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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 DEFENSE FOR CHILDREN
16 INTERNATIONAL – PALESTINE; AL-
17 HAQ; AHMED ABU ARTEMA;
18 MOHAMMED AHMED ABU ROKBEH;
19 MOHAMMAD HERZALLAH; A.N.;
20 LAILA ELHADDAD; WAEIL ELBHASSI;
21 BASIM ELKARRA; and DR. OMAR EL-
22 NAJJAR

23 Plaintiffs,

24 v.

25 JOSEPH R. BIDEN, JR., *President of the*
26 *United States*, ANTONY J. BLINKEN,
27 *Secretary of State*, LLOYD JAMES
28 AUSTIN III, *Secretary of Defense*, in their
official capacities,

Defendants.

Case No.: 3:23-cv-5829

**DECLARATION OF DR. JOHN COX,
DR. VICTORIA SANFORD AND DR.
BARRY TRACHTENBERG IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Hearing: _____, 2023 at _____

1 internationally recognized expert on the Guatemalan genocide and is the author of seven single-
2 authored books, one co-authored book and two co-edited volumes including *Buried Secrets: Truth and*
3 *Human Rights in Guatemala* (Palgrave Macmillan, 2003) and *Gender Violence in Peace and War ~*
4 *States of Complicity* (Rutgers, 2016). Dr. Sanford directed research for the Guatemalan Forensic
5 Anthropology Foundation 1999 report to the Commission for Historical Clarification (the Guatemalan
6 truth commission). She served as an invited expert in the Spanish National Court's genocide case
7 against the Guatemalan generals and in indigenous land rights and indigenous/gender discrimination
8 cases in the Inter-American Court of Human Rights. Dr. Sanford is an Advisory Board member of the
9 CUNY Center for the Study of the Holocaust, Genocide, and Crimes Against Humanity and the Reiff
10 Center for Human Rights and Conflict Resolution at Christopher Newport University. She is an
11 Affiliated Scholar at the Center for the Study of Genocide and Human Rights, Rutgers University.
12

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14 4. **Dr. Barry Trachtenberg** is a scholar of modern Jewish history and the Nazi
15 Holocaust, with a PhD in History from the University of California, Los Angeles. Since 2016, he has
16 been employed as The Michael H. and Deborah K. Rubin Presidential Chair of Jewish History and as
17 of 2023 is tenured Professor at Wake Forest University in Winston-Salem, North Carolina, where he
18 is a member of the interdisciplinary programs in Jewish Studies and Middle East and South Asian
19 Studies. He serves on the Board of Scholars of Facing History and Ourselves and for six years was a
20 member of the Academic Council of the Holocaust Educational Foundation of Northwestern
21 University. Prior to working at Wake Forest University, he taught from 2003 to 2016 at the State
22 University of New York, Albany, where he directed the programs in Judaic Studies and Hebrew
23 Studies from 2010 to 2016. Dr. Trachtenberg is the author of three books, most recently *The Holocaust*
24 *& the Exile of Yiddish: A History of the Algemeyne Entsiklopedye* (Rutgers, 2023) and *The United*
25 *States and the Holocaust: Race, Refuge, and Remembrance* (Bloomsbury, 2018), and various articles
26 — both scholarly and media — on many aspects of modern Jewish history and the Holocaust. For
27
28

1 many years, he has taught academic courses and given community lectures on modern Jewish history,
2 Zionism, Israel, antisemitism and the Nazi Holocaust. In 2017, Dr. Trachtenberg testified to Congress
3 on the issue of antisemitism on college campuses.

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5 5. We make this declaration based on our expert professional knowledge as scholars of
6 genocide and Holocaust studies. Given the high threshold to establish a case of genocide under the
7 UN Convention on the Prevention and Punishment of the Crime of Genocide (December 1948),
8 particularly because of the requirement to prove an “intent to destroy, in whole or in part, a national,
9 ethnical, racial or religious group, as such,” it is remarkable, as discussed below, that much evidence
10 points to the crime of genocide in Israel's attack on Gaza after October 7, 2023.

11
12 6. Individuals targeted in genocidal violence are targeted specifically as members of a
13 group. If intent is established, the list of violent acts recognized as genocide includes killing and
14 causing serious bodily or mental harm to members of the group, and deliberately inflicting upon the
15 group conditions of life calculated to bring about its physical destruction.¹

16
17 7. Even if the available evidence so far (November 13) would only point to the
18 “possibility of genocide” because of the “gravity of the current situation”—as 880 scholars of
19 international law, conflict studies, and Holocaust and Genocide Studies wrote in a statement on
20 October 15²—that would still place our conclusions within the normative framework of the
21 Convention, which requires Contracting Parties to act to prevent genocide before it happens or to stop
22 it (Article 1). Absent such intervention and enjoying United States, British, and European Union
23 support, the Israeli attack against Gaza since the warning by scholars on October 15 has escalated
24 markedly, raising the numbers of Palestinians that Israeli forces killed from over 2,300 on October 15
25 to more than 11,000 now (November 13), including more than 4,600 children and youths. Israeli forces
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27 ¹ <https://www.un.org/en/genocideprevention/genocide.shtml>

