

No. 24-704

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

DEFENSE FOR CHILDREN INTERNATIONAL – PALESTINE; AL-HAQ;
AHMED ABU ARTEMA; MOHAMMED AHMED ABU ROKBEH;
MOHAMMAD HERZALLAH; AYMAN NIJIM; LAILA ELHADDAD; WAEIL
ELBHASSI; BASIM ELKARRA; and DR. OMAR EL-NAJJAR,

Plaintiffs-Appellants,

v.

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

Defendants-Appellees.

On Appeal from the United States District Court for the Northern
District of California, Case No. 4:23-cv-05829-JSW

***AMICI CURIAE* BRIEF OF TEN CIVIL RIGHTS AND GRASSROOTS
ORGANIZATIONS IN SUPPORT OF PLAINTIFFS-APPELLANTS'
PETITION FOR REHEARING *EN BANC***

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CORPORATE DISCLOSURE STATEMENT

I, Christopher Godshall-Bennett, attorney for *amici curiae*, certify that *amici* are not-for-profit organizations. No *amicus* has a parent corporation. No *amicus* issues stock, nor does there exist a publicly held corporation that owns 10% or more of the stock of any *amicus*.

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<p><i>‘We Saw Phosphorus Burns’: British-Palestinian Surgeon Recounts Injuries He Saw in Gaza – Video</i>, GUARDIAN (Nov. 27, 2023), https://www.theguardian.com/world/video/2023/nov/27/we-saw-phosphorous-burns-british-palestinian-surgeon-recounts-injuries-he-saw-in-gaza-video</p>	6
<p>Al Jazeera Staff, <i>Gaza ‘Safe Zones’ Led to Displacement, Israeli Attacks on Civilians: Report</i>, AL JAZEERA (Mar. 13, 2024), https://www.aljazeera.com/news/2024/3/13/gaza-safe-zones-led-to-displacement-israeli-attacks-on-civilians-report.....</p>	11
<p>Al Jazeera Staff, <i>Timeline: Israel’s deadly seven-day raid in occupied West Bank’s Jenin</i>, AL JAZEERA (Sep. 3, 2024), https://www.aljazeera.com/news/2024/9/3/timeline-israels-deadly-seven-day-raid-in-occupied-west-banks-jenin</p>	3
<p>Al Jazeera Staff, <i>UN calls for probe as Israeli army accused of killing unarmed Palestinians</i>, AL JAZEERA (Dec. 21, 2023), https://www.aljazeera.com/news/2023/12/21/idf-executed-palestinian-men-in-front-of-their-families-un-confirms</p>	5
<p>Amnesty International USA Submission to NSM-20, <i>Unlawful Use of US-Made Munitions and Violations of International Law by Israel Since January 2023</i>, Amnesty Int’l (Apr. 4, 2024), https://www.amnestyusa.org/wp-content/uploads/2024/04/4.29.2024-NSM-20-AIUSA-submission-re-Israel.pdf .5</p>	5
<p>Ang Li and Mark Boyer, <i>An American’s Desperate Effort to Save Her Family in Gaza</i>, N.Y TIMES (Jun. 16, 2024), https://www.nytimes.com/video/world/middleeast/100000009511061/gaza-rafah-american.html</p>	14

Astha Rajvanshi, *The Mental Health Toll of the War in Gaza*, TIME (February 27, 2024), <https://time.com/6835665/palestinian-mental-health-war-israel-hamas....>8

Ayesha Rascoe, *6 months of war: Palestinians say the U.S. government lacks empathy for their plight*, NPR (April 7, 2024), <https://www.npr.org/2024/04/07/1243294267/6-months-of-war-palestinians-say-the-u-s-government-lacks-empathy-for-their-plig>.....14

Biden Says He Has ‘No Confidence’ in Palestinian Death Count, REUTERS (Oct. 25, 2023), <https://www.reuters.com/world/middle-east/biden-says-he-has-no-confidence-palestinian-death-count-2023-10-26/>.....19

Brandon Drenon, *Palestinian-Americans struggle with survivors’ guilt*, BBC (Nov. 23, 2023), <https://www.bbc.com/news/world-us-canada-67410868>.....8

Chloe Veltman, *More than 100 Gaza Heritage Sites Have Been Damaged or Destroyed by Israeli Attacks*, NPR (Dec. 3, 2023), <https://www.npr.org/2023/12/03/1216200754/gaza-heritage-sites-destroyed-israel>.....12

Dan Williams & Simon Lewis, *Israel to allow Palestinian Americans entry in bid for US visa-free access*, REUTERS (July 19, 2023), <https://www.reuters.com/world/middle-east/israeli-bid-us-visa-waiver-hangs-palestinian-american-access-test-2023-07-19/>.....3

Education Cannot Wait, Norwegian Refugee Counsel, & Save the Children, *Education under attack in Gaza, with nearly 90% of school buildings damaged or destroyed, and no university left standing* (Apr. 16, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/education-under-attack-gaza-nearly-90-school-buildings-damaged-or-destroyed-and-no-university-left-standing>.....12

Eric Levenson, Whitney Wild & Bill Kirkos, *Landlord Accused of Killing 6-Year-Old Palestinian American Boy Pleads Not Guilty to Murder and Hate Crime Charges*, CNN (Oct. 30, 2023), <https://www.cnn.com/2023/10/30/us/palestinian-american-boy-stabbed/index.html>.....20

Euro-Mediterranean Human Rights Monitor, *The bloodiest face of its genocide: Israel has killed 2,100 Palestinian infants and toddlers in Gaza* (Aug. 24, 2024),

<https://reliefweb.int/report/occupied-palestinian-territory/bloodiest-face-its-genocide-israel-has-killed-2100-palestinian-infants-and-toddlers-gaza-enar>4

Famine Early Warning System Network, *Gaza Strip Targeted Analysis Update July 2024: Food assistance declines further as the humanitarian catastrophe in Gaza persists* (Aug. 20, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/gaza-strip-targeted-analysis-update-july-2024-food-assistance-declines-further-humanitarian-catastrophe-gaza-persists>8

Gaza coins a new acronym: WCNSF - Wounded Child No Surviving Family, MIDDLE EAST MONITOR (Nov. 7, 2023), <https://www.middleeastmonitor.com/20231107-gaza-coins-a-new-acronym-wcnsf-wounded-child-no-surviving-family/>10

Gaza: ‘Children are Dying from Hunger’, Says UN Aid Coordinator, U.N. News (Mar. 6, 2024), <https://news.un.org/en/story/2024/03/1147312>7

