



## **Chicago Bar Association, Catholic Lawyers Guild and Hispanic Lawyers Association of Illinois: Change the Location of 2019 CLE Conference**

The National Lawyers Guild, along with the undersigned legal advocacy groups, write to express our deep concern that the March 2019 CLE Conference planned in Jerusalem discriminates against Chicago Bar members who would be denied the right to attend due to their religion, race or national origin, and lends legitimacy to Israel's occupation of Palestinian land, in violation of international law.

As fellow attorneys and members of the bar, we have taken an oath to uphold our profession's highest ideals. At the core of these ideals is the belief that no person or group should be subjected to differential treatment on the basis of their immutable characteristics.

The location of this year's conference, however, strikes at the heart of our profession's values. In particular, by holding the seminar in Jerusalem, the organizers implicitly endorse Israel's discriminatory practices and policies against Palestinian, Muslim and Arab members of the bar on the basis of their race, religion and/or national origin, and against other members of the bar who hold political opinions of which Israeli authorities disapprove.<sup>1</sup>

Moreover, the Chicago Bar Association, Catholic Lawyers Guild, and Hispanic Lawyers Association of Illinois are implicitly endorsing Israel's codification of an apartheid system and the entrenchment of a military occupation in violation of international law that is maintained by denying basic human rights to Palestinians and granting legal privileges to Jewish Israelis over the indigenous Palestinian population based solely on religion, national origin and ethnicity.

To formalize what had been a *de facto* system of apartheid, Israel's legislature adopted in 2018 a new Basic Law: Israel as the Nation-State of the Jewish People (Nation-State Law) to join over a dozen other "basic laws" that serve as Israel's constitution. The Nation-State Law applies both inside the 1948 border of Israel,<sup>2</sup> where more than twenty percent of citizens are Palestinian; and to the occupied West Bank, including East Jerusalem; and the Golan Heights where Israeli authorities have maintained an oppressive military occupation since 1967 with separate and unequal legal systems based on ethnicity. International humanitarian law prohibits the annexation of occupied territories, the transfer of the occupier's population to occupied territory, and the forcible transfer of a protected population out of occupied territories.<sup>3</sup> The Nation State Law declares a right to self-determination for Jewish Israelis only in all of historic Palestine,

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<sup>1</sup> Israel parliament approves travel ban for foreign supporters of BDS movement, 7 May 2017, available at <https://www.independent.co.uk/news/world/middle-east/israel-travel-ban-boycott-supporters-bds-movement-banned-knesset-vote-settlements-visas-residency-a7616701.html>

<sup>2</sup> <https://mondediplo.com/1997/12/palestine>

<sup>3</sup> International Court of Justice (ICJ), Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 9 July 2004, available at <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>



thereby denying the Palestinian people's right to self-determination, in contravention of the United Nations' Charter.<sup>4</sup>

By locating the Chicago Bar Association CLE event in Jerusalem, which the Trump administration unilaterally recognized as part of Israel in violation of international law<sup>5</sup> despite its unresolved status,<sup>6</sup> and by including sessions with top Israeli officials and trips into the occupied Palestinian territory (including Bethlehem and Jericho), your Bar Associations are in effect rubber stamping widespread violations of international law and the human rights of Palestinians.<sup>7</sup>

Finally, members of the Chicago Bar who are Palestinian, Arab or Muslim, will likely be denied access to this conference because Israel employs discriminatory entry and exit policies, even for U.S. citizens. Notably, the Chicago Bar Association committee responsible for organizing this year's conference was or should have been aware of these discriminatory practices and policies. For example, in its Country Information for Israel, the US Department of State warns that:

*“Some U.S. citizens of Arab or Muslim heritage (including Palestinian-Americans) have experienced significant difficulties and unequal and hostile treatment at Israel’s borders and checkpoints. U.S. citizens who have traveled to Muslim countries or who are of Arab, Middle Eastern, or Muslim origin may face additional questioning by immigration and border authorities”* (emphasis added).<sup>8</sup>

The U.S. Consulate in Jerusalem similarly cautions:

*“Those whom Israeli authorities suspect of being of Arab, Middle Eastern, or Muslim origin; those who have been involved in missionary work or activism; and those who advocate for or are involved in the Boycott, Divestment and Sanctions (BDS) movement may face additional, often time-consuming, and probing questioning by immigration and border authorities, or may even be denied entry into Israel or the West Bank”* (emphasis added).<sup>9</sup>

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<sup>4</sup> <https://www.un.org/unispal/document/right-of-self-determination-of-the-palestinian-people-ceirpp-dpr-study/>

<sup>5</sup> UN Security Council Resolution 2334 (2016) states “that it will not recognize any changes to the 4 June 1967 lines, including with regard to Jerusalem, other than those agreed by the parties through negotiations.”