28 ² <https://twailr.com/public-statement-scholars-warn-of-potential-genocide-in-gaza>

1 have so far wounded more than 30,000 Palestinians, displaced more than 1.5 million Palestinians of a
2 population (in Gaza) of 2.2 million, and destroyed or damaged over half of all housing units in the
3 Gaza Strip.

4 Legal and Historical Elements of the Crime of Genocide in Israel's Attack on Gaza

5 8. The assessment of genocide against Palestinians in Israel's attack on Gaza after October
6
7 rests primarily on two key elements:

8 i. Clear expressions of the special intent (*dolus specialis*) to commit genocide by state
9 leaders and senior army officers, that is, those with command authority. Past historical
10 precedents reveal that intent is often articulated through explicitly dehumanizing and
11 demonizing language. We see the same kind of language in this case, specifically the
12 description of Palestinians in Gaza as “human animals.”

13
14 ii. The nature of the Israeli attack, specifically the levels of destruction and killings
15 through carpet bombings on one of the most densely populated areas in the world that
16 at the same time is put under “total siege”—which deprives the civilian population of
17 food, water, fuel, and medical supplies—are measures that, when combined with
18 explicit intent, are “deliberately inflicting on the group conditions of life calculated to
19 bring about its physical destruction in whole or in part” (UN Genocide Convention,
20 Article II (c)).
21

22 Israel's Genocidal Intent

23 9. Perpetrators of genocide rarely express their intentions as directly as Israeli state
24 leaders and senior army officers have done after October 7.

25 10. On October 9, Israel Defense Minister Yoav Gallant proclaimed: “We are imposing a
26 complete siege on Gaza. No electricity, no food, no water, no fuel. Everything is closed. We are
27 fighting human animals, and we will act accordingly.”
28

1 11. Israeli President Isaac Herzog repeated Israel's intention to commit genocide against
2 the civilian population of 2.2 million—half of whom are children and youth under the age of 18—
3 when he asserted, on October 13, that “it's an entire nation out there [in Gaza] that is responsible. It's
4 not true this rhetoric about civilians not being aware, not involved. It's absolutely not true.”
5

6 12. Other Israeli state leaders and senior army officers preferred incendiary language
7 different than what Gallant chose, focusing more on defining Palestinians as Nazis who act strictly out
8 of antisemitic motives. Former Israeli prime minister Naftali Bennett expressed this in an interview
9 on 12 October: “We’re fighting Nazis.”

10 13. Finally, Israeli Prime Minister Benjamin Netanyahu, promised to turn Gaza “into
11 rubble,” and on October 29 declared a religious war as Israeli forces began their ground invasion into
12 the Gaza Strip, and he invoked the biblical story of the *total* destruction of Amalek by the Israelites.
13 Netanyahu referred to this story again in a special letter on November 3 to the soldiers and officers in
14 the Israeli army.
15

16 14. Each of the statements quoted in this section by people with command authority on its
17 own would be cause for great alarm; taken together, they demonstrate clear “intent to destroy”
18 Palestinians in Gaza “as such.”
19

20 Israel's Genocidal Actions

21 15. Some of the key facts so far about Israel's attack on Gaza include:

- 22 • Gaza is one of the most densely populated areas in the world. Since October 9,
23 Israel has dropped more than 20,000 tons of explosives on Gaza, which are at
24 least 1.5 times more explosives than the atomic bomb that the United States
25 dropped on Hiroshima at the end of World War II. Israel has so far (November
26 13) killed over 11,000 Palestinians, wounding more than 30,000.
27

- Among the Palestinians that Israel has so far (November 13) killed in Gaza include more than 4,100 children and youths—more than the annual number of children killed across the world’s conflict zones since 2019.
- Human Rights Watch has confirmed the use of white phosphorous bombs in Israel’s attack on Gaza. White phosphorous sets fire to bodies and buildings, creating flames that are not extinguishable on contact with water.
- Israel has destroyed or damaged more than half of all the housing in the Gaza Strip, also seriously damaging more than 220 schools and 12 hospitals, as well as dozens of mosques and several churches. This confirms what Israeli army spokesperson Daniel Hagari said on October 10: “Gaza will eventually turn into a city of tents. There will be no buildings,” adding “the emphasis is on damage and not on accuracy.”