General Authority for Crossings and Borders – Gaza “Official Page”, Facebook, <https://www.facebook.com/GAFC.MOI>.....18

Humanitarian Situation in Gaza 'Incredibly Desperate, Worst That Has Been Recorded' by Aid Agencies, FRANCE 24 (Mar. 11, 2024), <https://www.france24.com/en/video/20240311-humanitarian-situation-in-gaza-incredibly-desperate-worst-that-has-been-recorded-by-aid-agencies>7

Humanity & Inclusion, *Blast Impacts: Looking into the Consequences of Explosive Weapons in Gaza* 5 (2023).....6

Humanity and Inclusion, *All the Children in Gaza are Out of School* (May 7, 2024), <https://www.hi-us.org/en/news/all-the-children-in-gaza-are-out-of-school>11

Humeyra Pamuk & Mike Stone, *Exclusive: US has sent Israel thousands of 2,000-pound bombs since Oct. 7*, REUTERS (Jun. 29, 2024), <https://www.reuters.com/world/us-has-sent-israel-thousands-2000-pound-bombs-since-oct-7-2024-06-28/>.....13

Iman Farajallah, *Continuous Traumatic Stress in Palestine: The Psychological Effects of the Occupation and Chronic Warfare on Palestinian Children*, 4(2) WORLD SOCIAL PSYCHIATRY 112 (May-Aug 2022),

- https://journals.lww.com/wpsy/fulltext/2022/04020/continuous_traumatic_stress_in_palestine_the.10.aspx9
- Integrated Food Security Phase Classification, *Gaza Strip: IPC Acute Food Insecurity November 2023 – February 2024* (Dec. 21, 2023), <https://reliefweb.int/report/occupied-palestinian-territory/gaza-strip-ipc-acute-food-insecurity-november-2023-february-2024-december-21-2023#:~:text=Between%20%20December%20and%207,any%20given%20area%20or%20country>7
- Israel, the West Bank and Gaza Travel Advisory*, U.S. Dep’t of State Bureau of Consular Affairs (July 31, 2024), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/israel-west-bank-and-gaza-travel-advisory.html>18
- Israel/OPT: US-made Munitions Killed 43 Civilians in Two Documented Israeli Air Strikes in Gaza – New Investigation*, AMNESTY INT’L (Dec. 5, 2023), <https://www.amnesty.org/en/latest/news/2023/12/israel-opt-us-made-munitions-killed-43-civilians-in-two-documented-israeli-air-strikes-in-gaza-new-investigation/>13
- Israel: White Phosphorus Used in Gaza, Lebanon*, Hum. Rts. Watch (Oct. 12, 2024), <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>6
- Julia Frankel & Wafaa Shurafa, *As Gaza death toll passes 40,000, corpses are buried in yards, streets, tiered graves*, ASSOCIATED PRESS (Aug. 15, 2024), <https://apnews.com/article/gaza-war-hamas-dead-graves-40000-988d16b648e06e222f04964dc9440da0>5
- Julia Frankel, *Israel’s Military Campaign in Gaza Seen as Among the Most Destructive in Recent History, Experts Say*, ASSOCIATED PRESS (Jan. 11, 2024), <https://apnews.com/article/israel-gaza-bombs-destruction-death-toll-scope-419488c511f83c85baea22458472a796>13
- Kanishka Singh and Humeyra Pamuk, *US has ‘undeniable complicity’ in Gaza war killings, say former US officials*, REUTERS (July 2, 2024), <https://www.reuters.com/world/middle-east/us-has-undeniable-complicity-gaza-war-killings-say-former-us-officials-2024-07-03/>4

Lara Jakes, *A Small American Bomb Killing Palestinians by the Dozen in Gaza*, N.Y. TIMES (June 8, 2024), <https://www.nytimes.com/2024/06/08/world/middleeast/us-israel-bomb-gbu39-gaza.html>14

Lauren C. Ng, Naphtal Ahishakiye, Donald E. Miller, and Beth E. Meyerowitz, *Life After Genocide: Mental Health, Education, and Social Support of Orphaned Survivors*, 4 INT’L PERSPECTIVES PSYCHOL. 83 (2015)9

Lauri Donahue, *Evacuating in Style: US Sends Cruise Ship to Get Its Citizens out of Israel*, JERUSALEM POST (Oct. 17, 2023), <https://www.jpost.com/israel-news/article-768677>17

Lexi Lonas, *Fears Rise on Campuses After Attack on Palestinian College Students*, THE HILL (Nov. 30, 2023), <https://thehill.com/homenews/education/4331566-fears-campus-attack-palestinian-islamophobia-hamas-israel/>20

Mental Health in the West Bank and Gaza, WORLD BANK GROUP (Nov. 22, 2022), <https://documents1.worldbank.org/curated/en/099153502102330181/pdf/P17925303fca130e30936d016a378b6a1e9.pdf>9

Oriana Pawlyk, *U.S. to Wind Down Charter Flights from Israel as Demand Wanes*, POLITICO (Oct. 19, 2023), <https://www.politico.com/news/2023/10/19/u-s-to-wind-down-charter-flights-from-israel-as-demand-wanes-00122546>.....17

Palestinian American: ‘Are we second-class citizens?’ BBC NEWS (Nov. 2, 2023), <https://www.bbc.com/news/av/world-us-canada-67292516>14

Palestinian Ministry of Culture, *The Fourth Preliminary Report on Cultural Sector Damage* (Feb. 13, 2024), <https://www.facebook.com/ministryofculturep/posts/pfbid0onD68grHiPG5bkgcF7z8SGJmDiNfc5ihUkLpQpw9cusZtKHjKgWFW5N3fes7uMGS1> [Ar.]12

Peter Balakian, *Raphael Lemkin, Cultural Destruction, and the Armenian Genocide*, 27 HOLOCAUST & GENOCIDE STUD. 57, 61 (2013).....12

Press Briefing by Matthew Miller, State Dep’t Spokesperson (Dec. 6, 2023), <https://www.state.gov/briefings/department-press-briefing-december-6-2023/> .15

