

Ralph Nader Radio Hour

Episode 514

“Big Gambling”

January 13th, 2024

Steve Skrovan: Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan along with my co-host David Feldman. Hello, David.

David Feldman: Good morning.

Steve Skrovan: And the man of the hour, Ralph Nader. Hello, Ralph.

Ralph Nader: Hello, everyone. This program is truly shocking. It shocked me about the gambling industry's move on young people right in their homes to get them addicted to gambling.

Steve Skrovan: That's right, Ralph. On this program, we've targeted Big Pharma, Big Oil, Big Tech, and Big Tobacco. Today, we take on a new Mr. Big, Big Gambling.

To enlighten us on the topic, we'll be joined by John Warren Kindt, who is Professor Emeritus of Business Administration at the University of Illinois. Mr. Kindt specializes in the socioeconomics of gambling and legal policies, and he wrote a piece in the November-December issue of the *Capitol Hill Citizen*. The article is entitled *Time to Criminalize Internet Gambling*.

Gambling used to be taboo, but in recent years, gambling operations have poked their heads out of the shadows. With internet gambling and sports gambling increasingly normalized, is it possible for regulators and the legal system to wrap their arms around this beast?

That's the first half of the program. In the second half of the program, we welcome back our resident constitutional scholar, Bruce Fein, who's going to talk to us about the Gaza situation as it relates to the International Court of Justice (ICJ). As always, somewhere along the line, we'll check in with our corporate crime reporter, Russell Mokhiber. But first, like the *Hansel and Gretel* fairy tale, gingerbread house marketing is notoriously effective at hooking kids into gambling addiction. David?

David Feldman: John Kindt is Professor Emeritus of Business Administration at the University of Illinois Gies College of Business, where his teaching focuses on, among other topics, the socioeconomics of gambling and legal policies. Mr. Kindt has frequently testified as an expert witness before state legislative and congressional committees. Welcome to the *Ralph Nader Radio Hour*, Professor John Kindt.

John Kindt: Thank you for having me, and thanks for all you do to inform and educate the public, particularly on these important issues, and to advise decisionmakers on Capitol Hill and elsewhere throughout the country.

Ralph Nader: We welcome you aboard. I came across your latest work in an article in the (November/December) issue of the *Capitol Hill Citizen*, a publication of ours which some of our listeners have been obtaining, and the article is called *Time to Criminalize Internet Gambling*.

It was so shocking, John, in terms of the facts that you put into this article. I want to frame our discussion—which is going to stun you, listeners. You just hold on, you'll see what I mean—by quoting from your article. You start your article in the *Capitol Hill Citizen* with the subtitle, Sixty to eighty percent of high schoolers say they have gambled for money in the past year.

Okay, here's your opening sentences. “Flying under the radar of policymakers, Big Gambling is now targeting kids and vulnerable demographic groups with algorithms promoting gambling addiction. According to a report from the International Centre for Youth Gambling Problems and High-Risk Behaviors, between 60 percent to 80 percent of high schoolers say they've gambled for money in the past year, and up to 6 percent of them are addicted to gambling. Gambling addiction is comparable to cocaine addiction, according to the American Psychiatric Association, the *Diagnostic and Statistical Manual of Mental Disorders*, and the U.S. and international medical communities. And you write, “What is the fallout from gambling addiction?” And you start with the Illinois example. Tell us.

John Kindt: Yeah, we go way back on this. And you, in particular, along with Ralph Reed and the Christian Coalition, in a nonpartisan, bipartisan way, helped move through Congress back in the 1990s the US National Gambling Impact Study Commission. And it affirmed many of the things we'll be talking about here today by experts.

~~And let me just say,~~ My colleagues and I have been researching this for well over 30 years. This is top-tier academic universities involved, including the University of Illinois, which has been one of the leaders in this area. Back in the 1990s, Illinois was one of the first states to get the casinos. And within a very short time, there were suicides, gambling addiction, bankruptcies, and increased crime.

What you're alluding to, Ralph, and thanks for your good work on this, is that, in fact, one mother became so addicted to the gambling machines at a casino that she ran out of money, went home, and smothered one of her children to collect the insurance money. She claimed sudden infant death syndrome. collected that money, went back, lost it all, and then went back after a second child and killed a second child. She's now in prison for insurance fraud.

Another example was at the University of Wisconsin, where a student got hooked on Internet sports gambling, killed three people in the apartment where the gambling was being promoted by other students, and then committed suicide.

This is an addiction. And the American Psychiatric Association recognizes it as such. But the public doesn't know about this because Big Gambling has dumbed down the public and policy decisionmakers by saying, this is just fun and games. It's just entertainment. But they're target marketing kids today. If you go online, you'll see all these little kids' games. They want the next generation addicted.

If you watch your kids playing on them, you can tell that they're getting ready to go straight into gambling. And as a gambling addiction, kids don't know what they're getting into. Their parents don't know what they're getting into. And what we say is that with these phones now is you can click your phone and lose your home.