16. These levels of destruction and killings in just over one month, together with the annihilatory language expressed by Israeli state leaders and senior army officers, point not to targeting of individual Hamas militants or Hamas military targets, but to the unleashing of deadly violence against Palestinians in Gaza “as such,” in the language of the UN Genocide Convention.

Recent Comparative Instances of Genocide

17. We view that all Palestinians in Gaza are right to fear for their lives, for the coordinated attacks on them now alarmingly resemble those of genocidal campaigns in recent decades, such as in the 1982 genocide of Mayan people in Guatemala, the 1994 Rwandan genocide of Tutsis, the 1995 genocide of Bosnian Muslims, the 2003-2005 genocide in Darfur, the 2014 genocide against Yazidis in Iraq, and the 2016-17 genocide against Rohingya Muslims.

18. We emphasize that although the death tolls in these genocides vary considerably, they are considered genocides on account of the clear “intent to destroy, in whole or in part, a national,

1 ethnical, racial or religious group” as defined in the UN Convention on the Prevention and Punishment
2 of the Crime of Genocide (December 1948). As we now see in Gaza, each of these genocides involved
3 the widespread killing of non-combatants and mass displacement based upon either racial, religious,
4 or ethnic identity, deliberately inflicting upon the group conditions of life calculated to bring about its
5 physical destruction.
6

7 19. The extreme violence committed against Guatemala's Ixil Maya population escalated
8 to genocide in 1982, following General Efraín Ríos Montt’s seizure of power through a military coup
9 in March. From March 1982 to August 1983, he conducted a systematic campaign to annihilate more
10 than 400 Mayan villages, as indigenous Maya were deemed internal enemies of the regime. Using
11 strategies such as cordoning off villages, separating Ixil Maya by gender, committing mass sexual
12 assault, and massacring entire villages, Rios Montt’s forces were responsible for the slaughter of an
13 estimated 75,000 persons in this army campaign begun in 1982. All told, the Guatemalan army
14 committed 626 known massacres and killed an estimated 200,000 civilians — more than 80 percent
15 Maya. Using dehumanizing language such as referring to Ixil women as “cockroaches” and Ixil
16 children as “chocolates,” the systematic slaughter of unarmed men, women, and children, and the
17 burning of hundreds of villages were reduced to a simple order: “Kill the cockroaches and leave no
18 chocolates.”
19

20
21 20. In 1994, Hutu state authorities, militia groups, and civilians massacred 800,000 Tutsis
22 within three months. The Hutu majority in Rwanda saw the Tutsi minority as foreigners who did not
23 belong in the nation; this idea was a legacy of Belgium colonial rule, which had divided and
24 “racialized” the colonized population into “indigenous” Hutus and “superior” Tutsis who, in the
25 Belgium imagination, hailed from the Horn of Africa. In 1962, when Hutus achieved independence,
26 they recast Tutsis as dangerous foreigners and invaders residing in the Hutu state. This dehumanizing
27 and murderous rhetoric reached a crescendo following the assassination of Rwanda’s Hutu president
28

1 in April 1994. Calls to eliminate the Tutsi “cockroaches” became ubiquitous on a popular radio station
2 as well as in pronouncements of the hard-line Hutu Power politicians who seized power. The case of
3 Rwanda is also instructive in relation to Israel’s current genocidal attack on Gaza, because as it was
4 happening, United States President Bill Clinton and his administration chose not to recognize the
5 unfolding mass violence for what it clearly was: genocide. Wary of intervening in Africa following
6 the loss of United States soldiers in Somalia the previous year, the United States government denied
7 that genocide was happening in Rwanda, as that would require, according to the UN Genocide
8 Convention, intervention to stop it.

10 21. The following year, in July 1995, during the Bosnian War, which was a consequence
11 of the breakup of Yugoslavia, an estimated 8,000 Bosnian Muslim men and boys from the city of
12 Srebrenica were murdered by Bosnian Serbian forces led by Radovan Karadžić with the aim of ridding
13 the territory of Muslims in order to create an ethnically pure Greater Serbia. In spite of a UN presence
14 in the city—and the UN’s declaration that Srebrenica was a protected “safe area”—on July 6, 1995,
15 Serbian forces broke with international regulations and attacked the city, causing UN peacekeepers to
16 retreat. More than 20,000 Muslims fled the city and within a week, Bosnian Serb troops had captured
17 Srebrenica. Along with hunting down and murdering an estimated 3,000 men and boys trying to
18 escape, Bosnian Serb forces seized approximately 5,000 Muslim men and boys from a UN shelter and
19 systematically murdered and buried them in mass graves. As in Rwanda, the United States government
20 and the “international community” failed to take action to prevent these crimes, which were easily
21 foreseen, as they occurred in the fourth year of the ruinous war.

