

CONFERENCE OF CIVIL SOCIETY WORKING GROUP ON THE QUESTION OF  
PALESTINE, United Nations Office, Geneva, 3-4 April 2024

“Building Bridges with International Civil Society to Address the ongoing Nakba.”

**PANEL 2: The Role of Civil Society Organisations in ensuring Third Party  
Responsibility: Perspectives from Global and Regional Voices**

Good afternoon. My name is Samah Sisay and I am an attorney at the Center for Constitutional Rights. The Center for Constitutional Rights is a legal and advocacy organization based in the United States. We have a long history of challenging the Israeli government’s violations of international law related to its illegal occupation of Palestine and the United States government’s support that enables Israel’s violations. This work includes litigating to protect the free speech rights of advocates for Palestinian human rights in the U.S. and supporting the International Criminal Court (ICC)’s investigation into war crimes and crimes against humanity committed on the territory of Palestine.

In response to the Israeli government’s actions after October 7, the Center for Constitutional Rights joined other experts and legal organizations in issuing urgent warnings to the U.S. government of the unfolding genocide in Gaza (what many have termed the ongoing Nakba). Despite these warnings, **the United States is failing to uphold its legal obligation to prevent genocide, and President Biden and other high-level officials are actively aiding and abetting the Israeli government’s genocide of the Palestinian people.**

Since October 7, the Israeli government has killed at least 32,000 Palestinians in the Gaza Strip, including over 13,000 children, and injured more than 75,000. Israel’s constant bombardments and total closure of Gaza has resulted in the collapse of Gaza’s entire healthcare capacity. Numerous Israeli officials have expressed clear genocidal intentions and deployed dehumanizing characterizations of Palestinians, including “human animals.” At the same time, the Israeli military has bombed civilian areas and deprived Palestinians of everything necessary for human life, including water, food, electricity, fuel, and medicine. Those statements of intent – when combined with mass killing, causing serious bodily and mental harm, and the total siege and closure creating conditions of life to bring about the physical destruction of the group – reveal evidence of the crime of genocide.

Genocide is the gravest of crimes under international law. Under international law, there is no justification for genocide. Yet, the United States continues to offer “unwavering” support for the Israeli government, which government officials have consistently repeated and backed up with unrestricted military financing and political support even as mass civilian casualties escalate alongside the Israeli government’s genocidal rhetoric.

In November 2023, the Center for Constitutional Rights and co-counsel brought a lawsuit in U.S. federal court on behalf of Palestinian human rights organizations (Al Haq and Defense for

Children International Palestine), along with Palestinians in Gaza and the U.S., against U.S. President Biden, Secretary of State Blinken, and Secretary of Defense Austin for the United States' failure to prevent and complicity in the Israeli government's unfolding genocide against Palestinians in Gaza.

The lawsuit asks the court to declare that these U.S. officials have failed to prevent genocide and are aiding and abetting genocide, and to order an end to U.S. military and diplomatic support to Israel. The lawsuit also seeks an emergency order to prohibit any further U.S. military and diplomatic support to Israel while the case is being considered.

On January 26, 2024 (the same day the International Court of Justice (ICJ) issued a ruling that Israel's acts and omissions in Gaza are plausible violations of the Genocide Convention), a Federal Court in California held a hearing for our lawsuit. The hearing included legal arguments but most importantly it included live testimony from Palestinians—including Palestinian Americans—about the scale of destruction in Gaza and the impact on their families and communities. We believe that this was the first time in history that Palestinians were able to affirmatively testify in a U.S. court about the Nakba and the harmful impact of the U.S.'s support for Israel's occupation and bombardment of Palestine.

Dr. Omar Al-Najjar, a 24-year-old physician gave testimony from a hospital in Rafah about the mass displacement and deaths he witnessed. Scholar and historian of genocide and the Holocaust, William Schabas, gave testimony identifying features of the Israeli government's rhetoric and military response as signs of genocide.

On January 31, 2024, the U.S. federal court found that Israel's assault and siege on the Palestinian people in Gaza plausibly constitute genocide stating, "Both the uncontroverted testimony of the Plaintiffs and the expert opinion proffered at the hearing on these motions as well as statements made by various officers of the Israeli government indicate that the ongoing military siege in Gaza is intended to eradicate a whole people and therefore plausibly falls within the international prohibition against genocide." Despite these findings, the court said it lacked jurisdiction over the U.S. President's conduct of foreign relations and could not order an end to U.S. military and diplomatic support to Israel.

We appealed the court's decision in March with briefs of support from legal scholars, former military leaders and diplomats, civil and human rights groups, and non-governmental organizations. There is a hearing scheduled for June 10<sup>th</sup> for a court to hear the appeal.

Third parties, like the United States, have a legal obligation to stop and not further this genocide and we plan to do everything possible to hold them accountable to this obligation. Thank you.