Ralph Nader: What you're describing, John, is corporate crime at the most depraved levels. And Big Gambling, they go to these state legislatures and they're corrupting universities, too, like Penn State in Pennsylvania. They go to these places, and they say, "Look, you're budget strapped, but if you pass legislation to allow this gambling, you'll take a cut, and it will increase revenues for the state."

Of course, the gambling industry did this in Atlantic City when they persuaded the New Jersey legislature to open up gambling casinos claiming it would produce all kinds of revenues to help the elderly. Most of these are promises are not met. You have good figures on Illinois in terms of how much gambling there is, how much the take is by the state, and all important, what the cost is in terms of mental and physical damage that the taxpayers have to pick up.

You want to go through the Illinois example because that has the most years of experience behind it. So the listeners can alert themselves in states around the country that haven't yet fallen prey to these electronic child molesters, these gambling companies that have nothing better to do with people's money than to take it through this kind of addictive speculation and seduction.

John Kindt: Illinois was one of the first states to get the so-called riverboat casinos. And of course, this was just a ploy to bring casinos everywhere to Illinois and to other states. They promise what we call the ease—they'll help education, they'll help the environment, they'll help the elderly, they'll help the employment—none of that is accurate. They just throw nickels and dimes at this.

And we've done studies, again, tier one universities. And I wish we were on video, because you would see volume after volume behind me, which we call the red flag reports on gambling. They're red-covered volumes. You can find them in the Library of Congress and law libraries all across the country.

It's very well established academically that the costs are \$3 to \$7 or more to the government and social services and to the economy for every \$1 in benefits and new revenues coming in. That's just well-established. So it's lose-lose for everybody, except the people who own the gambling. And the people who own the gambling are making huge amounts of money.

Ralph Nader: Name some of these companies.

John Kindt: Ralph, I don't feel comfortable naming specific companies. I and my colleagues just talk about Big Gambling.

Ralph Nader: I want you to feel comfortable while I'm asking you the questions, because I feel very comfortable in naming names of these companies. If you just talk about Big Gambling, you're nowhere near specific accountability. When you talk about specific names of companies, the next

step is the names of the CEOs, the names of the directors of marketing and advertising. You find out whether there are any whistleblowers.

The reason, John, is that you've done all this work with your colleagues year after year after year. And you have bipartisan support in Congress for criminalizing this kind of gambling. But nothing has happened, except that the gamblers have gotten more bold and more intrusive, going down the age scale to kids in their bedrooms at night gambling.

What we're seeing here is the usual phenomenon of academics establishing the evidence for action. Capitol Hill has bills in, and you named the bills and the sponsors in this article in *Capitol Hill Citizen*. And there are 250 or so full-time gambling industry lobbyists on Congress. And Congress has blocked them.

So it's time to go to a new level, John, if you're really serious about it. Let me tell the listeners from your article how extensive this is. You show how it drains the economy. You say, “an industry predicted \$65 billion in casino industry revenue for 2023. But that's only part of the total legalized gambling that is annually cannibalizing the U.S. economy by approximately half a trillion dollars a year in lost consumer spending.” This is spending that could go to housing, food, clothing, healthcare, etc.

And you add, “For years, U.S. citizens have been legally wagering more money than the total amount spent on food in America.” And you go on, and I'm quoting you, “Over 30 years, Illinois gambling lobbyists have also contributed substantially to the misdirection of government funds, resulting in unfunded liabilities of approximately \$175 billion and putting Illinois state pensions and employee benefits at risk.”

That's how serious it is, listeners. And, John, I don't know how many more years you're going to do all this good work on a treadmill, but you tell our listeners what's the next stage of actual action, accountability, and criminal prosecution you would like to see. And name some members in Congress who are on your side, both Republicans and Democrats.

John Kindt: I'll start out by naming some allies, so to speak. It's bipartisan. If you look at the Kids Online Safety Act, we've been talking about protecting kids. That passed out of the Senate Commerce Committee last year unanimously. I think it passed out of the Senate Commerce Committee again, almost unanimously, if not unanimously.

Ralph Nader: And then what happened to it?

John Kindt: It's been stalled. It has to get past the leadership in the Senate. Basically it has to get past Chuck Schumer and Mitch McConnell, and they have to come on board with this. It was slated to be included in the last omnibus bill, and then it got stripped, unfortunately. It's got 220 organizations behind it on both sides of the aisle. But Big Tech and Big Gambling joined forces. They brought the ACLU on board to object to this legislation, as well as the LGBTQ community. And that's simply a red herring. These two groups are not analyzing this Kids Online Safety Act properly. I think they've been misled. And this is a no-brainer, really.

Ralph Nader: What's the bill number so people can follow it?

John Kindt: The bipartisan Senate bill number is 1409 supported by 24 Republicans and 22 Democrats. And over in the House, Paul Tonko says we need to restrict advertising, just like we did for tobacco and other types of dangerous substances. And his bill, HR 967, is called the Betting on Our Future Act. And then there's HR 3894, the bipartisan Greyhound Protection Act (prohibiting dog racing), which doesn't even sound like it's relevant, but it is, and it has multiple sponsors 3 Democrats and 3 Republicans.