<sup>6</sup> UN General Assembly A/ES-10/L.22 (2017) states that “any decisions and actions which purport to have altered the character, status or demographic composition of the Holy City of Jerusalem have no legal effect, are null and void and must be rescinded in compliance with relevant resolutions of the Security Council.”

<sup>7</sup> UN General Assembly HRC/34/L.40 (2017) states that “all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to the relevant resolutions of the Security Council are illegal and have no validity.”

<sup>8</sup> [https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/IsraeltheWestBankandGaza.html?wcmmode=disabled%22%20t%20%22\\_blank%22](https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/IsraeltheWestBankandGaza.html?wcmmode=disabled%22%20t%20%22_blank%22)

<sup>9</sup> <https://jru.usconsulate.gov/u-s-citizen-services/local-resources-of-u-s-citizens/entering-exiting/>



In addition to inappropriate questioning and denial of entry, U.S. citizens of Arab, Muslim, and Palestinian background are regularly subjected to the following treatment by Israeli authorities upon arrival:

- Prolonged detention (lasting up to 26 hours in at least one documented case);
- Invasive body searches;
- Lengthy and hostile interrogations;
- Searches of email, mobile phone contents and social media accounts (which may raise attorney-client privilege concerns); and
- Confiscation of personal property, including laptops, cameras and phones.<sup>10</sup>

It is because of this ongoing discrimination against Americans of Arab or Muslim heritage, as well as others for their political viewpoints, that the United States has denied Israel entry into its Visa Waiver Program. In March 2014, State Department spokeswoman Jen Psaki explained in her daily briefing, “The Department of Homeland Security and State remain concerned with *the unequal treatment that Palestinian Americans and other Americans of Middle Eastern origin* experience at Israel’s border and checkpoints, and reciprocity is the most basic condition of the Visa Waiver Program” (emphasis added).<sup>11</sup>

Additionally, Israel’s discriminatory practices have extended to attack our First Amendment rights here in the United States. Israel has targeted Palestinian civil society’s call to engage in nonviolent boycott, divestment and sanctions (BDS) to achieve Palestinian rights in the absence of accountability for Israel’s violations of international law, using increasingly coercive and punitive measures, both in Palestine and globally.<sup>12</sup> In the United States, individuals and institutions engaged in advocacy for Palestinian rights, including BDS campaigns, have been targeted<sup>13</sup> with online harassment,<sup>14</sup> surveillance, threats to their physical safety<sup>15</sup>, frivolous

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<sup>10</sup> <http://www.aaiusa.org/snapshots-american-citizens-discriminated-against-at-israeli-border>

<sup>11</sup> <https://www.jta.org/2014/03/25/united-states/state-discrimination-keeps-israel-out-of-visa-waiver-deal>

<sup>12</sup> Israel brands Palestinian-led boycott movement a ‘strategic threat,’ The Guardian, 3 June 2015, available at <https://www.theguardian.com/world/2015/jun/03/israel-brands-palestinian-boycott-strategic-threat-netanyahu>. See also, A. Schechter, “If BDS Isn’t a Real Threat, Why Does Netanyahu Make It Out to Be Such a Big Deal?” Haaretz (June 2, 2015); M. Schaeffer Omer-Man, “Israel’s President Calls BDS a ‘Strategic Threat,’” +972 Mag (May 28, 2015); T. Keinan, “BDS is an Existential Threat,” YNet News (Mar. 26, 2016).

<sup>13</sup> See generally, Palestine Legal and Center for Constitutional Rights, *The Palestine Exception to Free Speech: A Movement Under Attack in the U.S.*, September 2015, available at <http://palestinelegal.org/the-palestine-exception; Palestine Legal, 2018 Year-in-Review: Censorship of Palestine Advocacy in the U.S. Intensifies, January 2019, available at https://palestinelegal.org/2018-report>

<sup>14</sup> See, e.g., Amateur Hour With BDS: The Real Scandal in Al Jazeera’s Israel Lobby Investigation, Haaretz, 24 October, 2018, available at <https://www.haaretz.com/israel-news/.premium-amateur-hour-with-bds-the-real-scandal-in-al-jazeera-s-israeli-lobby-investigation-1.6589884>

