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October 17, 2023

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden:

We, the undersigned, submit that the Administration's response thus far to the ongoing Israeli/Hamas war is profoundly unbalanced and ill-conceived, and bodes badly for the vanquished, the victors, co-belligerents, and partisan nations in the longer run. With you and your cabinet members saying that there can be no military solution to the Palestinian crisis, only a political solution, you nonetheless are engaged almost entirely in pursuing the military buildup that increases the risk of miscalculation, especially without any ongoing negotiations.

Among other opportunities, we urge a very time-sensitive initiative. The time for humane diplomacy never goes away even with Israel's overpowering destruction of the Gaza Strip and its people. Given the conditions of bombardment, and the orders of the Israeli Defense Minister, "no electricity, no food, no fuel," nothing is off limits from being turned into bloody rubble – not even hospitals, ambulances, well-identified United Nations relief sites, electric networks, water mains, not to mention homes, apartment building, schools, and mosques. Everything is in a free-fire zone.

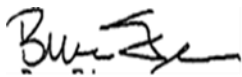
There needs to be an urgent pause in the interests of all the combatants and their allies. Use your influence *to arrange for a brief truce* (recall there was a five-day *truce* in 2014) during which there is a life-saving exchange of the civilians and soldiers Hamas took prisoners with the many Palestinians, including youths, who have been languishing in Israeli prisons without due process or charge.

This initiative would be greeted with wide approval, not just by the desperate families over the fate of their loved ones, but by those millions in the world looking for diplomatic leadership from the United States. This is not a time to hesitate due to who gets the blame when the hostages and their immediate guards lose their lives in the torrential release of missiles and bombs in all directions, including the deadly bunker-buster bombs being mentioned on their way from you to Israel. It is not about who can assign the most credible blame; it is about freeing people and youngsters on both sides and possibly tempering the wanton descent into annihilation that could metastasize into a wider theatre of warfare as has occurred numerous times in our country's history.

On the principle that none of us is smarter than all of us, please be advised of many sagacious citizens in the U.S. with experience and prescience who stand ready to extend their advice. We do not wish to have our President be associated with the extermination of large numbers of innocent children, mothers, and fathers while pursuing belligerency. Your mentions about Israel needing to adhere to the laws of war, (which include the Genocide Convention) contradict your unconditional promise that Israel has your back.

Do not be AWOL from an immediate striving through diplomatically negotiated exchanges to save the lives of nearly two hundred Israelis held by Hamas in areas vulnerable to violent indiscriminate explosions from air, sea, and land forces.

Sincerely,



Bruce Fein



Ralph Nader

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October 24, 2023

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden,

We, the undersigned, respectfully submit that your Administration's public response to the ongoing Israel-Hamas war is profoundly imbalanced and misconceived. You are unable to distinguish between the history of the subjugator and the subjugated, between the colonizer of land and water from the dispossessed in Gaza and the West Bank, the 22% left of the original Palestine, and between the massively greater military power and the defenseless occupied population, over the decades.

You are now pressing Congress for \$14.3 billion in U.S. taxpayer money to pay for one prosperous country's colossal intelligence-detection failure to protect its people, while allocating only \$100 million to the innocent civilian families in Gaza who will suffer hundreds of times more casualties, and loss of everything called livelihood as compared with the October 7 Hamas-led homicide-suicide massacre, which we condemn.

It is productive to keep in mind, as you engage this unfolding disaster, the instructive words of Israel's founder and first prime minister, David Ben-Gurion: "If I were an Arab leader, I would never sign an agreement with Israel. It is normal; we have taken their country. It is true God promised it to us, but how could that interest them? Our God is not theirs. There has been Anti-Semitism, the Nazis, Hitler, Auschwitz, but was that their fault? They see but one thing: we have come and stolen their country. Why would they accept that?" (Spoken to Nahum Goldmann, then head of the World Zionist Organization who included these candid words in his book "The Jewish Paradox" (p.121), published by Grosset & Dunlap, NY 1978.)

You may be trying privately to restrain the Israeli technological, economic, and military superpower from expanding its might beyond the rubble in Gaza, in which case it is important to remember your caution to Israeli political leaders to "operate by the laws of war."

The "laws of war" require acknowledging oft-neglected facts and laws if the ongoing war is to avoid engulfing the entire region and perhaps beyond.

The Facts: Israeli Defense Minister Yoav Gallant and Energy Minister Israel Katz collectively issued orders to the Israeli military that they were to impose an absolute siege, which in their

words meant “no food, no water, no electricity, no fuel. ... We are fighting human animals and we act accordingly.”

The Law: The Genocide Convention of 1948, born of the Holocaust, defines the crime of genocide in Article 2 (c) to include, “Deliberately inflicting on [a national, ethnical, racial or religious group] conditions of life calculated to bring about its physical destruction in whole or in part.” (See Exhibit I attached).