Ralph Nader: Basically, the gambling industry lobbyists have gotten to the leadership in the House and Senate. Because years ago, John, if there was any bill that passed unanimously from the Senate Commerce Committee, it was automatically going to pass through the Senate. So tell us about the nature of these gambling company lobbyists.

John Kindt: As you pointed out earlier, the nonprofit organization OpenSecrets in Washington, D.C. indicated that there are 287 registered gambling lobbyists being paid approximately \$18 million from 183 clients, and 63.4% of these are former government employees. All of these lobbyists are being paid \$18 million. In Illinois, back in the 1990s, two lobbyists were paid \$20 million just to try and get one of the original 10 casino licenses. That would be \$40 million in today's money.

My colleagues and I were called to debate these two lobbyists in front of a huge crowd in Northern Illinois. These lobbyists didn't even show up. They don't have any facts on their side. My colleagues and I testified before Congress under oath. Big Tech and Big Gambling have joined forces and have really misled and are dominating the entire discussion throughout the United States, and indeed the world.

This is actually a worldwide problem, too. And in a congressional hearing in 2006, that was pointed out. And again, Congress didn't take any action. But they did pass the Unlawful Internet Gambling Enforcement Act in 2006, which is not being utilized by the Department of Justice (DOJ).

Ralph Nader: You're talking about the Department of Justice. Tell us about how these gambling exploiters are working over the universities. Why are the universities so tempted? Tell us about the Penn State example.

John Kindt: We've actually been doing pretty well in keeping them away from the universities, because 98%, 99% of the academic community gets it. They know that this is just legalized fraud. But the administrations of these universities want to put on their resume that they're bringing in money, any kind of money.

For example, at Penn State University and down in one of the Louisiana universities, the administrations and the presidents of those universities, I'm sure, are involved. They've been actually advertising and partnering originally with their lotteries, but now with other sports gambling companies to advertise on their billboards during the game, "vote on this game." And of course, there's real-time gambling now on the Internet. You can actually sit there and bet on if the

next play is going to be a run or a pass, and you can bet on how many yards might be gained or lost.

On Super Bowl Sunday weekend last year, the *Wall Street Journal* indicated that a lot of these streams are delayed by 15-60 seconds, which is called past posting in gambling. In other words, the play has already been run and millions of people are still betting on the play. And when they bet on the play, they've already lost. The bookies know this, so they'll take the bet if you've already lost, but they won't take the bet if you're going to win the bet.

So all of these so-called savvy, hip people out there gambling need to realize that they're being manipulated and outmaneuvered. When you combine this with artificial intelligence and the new gambling algorithms, gamblers don't have a chance, even those who like to gamble. You need to ask, "Are we being cheated?" The *Wall Street Journal* directly and indirectly says so. These are adults, but what about kids? Because as we've indicated, they're now target marketing the kids.

Ralph Nader: You also talk about a series in the *New York Times* in November of 2022. I remember that. They got the Pulitzer Prize for those articles detailing huge scandals in the sports gambling industry, including partnering with universities to target students with addictive gambling activities.

This is serious, listeners. "Academic studies, according to John, and Gamblers Anonymous, and I'm quoting from his article in the *Capitol Hill Citizen*, "confirm that 20 percent of addicted gamblers engage in a serious suicide attempt, and these numbers are similar to the numbers calculated for opioid and cocaine addicts."

I just don't understand how these revenue-hungry university administrators are getting away with this. These are contracts. Do they make these contracts with the gambling industry and sports gambling business public? Can the students look at them—student newspapers, the regular press, civic groups, and Gamblers Anonymous? Are they public?

John Kindt: They should be, if they aren't. If you're asking me that question, these are public universities that are involved, and this type of information should be available under Freedom of Information requests (FOIA), if they're not released voluntarily.

When the casinos first came to Illinois back in the 1990s, we had instances where the students were getting on buses and going to the casinos and losing their tuition money. And certain groups had to pass policies that said students were free to do that, but it couldn't have, any official club sanction from any university or college. I don't know how well that's being enforced these days, but again, they're target marketing kids. And even in the gambling industry's own literature, they're actually bragging now that they've got about 10% of college students seriously hooked on gambling, addicted to gambling. These are not my numbers. These are numbers that are published by the industry itself. They're so arrogant, they don't care because they don't think the public will ever get it and decisionmakers won't take action.

But we need reenactment of the Professional and Amateur Sports Protection Act, which was spearheaded by N.B.A. legend Bill Bradley when he was a New Jersey senator. That's what's precipitated all of this online gambling.

Ralph Nader: Listeners you should know that at the University of Illinois, where our guest John Warren Kindt is a professor, a series of articles was published in the November 2021 issue of *University of Illinois Law Review*, published nine articles written by 14 blue-ribbon academics that directly and indirectly criticized the Supreme Court decision called the *Murphy [v. NCAA]* decision, “as well as how Big Gambling was deceiving state legislators and the public regarding the legality of internet sports gambling.”

Usually when something like this happens, plaintiff lawyers file civil lawsuits. I know you'd like to see this whole industry under a criminal statute, but are there any civil lawsuits being filed on behalf of youngsters, for example, who were drawn into a gambling addiction life?