Press Release, Palestine Legal, <i>Reverberations of October 7: Mobilization Against Genocide Undeterred by Peak Anti-Palestinian Repression</i> (May 24, 2024), https://palestinelegal.org/news/2024/5/23/new-report-analyzes-crackdown-on-palestine-solidarity-in-the-usnbsp	20
Press Release, U.N. Hum. Rts. Office of the High Commissioner, <i>UN Experts deeply concerned over ‘scholasticide’ in Gaza</i> (Apr. 18, 2024), https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza	11
Press Release, U.S. Dep’t of Justice Office of Public Affairs, <i>Justice Department Announces Terrorism Charges Against Senior Leaders of Hamas</i> (Sept. 3, 2024), https://www.justice.gov/opa/pr/justice-department-announces-terrorism-charges-against-senior-leaders-hamas	15
Sam Cabral, <i>Palestinian Americans trapped in Gaza wait desperately to leave</i> , BBC NEWS (Nov. 2, 2023), https://www.bbc.com/news/world-us-canada-67292966	15
Sandhya Dirks, <i>Palestinian Americans on the Israel-Hamas War: ‘We’re not Even Allowed to Grieve’</i> , NPR (Oct. 23, 2023), https://www.npr.org/2023/10/23/1208026655/palestinian-americans-on-the-israel-hamas-war-were-not-even-allowed-to-grieve	19
Stephen Bennett, <i>On the Dehumanization of the Palestinians</i> , INSTITUTE FOR PALESTINE STUDIES (Oct. 23, 2023), https://www.palestine-studies.org/en/node/1654481	18
T.R., <i>Teenager, Elderly Die in Northern Gaza Hospitals Due to Severe Malnutrition and Dehydration</i> , WAFA NEWS AGENCY (Mar. 6, 2024), https://english.wafa.ps/Pages/Details/142271	8
<i>Timeline: Israel’s Attacks on Gaza Since 2005</i> , AL JAZEERA (Aug. 7, 2022), https://www.aljazeera.com/news/2022/8/7/timeline-israels-attacks-on-gaza-since-2005	10
U.N. Office for the Coordination of Humanitarian Affairs (OCHA), <i>Humanitarian Situation Update #209 Gaza Strip</i> (Aug. 26, 2024), https://reliefweb.int/report/occupied-palestinian-territory/humanitarian-situation-update-209-gaza-strip	4, 5

- U.N. Says Israeli Troops Summarily Executed Palestinians in Gaza City*, DEMOCRACY NOW (Dec. 21, 2023), https://www.democracynow.org/2023/12/21/headlines/un_says_israeli_troops_summarily_executed_palestinians_in_gaza_city5
- UN experts say Israel carrying out ‘targeted starvation campaign’ in Gaza*, AL JAZEERA (July 9, 2024), <https://www.aljazeera.com/news/2024/7/9/un-experts-say-israel-carrying-out-targeted-starvation-campaign-in-gaza#:~:text=More%20than%20495%2C000%20people%20across,lack%20of%20food%20and%20starvation>7
- UN Rights Expert Condemns ‘Systematic’ War-Time Mass Destruction of Homes*, U.N. NEWS (Mar. 5, 2024), <https://news.un.org/en/story/2024/03/1147272>11
- United Nations Satellite Centre, *UNOSAT Gaza Strip 8th Comprehensive Damage Assessment – July 2024* (July 31, 2024), <https://unosat.org/products/3904>11
- United Nations, *10,000 people feared buried under the rubble in Gaza* (May 2, 2024), <https://news.un.org/en/story/2024/05/1149256>4
- Vedant Patel, Principal Deputy Spokesperson, U.S. Dep’t State, Department Press Briefing (Jan. 22, 2024), <https://www.state.gov/briefings/department-press-briefing-january-22-2024/>15
- WFP Deputy Chief Warns Security Council of Imminent Famine in Northern Gaza Unless Conditions Change*, WORLD FOOD PROGRAM USA (Feb. 28, 2024), <https://www.wfpusa.org/news-release/wfp-deputy-chief-warns-security-council-of-imminent-famine-in-northern-gaza-unless-conditions-change/>8
- World Health Organization, *Medical evacuation of Gaza patients through Rafah Crossing* (July 1, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/medical-evacuation-gaza-patients-through-rafah-crossing-oct-2023-20-june-2024>6
- Yara M. Asi, *The Trauma Experienced in Gaza Is Beyond PTSD*, N.Y. TIMES (Feb. 22, 2024), <https://www.nytimes.com/2024/02/22/opinion/gaza-palestinians-mental-health.html>8, 9
- Yasmie Salam, Mirna Alsharif & Anna Schecter, *Doubts, Fears Run High for Palestinian Americans Stuck in Gaza*, NBC NEWS (Oct. 16, 2023),

<https://www.nbcnews.com/news/us-news/doubts-fears-run-high-palestinian-americans-stuck-gaza-rcna120616>.....18

INTEREST OF *AMICI CURIAE*¹

Amici are ten civil rights and grassroots organizations that advocate for the rights and interests of the Palestinian people and of Black, Arab, Middle Eastern, Muslim, and South Asian communities. They litigate, advocate, and educate in support of Palestinian dignity and safety and work against efforts to dehumanize and erase the Palestinian people. *Amici* therefore support Plaintiffs-Appellants in seeking *en banc* review from this Court, so that they may pursue accountability from Defendants-Appellees for their complicity in the genocide of Palestinians in Gaza.

¹ The accompanying appendix lists all *amici* filing this brief. No counsel for a party authored this brief in whole or in part, and no person other than *amici*, their members, or their counsel made a monetary contribution intended to fund the brief's preparation or submission. All parties have consented to the filing of this brief. *See* Fed. R. App. P. 29(a)(4)(E).

SUMMARY OF THE ARGUMENT

Plaintiffs-Appellants (“Plaintiffs”) include Palestinian Americans whose loved ones are experiencing grievous pain, suffering, and death at the hands of a genocidal regime that Defendants-Appellees (“Defendants”) have militarily armed. The harm aided by Defendants is not faceless or theoretical. It is being inflicted on the Palestinians – including Americans – in the Gaza Strip (“Gaza”) and those who love them in the United States, forced to watch their government support the destruction of their loved ones’ lives, homes, and communities.

The depravity of the United States’ support of this genocide grows starker every day. During the pendency of this case, famine has spread in Gaza, and Israel’s violent campaign has expanded to the West Bank.² This catastrophe cannot go on one day longer.

The existential harms inflicted on Palestinians by Israel and Defendants have been well-documented by many, including *amici*. They include killing; injuries; the deprivation of food, water, and shelter; severe psychological trauma; cultural destruction; and the stigma associated with being viewed by your own government as less deserving of protection than others. Each of these harms is illustrated by the lived experiences of people who have shared them with journalists, organizations, and *amici*.