Israeli implementation of these orders targeting 2.3 million people means countless innocent inhabitants of Gaza are suffering privations that spell dying or death in their hospitals, clinics, ambulances, homes, markets, places of worship, schools, and masses fleeing to nowhere. Israeli politicians are using words such as “annihilation,” and “extermination,” which fortify the description of their military bombing as genocidal. These terrifying words have a special cutting edge in a carpet-bombing campaign against an utterly defenseless people. Such destruction is limitless. Missiles have struck an ancient Christian Church, killing 16 people, and a clearly marked United Nations relief and school buildings, producing so far 29 UN staff fatalities. Along with its long-touted precision warfare, Israel has extensive computer models of buildings in Gaza.

Knowing that most Palestinians, nearly half of whom are children, are not Hamas members, Israel is engaging in collective punishment with a broad indiscriminate campaign, in direct violation of international law, including the Geneva Conventions.

Israel is also violating the law of proportionality within the laws of war, which prohibits military action reasonably likely to inflict substantial civilian casualties disproportionate to a legitimate military objective. Other than seeking to destroy Hamas, what are the military objectives – occupation of a barren enclave reduced to rubble whose populace are homeless refugees in the desert? As with the U.S. criminal invasion of Iraq in 2003 by Bush and Cheney, which you continually supported, there is no endgame, no ceasefire, no truce, no two-state solution, and no ending of the brutal illegal blockades or siege conditions over many years. Just limitless devastation for the sake of revenge, now far exceeding October 7th, and ongoing without any limits.

You have now made the U.S. a co-belligerent under the laws of war by supplying unconditionally Israel with the latest weaponry and other powerful assistance to further its war against Hamas and other Palestinians in Gaza and the West Bank. Co-belligerency includes the systematic or substantial supply of war materials, military troops, intelligence, or financial support in common cause with another belligerent. You, Defense Secretary Lloyd Austin, and Secretary of State Antony Blinken have repeatedly reassured Israel “We have your back” with no declared conditions whatsoever. In making the United States a co-belligerent, you are also making the United States criminally accountable for Israel’s war crimes and U.S. military bases and property abroad vulnerable to attack by Israel’s adversaries under the laws of war.

In addition, any nation possesses standing to sue the United States for violation of the Genocide Convention before the International Court of Justice (ICJ), even if it is not the subject of the challenged genocide as the ICJ has ruled.

If Israel decides to invade and then occupy Gaza, you should remember that the Geneva Conventions would require Israel to accept responsibility for the protection of Gaza's civilian population.

Hamas has never exhibited the capacity to be an existential threat to Israel. As Israeli military analysts have declared: Israel is in the most secure position ever, a nuclear superpower in the Middle East fortified by the United States' statutory obligation to ensure Israel enjoys a "qualitative" military superiority over its rivals, plus billions of dollars annually of U.S. military and financial aid.

In 1956, President Dwight D. Eisenhower told Israel, Britain, and France to cease their coordinated military attack on Egypt and arranged for U.N. Peacekeeping Forces in the Sinai. It is disappointing that you have not aspired, given your power as President, to such a peaceful ceasefire demand even now after the massively greater civilian casualties and physical destruction upon Palestinian Gazans than inflicted on innocent Israelis. What threshold of disproportionate suffering and killings and destruction must be reached in your mind before Israeli revenge is recognized as genocide leading to revisiting your unconditional support?

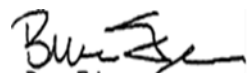
At a minimum, make a bold humane move and have Israel bring back the hostages – endangered by both Hamas and Israel's carpet bombing – through a prisoner exchange. Thousands of Palestinians, including youngsters, languish in Israeli prisons without due process or charges. Israel is experienced in such exchanges, having done so in 2004 and in 2011.

We are attaching a recent letter to you describing this proposal in more detail. A short truce may lead to cooler heads prevailing on other aspects of this calamitous and widening war.

Countless children, mothers, and fathers are dying daily in Gaza from saturation bombing causing disease, starvation, denial of critical medical care, contaminated water, and exposure to the elements facilitated by the limitless weapons and support you have eagerly provided to Israel. Is this how you would like history to remember your presidency--acquiescing in Israel's crippling siege of Gaza's millions with a belated token trickle of humanitarian aid?

For peace and justice.

Sincerely,



Bruce Fein, Esq.



Ralph Nader, Esq.

- Enclosed are two referenced attachments.

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November 17, 2023

Honorable Joe Biden
President of the United States
1600 Pennsylvania Avenue, N.W.
The White House
Washington, D.C. 20500

Re: Israel-Hamas-Gaza-Genocide

Dear Mr. President:

Words only diminish our revulsion at your making the United States complicit in the ongoing genocide of Palestinians in Gaza in violation of the Genocide Convention, the federal prohibition of genocide, 18 U.S.C. 1091, the Leahy Amendments, and the statutory restriction on the use of American arms for defensive purposes only. We urge you to end the deep, daily co-belligerency and comply with the United States' legal obligation to prevent genocide, and employ the resources and influence of the United States to give birth to a two-state solution featuring a Palestinian state initially administered by a United Nations caretaker mission to organize free and fair elections.

Your brutish, unlawful foreign policy is indistinguishable from “the strong do what they can and the weak suffer what they must” voiced by Thucydides in *History of the Peloponnesian War*.