John Kindt: Our offices have monitored several lawsuits that have been brought over the years, but it's like tobacco. The tobacco industry knew that if they lost one case, they'd be in serious trouble. And the same thing's true with Big Gambling in terms of the amount of money that they can bring to the issue and drag it out.

There was a well-known case by Boies Schiller Flexner, LLP, the New York law firm, involving basically a case in which people were being misdirected into gambling in California. They worked on that case for years and years. Big Gambling just took them around the block and finally just ran them out of, I think, the money and the willpower and the resources to keep the case going.

So when you have billions and billions of dollars coming in every year, you can hire every lawyer in town. As a matter of fact, when I testified back in Virginia once in their state legislature, they literally had hired every pro-casino registered lobbyist in town, with the exception of, I think, two firms, who refused, for ethical reasons, to do their bidding.

But as I indicated before, we had two lobbyists in Illinois who were given \$20 million just to try and get a casino. So the money is just so enormous that it swamps good public policy.

Ralph Nader: I want to quote from your article, “Re-criminalizing internet gambling before the next pandemic or economic crisis is essential to U.S. economic stability and national security. Governments, and gamblers themselves, need to recognize that it is impossible to win against the new deceitful manipulations of internet gambling algorithms.” But before I turn it over to Steve, David, and Hannah, tell us quickly about the case of Stephen Paddock.

John Kindt: Thanks for bringing that up. Who's heard of Stephen Paddock? You've all heard of Sandy Hook and Columbine. But Stephen Paddock is the biggest mass murderer shooter in American history. He's the Las Vegas shooter back in 2017, who killed 59 people, wounded 419, injured about 1,000 in the class action lawsuits. And who's heard of this? You don't hear about it in the mass media. And this is a travesty. But there really was a cover-up. And if you go to a movie called *Money Machine*, you'll see all about the cover-up that was perpetrated by Big Gambling by

their PR mechanisms, to downplay the fact that he was almost certainly an addicted gambler, trying to take out his frustrations from gambling on the public in his shooting spree.

And Ann Coulter wrote a column on this. The *New York Times* indicated this. But it was a big story for a month, and then it was gone. In subsequent years you hear about these shooters in terrible cases all across the country. But the starting point should be Stephen Paddock. People need to understand that it's a gambling addiction. It's widespread, and it's spreading everywhere.

Ralph Nader: One can only imagine how disruptive it is to families whose relatives are addicted to gambling on a day-to-day basis. You can imagine the disruption, the mental health problems, the economic losses, the bankruptcies, the desperate behavior of late-stage addicted gamblers.

Obviously the evidence is in. The bipartisan support is palpable. But nothing's happening to roll it back, to prosecute these people, and get criminal statutes. What needs to be done so that all the people who want something done can get off their treadmill and start applauding real progress? Because one criterion of a society's decay—moral, economic, and otherwise—is gambling. What do you think should be done to take it to the higher level of action?

John Kindt: People need to become more informed, not believe all this gambling propaganda, and definitely approach their members of Congress and raise these types of concerns, particularly when their members of Congress are back in the district. Quite a few senators and members of the House want to do the right thing. They want to act in good faith. They want to make things better, act in the public interest on health, safety, and welfare, but they need to know that their constituents are behind them.

So I encourage people to read this article in your newspaper, the *Capitol Hill Citizen*, because that's plenty of ammunition for them to raise concerns about having gambling on cell phones. They're target marketing these groups—kids minorities and vulnerable demographics.

I have 13 grandchildren. They can go to bed. The pusher for drugs is on the street corner, but the pusher for gambling is in their hands 24/7 on their cell phones. Click your phone, lose your home, lose your tots to online slots.

Ralph Nader: If people want to get your article, it's in print. You have to go to capitolhillcitizen.com and ask for the November-December edition. As John said, it'll give you more than enough to summon your senators and representatives to town meetings back in your district. Summon them personally. Make the case overwhelming as you can, and as the facts permit, and then interrogate them. Put these bills in front of them, get them to commit when they go back to Washington. This is doable. Tell us very briefly about Gamblers Anonymous. Is it like Alcoholics Anonymous?

John Kindt: Yes, and they don't release anything publicly. They have a similar step program comparable to Alcoholics Anonymous, and they also have a Gamblers Anonymous for the families of addicted gamblers.

You were asking about Illinois earlier, just a quick example. Front page of the *Chicago Tribune*, “Illinois is one of the first states to allow sports gambling back in 2020.” Within two years, or a little over two years, the Illinois Department of Human Services reported that there were now 383,000 addicted gamblers—like drug addiction, like cocaine addiction. Your government has created 383,000 new addicted gamblers in the state of Illinois, plus 761,000 new problem gamblers who are on their way to becoming addicted gamblers.

This is a huge problem. If you take this to Wall Street, and these companies want to put gambling on Wall Street, and they want to tie it to credit default swaps and new types of investment vehicles. They're selling all kinds of snake oil to the Commodity Futures Trading Commission. The latest one was objected to by over 600 groups, and including six U.S. senators, one of whom was Elizabeth Warren, a former Harvard Law professor. This is spreading rapidly, and it just needs to be plainly shut down.