The panel's stunning decision that there is nothing the courts can do to stop Defendants from continuing to aid and abet the destruction of the Palestinian people has consequences of exceptional importance, especially for Palestinian Americans who are directly harmed by this genocide. The Court should grant *en banc* review and reverse the panel's decision.

In preparing the brief, *amici* consulted with about 19 affected individuals.³ *Amici* have a strong interest in the issues before the Court and are well-positioned to offer commentary about the harm facing the estimated 220,000 Palestinian Americans in the United States.⁴

² See Al Jazeera Staff, *Timeline: Israel's deadly seven-day raid in occupied West Bank's Jenin*, AL JAZEERA (Sep. 3, 2024), <https://www.aljazeera.com/news/2024/9/3/timeline-israels-deadly-seven-day-raid-in-occupied-west-banks-jenin>.

³ Notes from the interviews with individuals whose narratives are included in this brief are on file with counsel.

⁴ Upper estimates of the Arab American Institute Foundation gauge the number of Palestinian Americans to total 220,000. See Dan Williams & Simon Lewis, *Israel to allow Palestinian Americans entry in bid for US visa-free access*, REUTERS (July 19, 2023), <https://www.reuters.com/world/middle-east/israeli-bid-us-visa-waiver-hangs-palestinian-american-access-test-2023-07-19/>.

ARGUMENT

I. **Palestinian Americans are directly harmed by U.S. complicity in the ongoing genocide in Gaza.**

A. **Physical Harms**

Families of Palestinian Americans have been massacred during the ongoing genocide in Gaza, funded by steadfast U.S. military and diplomatic support.⁵ These deaths are not mere numbers: they represent loved ones with names, lives, hopes, and dreams. Between October 7, 2023, and August 26, 2024, Israeli forces have directly killed at least 40,435 Palestinians.⁶ More than 40 percent, or about 17,000, were children – including 2,100 infants and toddlers.⁷

This number likely underestimates the actual casualties, as several thousand remain unaccounted for, with as many as 10,000 trapped under rubble,⁸ some buried

⁵ See Kanishka Singh and Humeyra Pamuk, *US has 'undeniable complicity' in Gaza war killings, say former US officials*, REUTERS (July 2, 2024), <https://www.reuters.com/world/middle-east/us-has-undeniable-complicity-gaza-war-killings-say-former-us-officials-2024-07-03/>.

⁶ See U.N. Office for the Coordination of Humanitarian Affairs (OCHA), *Humanitarian Situation Update #209 | Gaza Strip* (Aug. 26, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/humanitarian-situation-update-209-gaza-strip>.

⁷ See Euro-Mediterranean Human Rights Monitor, *The bloodiest face of its genocide: Israel has killed 2,100 Palestinian infants and toddlers in Gaza* (Aug. 24, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/bloodiest-face-its-genocide-israel-has-killed-2100-palestinian-infants-and-toddlers-gaza-enar>.

⁸ United Nations, *10,000 people feared buried under the rubble in Gaza* (May 2, 2024), <https://news.un.org/en/story/2024/05/1149256>.

hastily in makeshift graves, and others whose bodies cannot be safely reached for a proper burial.⁹

Nemr Elsotary, a U.S. citizen from California, has lost over two hundred relatives since October 2023. On December 19, 2023, Nemr's cousin, her husband, and their two babies were rounded up by Israeli forces along with approximately ten others. Nemr's cousin's husband and the other men were stripped naked, blindfolded, and executed in front of their families while Israeli soldiers sang.¹⁰ Nemr's cousin and her children were then severely injured by a hand grenade tossed into a room with other women and children.¹¹

U.S. weapons have severely injured Palestinian Americans and their relatives in Gaza.¹² At least 93,534 Palestinians have been injured since October 7.¹³ Many of

⁹ See Julia Frankel & Wafaa Shurafa, *As Gaza death toll passes 40,000, corpses are buried in yards, streets, tiered graves*, ASSOCIATED PRESS (Aug. 15, 2024), <https://apnews.com/article/gaza-war-hamas-dead-graves-40000-988d16b648e06e222f04964dc9440da0>.

¹⁰ Al Jazeera Staff, *UN calls for probe as Israeli army accused of killing unarmed Palestinians*, AL JAZEERA (Dec. 21, 2023), <https://www.aljazeera.com/news/2023/12/21/idf-executed-palestinian-men-in-front-of-their-families-un-confirms>.

¹¹ *U.N. Says Israeli Troops Summarily Executed Palestinians in Gaza City*, DEMOCRACY NOW (Dec. 21, 2023), https://www.democracynow.org/2023/12/21/headlines/un_says_israeli_troops_summarily_executed_palestinians_in_gaza_city.

¹² Amnesty International USA Submission to NSM-20, *Unlawful Use of US-Made Munitions and Violations of International Law by Israel Since January 2023*, Amnesty Int'l (Apr. 4, 2024), <https://www.amnestyusa.org/wp-content/uploads/2024/04/4.29.2024-NSM-20-AIUSA-submission-re-Israel.pdf>.

¹³ See *Humanitarian Situation supra* note 6.

their injuries are life-altering, such as “fractures, peripheral nerve injuries, amputations of one or several limbs, spinal cord injuries, traumatic brain injuries, and burns.”¹⁴ More than 1,000 children in Gaza had legs amputated – many without painkillers or anesthetic – in the first two months of Israeli bombardment.¹⁵ Medical personnel also report treating patients with burns caused by white phosphorus.¹⁶ The World Health Organization estimates that 10,000 Palestinians need urgent medical evacuations.¹⁷

In addition to the immediate physical harms inflicted on Palestinians, the deteriorating situation in Gaza will cause medium- and long-term injuries on a scale difficult to predict. Palestinians, including Palestinian Americans, are struggling to survive a humanitarian situation that is “incredibly desperate, [. . .] the worst that

¹⁴ Humanity & Inclusion, *Blast Impacts: Looking into the Consequences of Explosive Weapons in Gaza 5* (2023).

¹⁵ *‘Ten Weeks of Hell’ for Children in Gaza: UNICEF*, U.N. Palestine (Dec. 20, 2023), <https://palestine.un.org/en/256251-%E2%80%99ten-weeks-hell%E2%80%99-children-gaza-unicef>.

¹⁶ See *‘We Saw Phosphorus Burns’: British-Palestinian Surgeon Recounts Injuries He Saw in Gaza – Video*, GUARDIAN (Nov. 27, 2023), <https://www.theguardian.com/world/video/2023/nov/27/we-saw-phosphorous-burns-british-palestinian-surgeon-recounts-injuries-he-saw-in-gaza-video>; *Israel: White Phosphorus Used in Gaza, Lebanon*, Hum. Rts. Watch (Oct. 12, 2024), <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>.