<sup>15</sup> See, e.g., Palestine Legal Demands Action from University of Chicago to Protect Student Activists, Palestine Legal, 19 November 2015, available at <http://palestinelegal.org/news/2015/11/19/palestine-legal-demands-action-from-university-of-chicago-to-protect-palestine-advocates?rq=death%20threat>; Ohio University: Student President Receives Death Threats, Palestine Legal, 10 March 2015, available at <http://palestinelegal.org/case-studies/2015/3/4/ohio-university-student-senate-president-received-death-threats-after-pro-bds-video>



lawsuits,<sup>16</sup> intimidation campaigns maligning them as terrorist supporters and anti-Semitic,<sup>17</sup> and even disciplinary and criminal investigations and sanctions for their protest activities.<sup>18</sup> At least 26 states have passed legislation targeting boycotts for Palestinian rights, under pressure from Israel and Israel advocacy groups.<sup>19</sup> So far, two of the statutes have been found unconstitutional by federal courts, affirming that political boycott is a form of protected speech and upholding the bar on forcing prospective state contractors to waive constitutional rights or be punished with denial of eligibility.<sup>20</sup>

It is unacceptable for the Chicago Bar Association, Catholic Lawyers Guild and Hispanic Lawyers Association of Illinois to hold a conference in a location over which Israel claims sovereignty, given that Israel engages in systemic human rights and international law violations, is founded on principles of inequality and discrimination against the indigenous Palestinian population, and actively discriminates on the basis of racial, religious and national origin at its borders, effectively preventing Arab, Muslim, Palestinian and other members of the Chicago Bar from attending.

For at least these reasons, we respectfully request that the location of this year's Conference be changed to a location accessible to all members, irrespective of race, religion and national origin. Furthermore, we strongly suggest that the Chicago Bar Association, Catholic Lawyers Guild and Hispanic Lawyers Association of Illinois refrain from organizing any more events for which participation is restricted on the basis of racial, religious or national origin or other vulnerable identities.

We cannot honorably ignore Israel's disregard of international law and basic principles of equality and human rights. We owe it to all people – and the Palestinian people — to abstain from partaking in their dispossession, erasure, and unequal treatment; and to elevate their call for an end to Israel's illegal occupation.

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<sup>16</sup> Lawsuit Dismissed Against American Studies Association, Steven Salaita, Others for Israel Boycott, 5 February 2019, available at <https://ccrjustice.org/home/press-center/press-releases/lawsuit-dismissed-against-american-studies-association-steven>

<sup>17</sup> See, e.g., Ilhan Omar's tweet revealed core truths about anti-Semitism in America, 12 February 2019, available at <https://www.vox.com/policy-and-politics/2019/2/12/18220241/ilhan-omars-twitter-tweet-anti-semitism>; Rights Groups to UC Irvine, UC Berkeley and SFSU: Condemn David Horowitz Posters, Protect Students from Intimidation Campaign, Palestine Legal, 20 October 2016, available at

<http://palestinelegal.org/news/2016/10/11/rights-groups-to-uc-irvine-condemn-david-horowitz-posters-protect-students-from-intimidation-campaign?rq=horowitz>; IUPUI must stand with Haneen and SJP, too, Palestine Legal, 8 April 2016, available at <http://palestinelegal.org/news/2016/4/8/iupui-must-stand-with-haneen-and-sjp-too?rq=iupui>

<sup>18</sup> Palestine Legal collection of articles regarding the Irvine 11, available at

[http://palestinelegal.org/search?q=Irvine%2011&amp:f\\_collectionId=55357b08e4b0366c2fd525e9](http://palestinelegal.org/search?q=Irvine%2011&amp:f_collectionId=55357b08e4b0366c2fd525e9); CUNY: Independent Investigators Clear SJP, Palestine Legal, 31 October 2016, available at <http://palestinelegal.org/case-studies/2016/10/31/city-university-of-new-york-independent-investigators-clear-sjp?rq=brooklyn>; Brooklyn College Students Cleared at Controversial Disciplinary Hearing, Palestine Legal, 31 May 2016, available at <http://palestinelegal.org/news/2016/5/31/brooklyn-college-students-cleared-at-controversial-disciplinary-hearing?rq=brooklyn>

<sup>19</sup> <https://palestinelegal.org/righttoboycott>

<sup>20</sup> <https://www.aclu.org/blog/free-speech/rights-protesters/laws-targeting-israel-boycotts-fail-again-court>



Sincerely,

National Lawyers Guild – Chicago

and

American-Arab Anti-Discrimination Committee (ADC)

The Center for Constitutional Rights

Palestine Legal