We mentioned the United States National Gambling Impact Study Commission, which was the Congressional Commission on this (Office of Justice Programs DOJ). We all testified under oath before this commission. And they indicated in 1999, unanimously, that there should be a moratorium on the expansion of any type of gambling anywhere in the United States, and that online gambling should be prohibited now and forever, because there was no way to control it.

Ralph Nader: Don't be too satisfied, John. I want to tell you.

John Kindt: I'm not satisfied.

Ralph Nader: This is a problem on many areas. They put out reports, gets a little coverage, gets a little correction on Capitol Hill, bills introduced. Year after year, it's blocked because the corporate lobbyists know how to take control of the key legislators at key committees or the leadership of the House and Senate. It goes on year after year after year after year. So I've said it once, I'll say it again, we need a much more powerful strategy. Steve?

Steve Skrovan: Professor Kindt, the argument is that keeping all of this out in the open, just like legalizing drugs, keeps it from being driven underground and dominated by organized crime and non-taxable. What would you say to that argument?

John Kindt: Members of organized crime have testified before Congress saying that when you legalize it, you provide what they call *acceptability* and *accessibility*. And those two factors allow organized crime to prosper, because organized crime gives better odds, and it encourages people to gambling. It increases their base.

The Federal Bureau of Investigation's (FBI) official position for years was “if you build it, they will come.” Right out of the mouth of the old Kevin Costner movie. If you build it, they will come. And we have the FBI saying on record that gambling is the biggest moneymaker for the mob that there is. So even though they're low key and they don't want to be in the public spotlight, just watch Martin Scorsese movies. Watch *Casino*. He really tells it like it is.

Ralph Nader: David?

David Feldman: I know this would end up before the Supreme Court, but short of legislation, which seems impossible right now, is there anything in Joe Biden's executive order toolbox to rein in online gambling? I've seen anti-tobacco ads on television that are horrifying. I don't think those anti-tobacco ads require an act of Congress.

Is the White House allowed to launch a war on gambling without legislation? Could there be a presidential commission against gambling? Would Joe Biden be allowed to produce anti-gambling television advertising where Americans are warned about the devastations of gambling? Could this all be done through the executive branch without any legislation?

John Kindt: I have a feeling that it could be done by means of executive order, but I'd have to think about that some more. Even better would be directing the Department of Justice (DOJ) to enforce and reverse their position on Bobby Kennedy's Wire Act, which was designed to prevent all of this gambling over the wires/gambling over the internet. It was interpreted to include the internet for years and years. And then about 11 years ago, I think it was 2011, DOJ was highly criticized for reversing its position and basically saying that Bobby Kennedy's Wire Act did not restrict all types of gambling over the wire.

The other thing is Congressman Bob Goodlatte, who was chair of the House Judiciary Committee for many years, passed what was called the Unlawful Internet Gambling Enforcement Act, which came out of the National Gambling Impact Study Commission. And it has all kinds of enforcement mechanisms in it that could be directed, including against daily fantasy sports. I testified before that committee back in 2006 on these particular types of issues.

Ralph Nader: By the way, historically, the bulwark against gambling in this country came from the organized church, organized religion. And the moment the churches started having bingo in the basement, the gambling industry said, "That's our foothold." And they never stopped. That's when the opposition by organized churches in this country crumbled. Then it was off to the races in every possible direction and penetration by the gambling industry.

All right, we're out of time. We've been talking about a very serious problem that hasn't gotten enough serious action or even media coverage. We've been talking with Professor John Warren Kindt at the University of Illinois, who has written this very usable article for you to summon your senators and representative to town meetings back home called *Time to Criminalize Internet Gambling: Sixty to eighty percent of high schoolers say they've gambled for money in the past year*. Thank you very much, John Warren Kindt.

John Kindt: Oh, thank you, Ralph, for all that you and your associates do. And let's save our kids from gambling.

Steve Skrovan: We've been speaking with Professor John Kindt. We will link to his work at ralphnaderradiohour.com. Up next, Bruce Fein to talk to us about Gaza and what's going on at the International Court of Justice. But first, let's check in with our corporate crime reporter, Russell Mokhiber.

Russell Mokhiber: From the National Press Building in Washington, DC, this is your *Corporate Crime Reporter Morning Minute* for Friday, January 12, 2024, I'm Russell Mokhiber. The North Carolina Department of Agriculture and Consumer Services recently collected fines from 18 stores in 12 counties because of excessive price-scanner errors. Eleven of the eighteen stores were Family Dollar stores. Three were Dollar General stores. One was a Target. One was a Circle K. One was Advance Auto Parts, and one was a Food Matters Market.

“Our Standards Division remained diligent in its effort to protect consumers across our state in 2023,” said Agriculture Commissioner Steve Troxler. “Inspectors continued to find significant numbers of price-scanner errors at stores across the state, which serves as a reminder that consumers should check their receipts and notify store managers if they see an error.” For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

Steve Skrovan: Thank you, Russel. Welcome back to the *Ralph Nader Radio Hour*. I'm Steve Skrovan, along with David Feldman, Hannah, and the rest of the team, and of course, Ralph. And to set us up on our next topic, let's hear from our colleague, Francesco DeSantis.