¹⁷ World Health Organization, *Medical evacuation of Gaza patients through Rafah Crossing* (July 1, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/medical-evacuation-gaza-patients-through-rafah-crossing-oct-2023-20-june-2024>.

has been recorded by humanitarian agencies.”¹⁸ Approximately 2.2 million Gazans are facing famine as “[h]unger has reached catastrophic levels.”¹⁹ United Nations (“U.N.”) human rights experts have found that Israel is carrying out a “targeted starvation campaign in Gaza.”²⁰ According to the Integrated Food Security Phase Classification initiative, “[t]his is the highest share of people facing high levels of acute food insecurity . . . ever classified for any given area or country.”²¹ Humanitarian aid has been increasingly difficult – or impossible – to deliver, with July 2024 food-assistance deliveries at their lowest level since October 2023.²² The

¹⁸ *Humanitarian Situation in Gaza 'Incredibly Desperate, Worst That Has Been Recorded' by Aid Agencies*, FRANCE 24 (Mar. 11, 2024), <https://www.france24.com/en/video/20240311-humanitarian-situation-in-gaza-incredibly-desperate-worst-that-has-been-recorded-by-aid-agencies> (quoting the CEO of War Child UK).

¹⁹ *Gaza: 'Children are Dying from Hunger', Says UN Aid Coordinator*, U.N. News (Mar. 6, 2024), <https://news.un.org/en/story/2024/03/1147312> (quoting the United Nation’s humanitarian coordinator for the Occupied Palestinian Territory).

²⁰ *UN experts say Israel carrying out 'targeted starvation campaign' in Gaza*, AL JAZEERA (July 9, 2024), <https://www.aljazeera.com/news/2024/7/9/un-experts-say-israel-carrying-out-targeted-starvation-campaign-in-gaza#:~:text=More%20than%20495%2C000%20people%20across,lack%20of%20food%20and%20starvation.>

²¹ Integrated Food Security Phase Classification, *Gaza Strip: IPC Acute Food Insecurity November 2023 – February 2024* (Dec. 21, 2023), <https://reliefweb.int/report/occupied-palestinian-territory/gaza-strip-ipc-acute-food-insecurity-november-2023-february-2024-december-21-2023#:~:text=Between%208%20December%20and%207,any%20given%20area%20or%20country.>

²² Famine Early Warning System Network, *Gaza Strip Targeted Analysis Update July 2024: Food assistance declines further as the humanitarian catastrophe in Gaza persists* (Aug. 20, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/gaza-strip-targeted-analysis-update-july-2024>

deputy executive director of the U.N. World Food Program has described the situation in Gaza as “the worst level of child malnutrition anywhere in the world.”²³

“Many in Gaza survive on just one meal a day, others find none.”²⁴

Moner Shaer, a 26-year-old U.S. citizen from Florida, has grandparents, three aunts, and several cousins in the north of Gaza, where there is widespread famine. In a recent conversation with his grandmother, he recalls her crying hysterically saying, “I just want to eat an egg.”

B. Mental Harms

Palestinians, including Palestinian Americans, have been experiencing a long and cumulative history of trauma due to the violent and illegal Israeli occupation²⁵ and are now facing an acute mental health crisis related to the genocide that “current frameworks for mental health are almost totally insufficient” to address.²⁶ In Gaza,

territory/gaza-strip-targeted-analysis-update-july-2024-food-assistance-declines-further-humanitarian-catastrophe-gaza-persists.

²³ *WFP Deputy Chief Warns Security Council of Imminent Famine in Northern Gaza Unless Conditions Change*, WORLD FOOD PROGRAM USA (Feb. 28, 2024), <https://www.wfpusa.org/news-release/wfp-deputy-chief-warns-security-council-of-imminent-famine-in-northern-gaza-unless-conditions-change/>.

²⁴ T.R., *Teenager, Elderly Die in Northern Gaza Hospitals Due to Severe Malnutrition and Dehydration*, WAFA NEWS AGENCY (Mar. 6, 2024), <https://english.wafa.ps/Pages/Details/142271>.

²⁵ Astha Rajvanshi, *The Mental Health Toll of the War in Gaza*, TIME (February 27, 2024), <https://time.com/6835665/palestinian-mental-health-war-israel-hamas>.

²⁶ See Yara M. Asi, *The Trauma Experienced in Gaza Is Beyond PTSD*, N.Y. TIMES (Feb. 22, 2024), <https://www.nytimes.com/2024/02/22/opinion/gaza-palestinians-mental-health.html>; see also Brandon Drenon, *Palestinian-Americans*

Palestinians are exhibiting symptoms of post-traumatic stress disorder triggered by events such as “the prospect of starving to death; waking up at a hospital and finding you are one of the last surviving members of your family; watching a child killed by an airstrike being pulled from rubble; displacement for the second, fifth, or 10th time.”²⁷ Palestinians are trying to find non-existent safe spaces to avoid the near-constant attacks while searching for scarce sources of food, clean water, medicine, and sanitation services. They are at great risk of developing devastating mental health disorders that will affect them forever.²⁸

This risk is particularly heightened given that Palestinians in Gaza have navigated prior trauma from decades of siege. A November 2022 World Bank study found that more than half of the adult Palestinian population screened positive for depression.²⁹ The psychological impacts of chronic warfare on children are also particularly severe.³⁰ A 15-year-old Palestinian has already experienced five periods

struggle with survivors’ guilt, BBC (Nov. 23, 2023), <https://www.bbc.com/news/world-us-canada-67410868>.

²⁷ See *Asi supra* note 26.

²⁸ See, e.g., Lauren C. Ng, Naphtal Ahishakiye, Donald E. Miller, and Beth E. Meyerowitz, *Life After Genocide: Mental Health, Education, and Social Support of Orphaned Survivors*, 4 INT’L PERSPECTIVES PSYCHOL. 83 (2015).