Section 2 of the Genocide Convention defines the crime as including “intentionally creating conditions of life calculated to physically destroy a racial, religious, ethnic, or national group in whole or in part.” Evidence in the public domain authoritatively establishes that Israel is intentionally creating conditions of life in Gaza intended to physically destroy the 2.3 million Palestinian occupants. Israeli officials, without dissent, announced a siege of Gaza including “no food, no water, no power, no electricity, no medicine, no shelter, no anything.” See e.g., “‘Erase Gaza’: Conflict Unleashes Inflammatory Rhetoric From Israeli Leaders,” *New York Times*, A7, November 16, 2023.

That siege has been fortified by a land invasion and bombings of hospitals, clinics, ambulances, water mains, schools, apartment buildings, fleeing refugee families to nowhere, journalists, mosques, and clearly marked United Nations schools and relief sites. Death certificates are prepared before the ink on birth certificates dries. Fires cannot be extinguished. Diseases are spreading. Deaths are at least 20,000 and probably twice or three times that number increasing by the hour, from lack of water, food, and urgent medical treatment, for those homeless families being driven south under Israeli bombardment and communications blackouts. There are no safe spots whether in North or South Gaza – even in hospitals. Gaza is a free fire zone for the IDF.

Israel has taken an eye for an eye, a tooth for a tooth standard of justice of *Leviticus* to a criminal, genocidal level: 10,000 eyes for an eye, 10,000 teeth for a tooth. It is turning Gaza into a vast sick and dying huddle of civilian families exposed to American bombs and missiles. As the *Washington Post* reported, “hunger, thirst and disease are quickly spreading.” Babies are dying alone having lost their parents.

Had the touted Israeli defenses and intelligence not been colossally AWOL, the October 7th attack could never have occurred.

You have made the United States a belligerent and co-belligerent with Israel against Hamas without constitutionally required declarations of war by Congress, and by systematically providing the IDF with massive weapons and real-time intelligence to reduce Gaza to a grave-filled wasteland. Such presidential wars are impeachable high crimes and misdemeanors as you vigorously underscored in your presidential campaign for the 2008 Democratic nomination in an interview with Chris Matthews on *Hardball* on December 4, 2007. You have also supported a House bill to eliminate the statutory 30-day congressional notice provision for shipment of arms to Israel in order to silence debate.

You are clueless about the fundamental, historical provocation of the war as elaborated by David Ben-Gurion, founder and first Prime Minister of Israel:

“If I were an Arab leader, I would never sign an agreement with Israel. It is normal; we have taken their country. It is true, God promised it to us, but how could that interest them? Our God is not theirs. There has been anti-Semitism, the Nazis, Hitler, Auschwitz, but was that their fault? They see but one thing: we have come and we have stolen their country. Why would they accept that?” printed in “The Jewish Paradox,” (p. 121) by Nahum Goldmann.

You also refuse to recognize P.M Netanyahu's widely quoted strategy of supporting and funding Hamas over the years to thwart a two-state solution with the Palestinian Authority. Roger Cohen of the *New York Times* wrote on October 22, 2023 “All means were good to undo the notion of Palestinian statehood. In 2019, Mr. Netanyahu told a meeting of his center-right Likud party: ‘Those who want to thwart the possibility of a Palestinian state should support the strengthening of Hamas and the transfer of money to Hamas. This is part of our strategy.’”

The “From the river to the sea” expression originated with Prime Minister Netanyahu’s Likud party pressing for a “Greater Israel” in all of Palestine, not with Hamas. Further, the idea is consistent with peaceful coexistence between Palestinians and Jews, by people advocating a one-state solution.

Your duplicity in repeatedly affirming the United States has Israel’s back *without conditions* while inaudibly urging Israel to comply with the laws of war is creating a credibility gap reminiscent of President Lyndon B. Johnson and the Vietnam War. You have not lifted a finger to employ military or financial leverage against Israel to secure compliance with international law, which emboldens more war crimes with impunity.

Dante observed, “The hottest places in hell are reserved for those who, in times of great moral crisis, maintain their neutrality.” Your brutal positions against Palestinian civilians, three-quarters of whom are children and women, are far beyond neutrality.

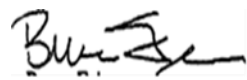
Better late than never. We strongly urge you to cease all military assistance to Israel, freeze trade or investment under the International Emergency Economic Powers Act, and sponsor a resolution in the United Nations Security Council establishing viable boundaries for a two-state solution. It should provide, among other things, for a United Nations caretaker administration in a Palestinian state for an initial period to prepare, organize, and conduct free and fair elections.

You would be following the example of President Dwight D. Eisenhower in 1956 who interceded in the Suez crisis to stop the attacks by Israel, France, and the United Kingdom, on Egypt. He also initiated the United Nations peacekeeping force in the Sinai.

You may avoid an international war crimes tribunal. But you cannot escape the judgment of history which lives for the ages over your defining role in the annihilation of innocent Palestinian families – mostly children and women – inside Gaza – long described as Israel’s illegally blockaded open-air prison.

We look forward to your response.

Sincerely,



Bruce Fein, Esq.



Ralph Nader, Esq.