Francesco DeSantis: In response to Israel's campaign of destruction in Gaza, South Africa has filed a lawsuit at the International Court of Justice alleging that Israel's actions “are genocidal in character because they are intended to bring about the destruction of a substantial part of the Palestinians in Gaza” per *PBS News*. Israel, which PBS acknowledges, “has a history of ignoring international tribunals” and intends to send a legal team to the Hague to fight this case.

David Feldman: Bruce Fein is a constitutional scholar and international law expert. Mr. Fein was Associate Deputy Attorney General under Ronald Reagan, and he is the author of *Constitutional Peril: The Life and Death Struggle for Our Constitution and Democracy* and *American Empire: Before the Fall*. Welcome back to the *Ralph Nader Radio Hour*, Bruce Fein.

Bruce Fein: Thank you so much.

Ralph Nader: Bruce Fein, on a topic that you have great experience in, the International Court of Justice is entertaining, as we speak, a case filed by South Africa and joined by several other countries such as Bolivia, charging the Israeli government with committing genocide under the Genocide Convention that was passed in 1949, ironically born of the Holocaust. And this is going to be a major international case because Israel belongs to the International Court of Justice and is going to contest actively the case rather than ignore it. Tell us about it.

Bruce Fein: I believe that maybe I'm being picky here, fastidious. South Africa is the only named party. I think it was thought that it would complicate things to add additional parties where you have to notify all their lawyers and scheduling becomes a headache. Bolivia and several other countries have made public statements in support of South Africa's complaint, but short of being parties themselves.

Ralph Nader: You've had experience before this court in the Hague and the Netherlands, and you've studied international law and the Geneva Convention on Genocide. How strong do you think this case is?

Bruce Fein: Well, to my mind, this perhaps is the strongest case in the history of the Genocide Convention, which was ratified in 1951, when a sufficient number of states became parties.

Why do I say that? The Genocide Convention is very clear in its definition of what constitutes genocide. I'm almost quoting word for word, "deliberately creating conditions of life calculated to physically destroy a national, ethnic, religious, or other group in whole or in part." Calculated to physically destroy.

Literally hundreds of officials from the highest levels of the (Benjamin) Netanyahu administration have openly stated, "We are going to slay a siege--no water, no food, no medicine, no shelter, no hospitals." You can't survive under those conditions. And of course, we've seen the result combined with the siege, the actual attack, tens of thousands dead. Probably countless others that will die because they're in very, very vulnerable conditions since they're exposed to contaminated water, disease, and otherwise, so they may die later, not instantly, like they would from a bomb.

And they've also stated clearly that in their view, Palestinians are animals and will be treated accordingly, along with many statements saying they need to be driven out of Gaza, and they don't deserve to be there. These are the most flagrant, direct confessions of a genocidal intent that's imaginable.

And we can think of other more recent cases of genocide, which are far less atrocious. Take, for example, the genocide that was found by the International Criminal Court on former Yugoslavia against the Serbs for massacring hundreds of Muslim men in the upsurge of the Bosnian War.

We don't have hundreds here. We've got at least 23,000 more and soaring. In addition to that, the physical destruction has almost been complete. More than 70% of the entire Gaza infrastructure has been destroyed, and is uninhabitable. Experts project that you could have half a million people starve to death in the next several months, unless something is done.

There's been no real relaxation on the entry of trucks and humanitarian aid into Gaza. The trucks are vulnerable to being bombed. The Israeli military is destroying U.N. schools. They're killing journalists at a record pace. And all of this is open and notorious. They're not in classified documents.

Israel is different from even going back to the Holocaust. The Nazis, at least, were trying to conceal the extermination camps at Dachau and Bergen-Belsen and elsewhere. Israel is not concealing anything. That betrays an expectation that there will not be any punishment. Whether they get a decision adverse out of the International Court of Justice. How did we enforce U.N. Security Council, where Israel is protection of the United States?

It speaks volumes that the Israeli Defense Forces killed three Israeli Jews who were held hostage, who were holding up white flags and speaking in Hebrew. That means that they were acting under orders saying, "Shoot anything that moves." They said, "Oh, well, that was just a mistake." No, it wasn't a mistake. That's their modus operandi in Gaza.

Ralph Nader: And unlike other genocidal situations around the world, the Gazans can't flee. They can't escape. They can't get out of there. Because it's under a siege blockade and they're in what's called the world's biggest open-air prison.

Bruce Fein: That's right. And of course, the other countries surrounding don't want them. I suppose there is space in Sinai, but the Egyptians are not letting them in, because in some sense, it mitigates the catastrophe that Israel has created. That's what Israel's goal is. Because Israel has pleaded with other countries to take them. No other country has. Because it would then embolden Israel to do even more destruction, I believe.

Ralph Nader: And to undermine any possibility of a two-state solution if they expel all these Palestinians. That's why Egypt is so adamant in not allowing the Israelis to drive Palestinians through the Rafah Crossing into the Sinai.