²⁹ Mental Health in the West Bank and Gaza, WORLD BANK GROUP (Nov. 22, 2022), <https://documents1.worldbank.org/curated/en/099153502102330181/pdf/P17925303fca130e30936d016a378b6a1e9.pdf>

³⁰ See Iman Farajallah, Continuous Traumatic Stress in Palestine: The Psychological Effects of the Occupation and Chronic Warfare on Palestinian Children, 4(2) WORLD SOCIAL PSYCHIATRY 112 (May-Aug 2022),

of intense Israeli attacks on Gaza: 2008-09, 2012, 2014, 2021, and now 2023-24.³¹ Experts warn that the current hostilities are exposing children to extremely traumatic episodes in which the number of children without surviving family members is so high that a new term was coined to identify them: “Wounded Child No Surviving Family”.³²

Suha Ahmad, a 49-year-old insurance agent from Texas, has watched in horror as approximately 100 family members have been killed since October. On August 15, her cousin’s home was bombed. Her cousin’s son, who works as a paramedic, responded to the scene and carried out the unfathomable duty of collecting his own parents’, sister’s, and brother-in-law’s remains. He described the scene as if something had “blended” his family, with their bodies found shredded and strewn about. Suha’s father, an 82-year-old U.S. citizen, frequently recounts the names of deceased family members, lamenting, “Yes, this family is all gone... yes, this family is all wiped out.”

https://journals.lww.com/wpsy/fulltext/2022/04020/continuous_traumatic_stress_in_palestine_the.10.aspx.

³¹ See *Timeline: Israel’s Attacks on Gaza Since 2005*, AL JAZEERA (Aug. 7, 2022), <https://www.aljazeera.com/news/2022/8/7/timeline-israels-attacks-on-gaza-since-2005> (detailing Israel’s attacks on Gaza in the past two decades).

³² *Gaza coins a new acronym: WCNSF - Wounded Child No Surviving Family*, MIDDLE EAST MONITOR (Nov. 7, 2023) <https://www.middleeastmonitor.com/20231107-gaza-coins-a-new-acronym-wcnsf-wounded-child-no-surviving-family/>.

Israel has destroyed nearly all that made Gaza a vibrant community. The U.N. independent expert on housing has described the scale and intensity of destruction in Gaza as “‘far worse’ than in Aleppo, Mariupol, or even Dresden and Rotterdam during the Second World War.”³³ According to satellite imagery from July 2024, around 63% of *all* structures in the Gaza Strip have been destroyed or damaged, including over 215,000 housing units.³⁴ The constant destruction of housing units has led to *multiple* forced displacements of about two million Palestinians.³⁵ “‘When people lose their homes, they lose more than physical structures. A home is more than property; it is also the repository of memories, hopes and aspirations.’”³⁶

The education system in Gaza has been decimated. UN experts are deeply concerned over “scholasticide” in Gaza,³⁷ with at least 625,000 school-aged children out of school with no prospect of returning.³⁸ At least 87.7% of school buildings in

³³ *UN Rights Expert Condemns ‘Systematic’ War-Time Mass Destruction of Homes*, U.N. NEWS (Mar. 5, 2024), <https://news.un.org/en/story/2024/03/1147272>.

³⁴ See United Nations Satellite Centre, *UNOSAT Gaza Strip 8th Comprehensive Damage Assessment – July 2024* (July 31, 2024), <https://unosat.org/products/3904>.

³⁵ See Al Jazeera Staff, *Gaza ‘Safe Zones’ Led to Displacement, Israeli Attacks on Civilians: Report*, AL JAZEERA (Mar. 13, 2024), <https://www.aljazeera.com/news/2024/3/13/gaza-safe-zones-led-to-displacement-israeli-attacks-on-civilians-report>.

³⁶ *UN Rights Expert supra* note 33.

³⁷ Press Release, U.N. Hum. Rts. Office of the High Commissioner, *UN Experts deeply concerned over ‘scholasticide’ in Gaza* (Apr. 18, 2024), <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>.

³⁸ See Humanity and Inclusion, *All the Children in Gaza are Out of School* (May 7, 2024), <https://www.hi-us.org/en/news/all-the-children-in-gaza-are-out-of-school>.

Gaza have been destroyed or damaged, with at least 212 school buildings having been directly attacked by Israel.³⁹ “Every university in Gaza has been destroyed.”⁴⁰ As of April 2, 2024, more than 5,479 students and 261 teachers have been killed.⁴¹

Religious sites are in ruins, and Israeli attacks have damaged or destroyed hundreds of sites of Palestinian culture, heritage, and history.⁴² According to the Palestinian Ministry of Culture, as of early February 2024, Israeli forces partially or completely damaged: 32 cultural institutions, centers, and theaters; 12 museums; 9 public libraries; 8 publishing houses; 9 heritage sites; and 195 historical buildings.⁴³ The mass destruction of art and cultural heritage “destroys the victim group’s social, psychological, and intellectual identity, and thus, the group’s sense of . . . ‘the moral,

³⁹ Education Cannot Wait, Norwegian Refugee Counsel, & Save the Children, *Education under attack in Gaza, with nearly 90% of school buildings damaged or destroyed, and no university left standing* (Apr. 16, 2024), <https://reliefweb.int/report/occupied-palestinian-territory/education-under-attack-gaza-nearly-90-school-buildings-damaged-or-destroyed-and-no-university-left-standing>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See Chloe Veltman, *More than 100 Gaza Heritage Sites Have Been Damaged or Destroyed by Israeli Attacks*, NPR (Dec. 3, 2023), <https://www.npr.org/2023/12/03/1216200754/gaza-heritage-sites-destroyed-israel>.

⁴³ Palestinian Ministry of Culture, *The Fourth Preliminary Report on Cultural Sector Damage* (Feb. 13, 2024), <https://www.facebook.com/ministryofculturep/posts/pfbid0onD68grHiPG5bkgcF7z8SGJmDiNfc5ihUkLpQpw9cusZtKHjKgWFW5N3fes7uMGS1> [Ar.].

intellectual, and spiritual life’ by which the self is rooted in community and (by extension) the community is situated in history.”⁴⁴

II. The United States is complicit in the ongoing genocide in Gaza.

A. Material Support

In Gaza, Israeli forces have killed many Palestinians with weapons from the United States. An Amnesty International investigation of two air strikes that killed 43 Palestinians, including 19 children, found that Israeli forces used U.S.-made Joint Direct Attack Munitions to drop bombs on homes in Deir al-Balah.⁴⁵ Between October 7, 2023, and late June 2024, the United States has provided at least 14,000 2,000-pound bombs, 6,500 500-pound bombs, 3,000 Hellfire missiles, 1,000 bunker-buster bombs, 2,600 air-dropped small-diameter bombs, and other munitions.⁴⁶ After examining on-site blast fragments and analyzing strike footage, experts cited by the

⁴⁴ Peter Balakian, *Raphael Lemkin, Cultural Destruction, and the Armenian Genocide*, 27 HOLOCAUST & GENOCIDE STUD. 57, 61 (2013).

