience. Now I am asking the courts to end this ongoing genocide.”

For more information and to read the complaint, visit the [Center for Constitutional Rights case page here](#)