Bruce Fein: In my view, Ralph, they've already destroyed any possibility of a solution, short of a United Nations **mandated** caretaker and successive administration. The fact is that Israel would no way ever accept any kind of Palestinian authority that didn't completely renounce and denounce Hamas and say it'll never come back.

Any authority that does that would have a shelf life of a nanosecond. They wouldn't live, because Hamas now is more popular than before because at least was standing up despite their crimes and terrorism on October 7th against decades of oppression. That means there's not going to be a Palestinian successor to Hamas. It's not going to happen.

So what are the alternatives? Israel is not going to stay there forever. The only way that even comes close to resolving this, and it's happened in other situations that are similar, like in East Timor, where the UN had a caretaker government that came in and operated in elections. And they did something similar in Namibia when it escaped from domination by South Africa. But for the U.N. to come in with a caretaker administration, you're going to have to have the UN Security Council buy in. And with the US protecting Israel, that's not going to happen. So as grisly as it seems, I don't see any end point to this complete atrocity.

Ralph Nader: Let's get back to the International Court of Justice, where when, as if on cue, toady Tony Blinken, our Secretary of State, who should be called our Secretary of War, pronounced South Africa's lawsuit against Israel on grounds of genocide before the International Court of Justice meritless. That was his quote. Meritless. Your comment?

Bruce Fein: Number one, how does he know? You haven't had a trial begin. This inverts the Queen of Hearts and *Alice in Wonderland*. Innocent first, trial later, really? You have the trial to decide guilt or innocence. And it doesn't come after your verdict. So I don't want to use the word asinine, but to me, that statement fits here.

Why doesn't he say, "Yeah, this is the judicial process. We'll wait to see what the evidence shows. Both sides have to come forth with it." He, if anyone, should know about the vast amount of incriminating evidence. And because he goes over to Netanyahu and silently he protests it and

says, "Can't you back away from the slaughter of civilians?" And then he says nothing afterwards. So he just is mouthing, I believe, what Israel told him to mouth.

Ralph Nader: Hannah?

Hannah Feldman: Bruce, for those of us who aren't familiar with the workings of international law, could you just lay out, first off, what's the status of the Palestinian people in international law? Like, if I'm a layman and I'm saying, "Why is South Africa bringing the case? Why aren't the Palestinians?" What's their standing in the UN? And what materially would the case do if they found in favor of the South African complaint? What practical consequences could result?

Bruce Fein: Those are wonderful questions. The Palestinian Authority has not been admitted as a member of the United Nations. The International Court of Justice jurisdiction extends only to suits between signatory nations. The International Court of Justice is part of the United Nations Charter.

So even though the Palestinian Authority is a signatory to the International Criminal Court, and it could bring criminal charges against individuals, it's not a nation still under international law that would bring it within the jurisdiction of the International Court of Justice.

Ralph Nader: Even though the United Nations recognizes the Palestinian Authority, and provides them with a seat at the General Assembly. Is that correct?

Bruce Fein: But they're not admitted as an actual member. They have some kind of status in some of these special advisory groups, but they don't have national status entitled to vote, for example, in the General Assembly. And they don't sit on the UN Security Council.

Ralph Nader: But there's some recognition of it.

Bruce Fein: Yeah, there's some recognition. And in the International Criminal Court, under the Rome Statute, the Palestinian Authority validly became a member of the International Criminal Court. So there's different standards. Remember, you need to get approval of the General Assembly and Security Council to become a new member. You could imagine the politics of that is going to be different than at the International Criminal Court.

The second prong of your question, Hannah, is, what is the significance? What powers does the International Court of Justice (ICJ) have, or the International Criminal Court (ICC) for that matter? And it's probably disappointing. They can make pronounced judgments. And they can move quickly on what's called interim measures, and issue an order requiring the cessation of genocide. But they don't have any enforcement authority. They don't have any paratroopers. They don't have any marshals.

The only real enforcement authority is if the UN Security Council decided to step in and say, Any country that's in defiance of an ICJ ruling, we're going to take over. You could have a caretaker, put in peacekeeping forces. You can even start engaging in war, which was done in Korea, impose sanctions, all sorts of things.

But at least at present, given the diplomatic posture of the United States in other Security Council proceedings, it was almost certain that the United States would block any Security Council resolution trying to actually enforce an ICJ ruling.

Ralph Nader: On that note, we're out of time. We've been speaking with Bruce Fein, Constitutional International Law Specialist and a frequent guest on our show. Thank you again, Bruce.

Bruce Fein: Thank you.

Steve Skrovan: Ralph, that Rube Goldberg machine called the Boeing Max is at it again. Boeing started off 2024 with a big blowout. On January 5th, an Alaska Airlines flight made an emergency landing after a plugged emergency exit panel of the 737-9 Max detached mid-flight. There were no deaths or serious injuries, fortunately, but it's brought renewed scrutiny to Boeing, their production quality and engineering, and their troubled 737 Max series jets.

The National Transportation Safety Board (NTSB) is investigating the incident and the Federal Aviation Administration (FAA) has grounded every Boeing plane with a door plug pending their inspections in the NTSB's investigation. The FAA has said, "The safety of the flying public, not speed, will determine the timeline for returning the Boeing 737-9 Max to service." What's your comment on this ongoing Boeing disaster?