⁴⁵ *Israel/OPT: US-made Munitions Killed 43 Civilians in Two Documented Israeli Air Strikes in Gaza – New Investigation*, AMNESTY INT’L (Dec. 5, 2023), <https://www.amnesty.org/en/latest/news/2023/12/israel-opt-us-made-munitions-killed-43-civilians-in-two-documented-israeli-air-strikes-in-gaza-new-investigation/>.

⁴⁶ Humeyra Pamuk & Mike Stone, *Exclusive: US has sent Israel thousands of 2,000-pound bombs since Oct. 7*, REUTERS (Jun. 29, 2024), <https://www.reuters.com/world/us-has-sent-israel-thousands-2000-pound-bombs-since-oct-7-2024-06-28/>.

Associated Press “[were] confident that the vast majority of bombs dropped on the besieged enclave are U.S.-made.”⁴⁷

On May 26, 2024, the Israeli Air Force conducted an airstrike on a displacement camp in Tel al-Sultan, Rafah, using U.S.-made weapons.⁴⁸ Dr. Rolla Alaydi, an employee of the U.S. Department of Defense in California, whose family was in the camp, could not confirm her family’s safety until a week after this attack. It was eventually confirmed that her nephews and sister-in-law sustained injuries and burns.⁴⁹

B. Failure to protect Palestinian Americans

Since October 7, 2023, the U.S. government has signaled to Palestinian Americans that their lives do not merit the same concern as other similarly situated groups.⁵⁰

⁴⁷ Julia Frankel, *Israel’s Military Campaign in Gaza Seen as Among the Most Destructive in Recent History, Experts Say*, ASSOCIATED PRESS (Jan. 11, 2024), <https://apnews.com/article/israel-gaza-bombs-destruction-death-toll-scope-419488c511f83c85baea22458472a796>.

⁴⁸ Lara Jakes, *A Small American Bomb Killing Palestinians by the Dozen in Gaza*, N.Y. TIMES (June 8, 2024), <https://www.nytimes.com/2024/06/08/world/middleeast/us-israel-bomb-gbu39-gaza.html>.

⁴⁹ Ang Li and Mark Boyer, *An American’s Desperate Effort to Save Her Family in Gaza*, N.Y. TIMES (Jun. 16, 2024), <https://www.nytimes.com/video/world/middleeast/100000009511061/gaza-rafah-american.html>.

⁵⁰ Ayesha Rascoe, *6 months of war: Palestinians say the U.S. government lacks empathy for their plight*, NPR (April 7, 2024), <https://www.npr.org/2024/04/07/1243294267/6-months-of-war-palestinians-say->

First, the U.S. government has refused to extend the bare minimum of care for its citizens and residents harmed by Israel's assault.⁵¹ It does not know how many U.S. citizens, legal permanent residents, and their immediate family members were in Gaza or remain there today. In early December 2023, for example, the State Department estimated about 1,000 U.S. citizens, residents, and family members to be among the 2.3 million Palestinians in Gaza;⁵² however, based on *amici's* understanding, the true number was much higher. U.S. officials have also not disclosed the number of Palestinian Americans killed in Gaza and may not even monitor that figure. Yet, the State Department has disclosed how many U.S. citizens serving in the Israeli military and national police have been killed.⁵³ Moreover, while the Justice Department has brought charges for the deaths and kidnappings of U.S.

the-u-s-government-lacks-empathy-for-their-plig; *see also* *Palestinian American: 'Are we second-class citizens?'* BBC NEWS (Nov. 2, 2023), <https://www.bbc.com/news/av/world-us-canada-67292516>.

⁵¹ Sam Cabral, *Palestinian Americans trapped in Gaza wait desperately to leave*, BBC NEWS (Nov. 2, 2023), <https://www.bbc.com/news/world-us-canada-67292966>.

⁵² *See Press Briefing by Matthew Miller, State Dep't Spokesperson* (Dec. 6, 2023), <https://www.state.gov/briefings/department-press-briefing-december-6-2023/> (stating "a little under a thousand" U.S. citizens, LPRs, and their family members remain, "with about 350, 370 of them being American citizens").

⁵³ *See* Vedant Patel, Principal Deputy Spokesperson, U.S. Dep't State, Department Press Briefing (Jan. 22, 2024), <https://www.state.gov/briefings/department-press-briefing-january-22-2024/> (responding to a question on the number of Americans who have been killed in Gaza).

citizens during the October 7 attack,⁵⁴ amici are unaware of any U.S. investigations into Israeli state violence against U.S. citizens and residents from Gaza in the months since October 2023.

Second, the U.S. government is failing to support families of Palestinian Americans still stranded in Gaza. Khalid Mourtaga, a 22-year-old U.S. citizen from Mississippi, remains trapped in Gaza despite repeated requests for evacuation. Although Khalid's mother's name appeared on the "Exit List" in December 2023, neither Khalid nor his father's name has appeared on the list. His mother refuses to leave without them. Khalid has been forcibly displaced nearly a dozen times, narrowly survived an air missile strike, and endured the devastating losses of his grandfather, cousins, and friends to Israeli bombardments. Khalid is near starvation and has developed a painful skin condition due to only having access to unclean water. Despite repeated emails to the U.S. embassy in Jerusalem and his elected representatives, the U.S. government has yet to take action to evacuate him.

Sahar Harara, a 45-year-old U.S. citizen from Texas, registered her parents, both U.S. green card holders, with the State Department's Crisis Intake Form, seeking evacuation at the start of the war. Since then, Sahar has extensively

⁵⁴ Press Release, U.S. Dep't of Justice Office of Public Affairs, *Justice Department Announces Terrorism Charges Against Senior Leaders of Hamas* (Sept. 3, 2024), <https://www.justice.gov/opa/pr/justice-department-announces-terrorism-charges-against-senior-leaders-hamas>.

communicated with embassy representatives, who have failed to respond adequately. While waiting to evacuate, an Israeli bombardment killed her father and severely injured her mother. She remains in Gaza, unable to access needed medical treatment.