24 22. Between 2003 and 2005, an estimated 200,000 (UN estimates range as high as 300,000)
25 ethnic Darfuri civilians were murdered in western Sudan during a civil war in what has been
26 considered the first genocide of the twenty-first century. These crimes persisted for several more years.
27 Central to the murders were the religious and racial differences of minority Fur, Zaghawa, and Masalit
28

1 peoples who were systematically slaughtered by government-organized militias known as the
2 Janjaweed, who engaged in the destruction of thousands of villages, with inhabitants murdered,
3 sexually assaulted, and maimed. More than 2.5 million people were forcibly displaced. The United
4 States government and UN spent considerable time debating how to define these crimes, but took no
5 action to stop or ameliorate them.
6

7 23. In 2014 the Islamic State (ISIL) carried out a genocide against the Yazidi religious
8 community in northern Iraq. In the course of this campaign, ISIL murdered approximately 5,000 men
9 (some estimates are as high as 12,000) and held as many as 7,000 women in sexual slavery, in what
10 was determined by the United Nations to have been a genocide. According to the UN, “the intent of
11 these acts was to permanently destroy the capacity of these women and children to have children and
12 build families within the Yazidi community.” Central to the efforts of ISIL was the forcible
13 displacement of Yazidis from their homes with the intent to prevent the continuation of the Yazidi
14 people. More than 200,000 Yazidi people remain displaced from their homeland.
15

16 24. The genocide of the Rohingya Muslims by the Myanmar military occurred from
17 October 2016 to January 2017. As a marginalized religious minority living within the Buddhist state,
18 the Rohingya people were targeted for ethnic cleansing and genocide in a series of massacres that
19 resulted in the murder of more than 25,000 people and sexual violence against 18,000 women and
20 girls. As a result, over one million Rohingya were forced to flee the country, most into refugee camps
21 in neighboring Bangladesh.
22

23 The Israeli Political Imagination of a Jewish State without Palestinians, Past and Present

24 25. A large body of scholarship addresses, from various perspectives, what historian Alon
25 Confino has recently described as an Israeli political imagination of a Jewish state without
26 Palestinians. This vision sits at the core of a long history of Israeli mass violence, stretching from the
27 Nakba—the massacres and mass deportations of more than 750,000 Palestinians and the destruction
28

1 of hundreds of villages and towns by Israeli forces in the 1948 war—through the continued assault on
2 Palestinians since then, including military occupation of the West Bank, East Jerusalem, and the Gaza
3 Strip after 1967; mass incarceration; destruction of water sources; killings; denial of access to food
4 and water, and the attack against Palestinian children and youth.

5
6 26. The underlying urge for a Greater Israel with as few Palestinians as possible escalated
7 in 2023. Combined state and settler violence rendered 2023 the most lethal year for Palestinians in the
8 occupied West Bank since 2005, even prior to October 7.

9
10 27. Historical examples such as the forced displacement of Herero by Germany in
11 Southwest Africa (today’s Namibia) in 1904, Armenians by Ottomans in 1915, and Polish Jews by
12 Germany from 1939-45 demonstrate that forced displacement has regularly escalated to systematic
13 mass murder and genocide.

14
15 28. Israeli government proposals to force *all* Palestinians from Gaza to the Sinai desert, as
16 laid out in a document prepared by the Israeli Intelligence Ministry on October 13, is particularly
17 chilling in view of twentieth-century historical precedents. On October 12, over one million
18 Palestinians were directed to leave the northern Gaza Strip within just twenty four hours, producing
19 what United Nation officials called “devastating humanitarian consequences” that “could transform
20 what is already a tragedy into a calamitous situation.” Expelled Palestinians have since faced regular
21 air attacks while en route southward. The International Committee of the Red Cross warned on October
22 12 that “hospitals risk turning into morgues without electricity,” a prediction that has now become
23 fact. This has occurred in just over one month since the beginning of the Israeli attack, with no end in
24 sight—a new and particularly terrible chapter in the Israeli drive to realize a Greater Israel without
25 Palestinians.

26
27 29. Our research and studies of these past genocides lead us to the conclusion that the time
28 for legal remedies is now, especially considering calls for a “second Nakba,” by members of the

1 Knesset (the Israeli parliament). Ariel Kallner from the ruling Likud party, for example, posted on
2 social media on October 7 the following vision: “Nakba to the enemy now. ... Now, only one goal:
3 Nakba! Nakba that will overshadow the Nakba of 1948. Nakba in Gaza and Nakba to whoever dares
4 to join [them].” The stage is thus set for more than the Nakba, indeed for genocide.
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7 We hereby declare under the penalty of perjury pursuant to the laws of the United States that the
8 above is true and correct to the best of our knowledge.
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11 _____
12 John Cox

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11 _____
12 Victoria Sanford

10 

11 _____
12 Barry Trachtenberg

13 EXECUTED this 13th day of November, 2023
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