Ralph Nader: It is an ongoing disaster for Boeing, and it's the consequence of how Boeing got away with the crashes in Indonesia and Ethiopia under a sweetheart deal by the Justice Department, who agreed to a deferred prosecution agreement and let off the top executives, Dave Calhoun and Dennis Muilenburg, among others, who were responsible for cutting corners that led to the software in the 737 Max's taking control of the plane away from the pilots and putting the planes into a vertical death dive, hitting the Java Sea and the land outside Addis Ababa in Ethiopia at 550 miles an hour, killing hundreds of passengers and all the crew.

So Boeing is used to being the monopoly plane maker, big passenger plane maker in America, and we're reaping the bitter fruits of that monopoly because the airlines feel they have nowhere to go except Airbus in Europe. And they are so overwhelmed with orders that they can't meet the demand. So they have to go back to Boeing, and Boeing has subordinated its engineering integrity for Wall Street speculation in its stock.

Now several former Boeing engineers, inspectors are speaking out most prominently on this episode in Portland, which could have ended 171 passenger lives. That was a close call because the hole was as big as a refrigerator, and you can imagine what the wind was at 16,000 feet.

The person who's spoken out in most details, Ed Pierson, who's been on quite a few shows in the last few days, because he started blowing the whistle on this inside Boeing before he retired, that the production situation, the assembly line speed, the running roughshod over Boeing inspectors was part of the Boeing culture.

I would advise airline passengers, do not under any condition fly any of the series titled 737 Maxs. You can call up ahead of time, ask the airline or the travel agent what kind of plane there is, and proceed accordingly.

Steve Skrovan: Well, thank you for that, Ralph. You heard it here, passengers.

Hannah Feldman: Correct me if I'm wrong, Ralph, but is this current issue with the loose nuts and bolts on the door plugs, something wherein the plugs would have had to be approved by the FAA before they went out? It seems like a gap in regulation, kind of like with the MCAS (Maneuvering Characteristics Augmentation System) update, where they make a change to the plane that they claim is minor, so they don't have to do additional training or get additional approval. And it turns out to actually be pretty important when you're putting a big tube up into the sky.

Ralph Nader: Well, it's in the shadows. Technically, a change like that, plugging an emergency door, would have to be approved by the Federal Aviation Administration (FAA). The FAA has a Flight Standards District Office (FSDO) up in Seattle, and they go to the Boeing factories all the time. But they've been rather lax over the years, to put it mildly. They have delegated regulatory authority to Boeing to regulate itself. And then they do the paperwork at the FAA.

There was another problem a few weeks ago that was disclosed about Boeing 737 Max. And it was a problem dealing with a loose nut at the rudder control system. Well, you disable a rudder control system, that's the end of the plane. This is no minor deficiency. So the FAA is looking into that now. And some airlines are inspecting and finding a problem there with the loose bolt on the rudder control system.

So to be continued. There is going to be more and more disclosure. And it will come right back to the lack of regulatory enforcement and prosecution of the culpable executives who have turned a once proud engineering aerospace company into a speculative tool to increase the stock price on Wall Street.

Steve Skrovan: I want to thank our guests again, John Kindt and Bruce Fein. For those of you listening on the radio, that's our show. For you podcast listeners, stay tuned for some bonus material we call "The Wrap Up" featuring Francesco DeSantis with "In Case You Haven't Heard." A transcript of this program will appear on the *Ralph Nader Radio Hour* Substack site soon after the episode is posted.

David Feldman: Subscribe to us on our *Ralph Nader Radio Hour* YouTube channel. And for Ralph's weekly column, it's free, go to nader.org. For more from Russell Mokhiber, go to corporatecrimereporter.com.

Steve Skrovan: The American Museum of Tort Law has gone virtual. Go to tortmuseum.org to explore the exhibits, take a virtual tour, and learn about iconic tort cases from history.

David Feldman: We have a new issue of the *Capitol Hill Citizen*. It's out now. To order your copy of the *Capitol Hill Citizen* "Democracy Dies in Broad Daylight," go to capitolhillcitizen.com.

Steve Skrovan: And remember to continue the conversation after each show, go to the comments section at ralphnaderradiohour.com and post a comment or question on this week's episode.

David Feldman: The producers of the *Ralph Nader Radio Hour* are Jimmy Lee Wirt and Matthew Marran. Our executive producer is Alan Minsky.

Steve Skrovan: Our theme music, "Stand Up, Rise Up" was written and performed by Kemp Harris. Our proofreader is Elisabeth Solomon. Our associate producer is Hannah Feldman. Our social media manager is Steven Wendt.

David Feldman: Join us next week on the *Ralph Nader Radio Hour*. Thank you, Ralph.

Ralph Nader: Thank you, everyone. Those of you who want to become activists against this gambling pandemic and all its terrible consequences on millions of people, especially youngsters now, can get the article titled *Time to Criminalize Internet Gambling* by Professor John Warren Kindt. Just go to capitolhillcitizen.com.