C. Differential treatment

Not only are Defendants failing to protect Palestinian Americans, but they are also taking a markedly different approach to the protection of Israeli Americans. In the first week following October 7, the State Department reportedly made 5,600 seats available by air and sea for Americans wanting to leave Israel, with some evacuees greeted with champagne on a chartered cruise ship off the coast of Haifa.⁵⁵

In stark contrast, the U.S. government denied its citizens, residents, and their families in Gaza *any* evacuation services. The State Department has failed to establish regular communication with them and to provide a clear and effective protocol for the evacuation process. Rather, individuals had to proactively contact the State Department via an intake form that was only in use for a few weeks.⁵⁶

⁵⁵ See Oriana Pawlyk, *U.S. to Wind Down Charter Flights from Israel as Demand Wanes*, POLITICO (Oct. 19, 2023), <https://www.politico.com/news/2023/10/19/u-s-to-wind-down-charter-flights-from-israel-as-demand-wanes-00122546>; Lauri Donahue, *Evacuating in Style: US Sends Cruise Ship to Get Its Citizens out of Israel*, JERUSALEM POST (Oct. 17, 2023), <https://www.jpost.com/israel-news/article-768677>.

⁵⁶ Initially, the U.S. State Department required U.S. citizens, residents, and their family members seeking government assistance to depart Gaza to complete a Crisis Intake Form. However, sometime in November or December, the U.S. government

Palestinian American families seeking to evacuate have reported to *amici* that U.S. officials would offer no further information following that initial request, and the families would only find out if their names were published on an evacuation list through the Palestinian General Authority for Crossings and Borders' Facebook page.⁵⁷

The U.S. government continues to emphasize that it does not control who can depart Gaza and cannot guarantee the safety of U.S. citizens, residents, and their families.⁵⁸ This has led many Palestinian Americans to feel abandoned by their government, with Maha Barakat, a U.S. citizen who was stuck in Gaza at the start of the genocide sharing: ““We are American citizens and should be treated the same as the Americans who got put on planes out of Tel Aviv.””⁵⁹

removed the form as part of the process and now requires persons to directly contact the U.S. embassy in Jerusalem.

⁵⁷ See General Authority for Crossings and Borders – Gaza “Official Page”, Facebook, <https://www.facebook.com/GAFC.MOI> (publishing the names of individuals approved to cross Rafah).

⁵⁸ See *Israel, the West Bank and Gaza Travel Advisory*, U.S. Dep’t of State Bureau of Consular Affairs (July 31, 2024), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/israel-west-bank-and-gaza-travel-advisory.html>.

⁵⁹ Yasmie Salam, Mirna Alsharif & Anna Schechter, *Doubts, Fears Run High for Palestinian Americans Stuck in Gaza*, NBC NEWS (Oct. 16, 2023), <https://www.nbcnews.com/news/us-news/doubts-fears-run-high-palestinian-americans-stuck-gaza-rcna120616>.

D. Stamps of putative inferiority

Palestinians are also facing social stigma and dehumanization in the United States, given the U.S. government’s support for the genocide of their people.⁶⁰ For example, Tariq Luthun, a data engineer and poet from Michigan, is devastated by the destruction in Gaza and feels that he, along with other Palestinian Americans, are “not even allowed to grieve,”⁶¹ saying, “I’m literally watching my family get bombed and then being gaslit to say, ‘Oh, they deserve it.’”⁶²

Defendants have themselves questioned the number of Palestinian deaths and repeated misinformation used to justify the devastation of Gaza.⁶³ The Defendants’ unquestioning support of Israeli actions despite staggering death tolls, daily live-streamed violence against Palestinians, and genocidal calls by Israeli officials has deeply harmful consequences for the communities that *amici* represent. It signals to Palestinian Americans that Defendants deem them inferior members of society whose lives do not count. Hani Almadhoun, a Palestinian American in Washington,

⁶⁰ Stephen Bennett, *On the Dehumanization of the Palestinians*, INSTITUTE FOR PALESTINE STUDIES (Oct. 23, 2023), <https://www.palestine-studies.org/en/node/1654481>.

⁶¹ See Sandhya Dirks, *Palestinian Americans on the Israel-Hamas War: ‘We’re not Even Allowed to Grieve’*, NPR (Oct. 23, 2023), <https://www.npr.org/2023/10/23/1208026655/palestinian-americans-on-the-israel-hamas-war-were-not-even-allowed-to-grieve>.

⁶² *Id.*

⁶³ See, e.g., *Biden Says He Has ‘No Confidence’ in Palestinian Death Count*, REUTERS (Oct. 25, 2023), <https://www.reuters.com/world/middle-east/biden-says-he-has-no-confidence-palestinian-death-count-2023-10-26/>.

D.C., feels betrayed by the U.S. government. Referring to hate crimes against Palestinians in the United States, Almadhoun says, ““The leadership here in this country owns this . . . They’ve stoked the fear in the hearts of Americans. They made us animals and beasts and barbarians, and the media ran with it.”⁶⁴

In addition to concerns about their families’ lives and navigating their own trauma, Palestinian Americans interviewed by *amici* worry about the physical risks to themselves for simply being Palestinian in the United States. Repression targeting Palestinians and their supporters is at an all-time high.⁶⁵ The full scale and duration of this stigmatic harm continue to unfold. Among its more extreme manifestations is the rise of anti-Palestinian racism and related violence in the U.S.⁶⁶

CONCLUSION

For the foregoing reasons, *amici* respectfully urge this Court to grant Plaintiffs-Appellants’ petition for *en banc* review.

⁶⁴ Dirks *supra* note 60.

⁶⁵ Press Release, Palestine Legal, *Reverberations of October 7: Mobilization Against Genocide Undeterred by Peak Anti-Palestinian Repression* (May 24, 2024), <https://palestinelegal.org/news/2024/5/23/new-report-analyzes-crackdown-on-palestine-solidarity-in-the-us>nbsp.

⁶⁶ See, e.g., Eric Levenson, Whitney Wild & Bill Kirkos, *Landlord Accused of Killing 6-Year-Old Palestinian American Boy Pleads Not Guilty to Murder and Hate Crime Charges*, CNN (Oct. 30, 2023), <https://www.cnn.com/2023/10/30/us/palestinian-american-boy-stabbed/index.html>; Lexi Lonas, *Fears Rise on Campuses After Attack on Palestinian College Students*, THE HILL (Nov. 30, 2023), <https://thehill.com/homenews/education/4331566-fears-campus-attack-palestinian-islamophobia-hamas-israel/>.

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I, Christopher Godshall-Bennett, attorney for *amici curiae*, hereby certify that on September 9, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate Case Management/Electronic Case Files (CM/ECF) system.

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Muslims for Just Futures

Muslim Justice League

Project Immigration Justice for Palestinians (Project IJP)

U.S. Campaign for Palestinian Rights (USCPR)