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February 24, 2005

Norman G. Finkelstein

Dear Ms. MacDonald:

I would like to take at face value the statement in your February 17 letter that the University of California Press ("Press") will make its decision whether to publish Finkelstein's "Beyond Chutzpah" based on "the quality of the work and not on emotional appeals". For if the touchstone were to be scholarly "quality"—rather than the fact that Finkelstein's books sell well—I am confident that Finkelstein's "work" would never see the light of day.

But the issue is not the lack of "quality"—it is the lack of truth. After all, you are free to publish bad books. You are also free to publish books that you believe will sell well, even among neo-Nazis. What you may not do is publish false books that defame people.

While I would also like to take at face value your statement that the Press "would not knowingly publish defamatory material", several aspects of your letter give me pause.

First, the only substantive response in your letter to the detailed identifications of false statements by Finkelstein that I have provided—that "[i]t is not clear that such statements would qualify as defamation given the public figure status" of Professor Dershowitz—is wrong. Whether Professor Dershowitz is a public figure or not, Finkelstein's statements are false. And you now know they are false. For example, you know that we have Professor Dershowitz's handwritten manuscript for *The Case for Israel*. If you were nevertheless to publish Finkelstein's false claims that Professor Dershowitz did not write the book (or perhaps even read it), you would knowingly be publishing false statements. That is defamation. Even of a public figure.

Second, intentionally or not, your effort to summarize Finkelstein's false statements contains a critical omission: the incendiary charge—which Finkelstein has repeated many times in many places—that *The Case for Israel* is plagiarized from Joan Peters's *From Time Immemorial*. This false statement is a naked effort to attract publicity to sell books. When *The Case for Israel* quotes from Peters's book, it does so with attribution. When *The Case for Israel* quotes sources that also happen to appear in Peters's book (such as Mark Twain), it does so with attribution to the original sources. That is not plagiarism; it is proper scholarly citation. You know that Finkelstein's charge of plagiarism is false. (And the "attorneys, editors, and respected scholars" that you say are reviewing Finkelstein's manuscript can easily confirm that the plagiarism charge is false as a matter of objective fact.) So I wonder why the plagiarism charge did not appear in your summary of Finkelstein's false statements. Once again, I will endeavor to give you the benefit of the doubt. I will thus assume that you—unlike Finkelstein—do not think the plagiarism charge is "funny". I can assure you that the jury will find no humor in it. The most charitable interpretation I can give to your omission of the plagiarism charge is that you recognize that a false charge of plagiarism—easily disproved by reference to *The Case for Israel*—does indeed constitute defamation. Even of a public figure.

Third, some of your attempted assurances are contradicted by statements that Finkelstein and others have made about "Beyond Chutzpah". For example, contrary to your assertion that the Press "did not provide a copy of the manuscript to Keith Gallagher", he has told us that he in fact received galleys. Because I am giving you the benefit of the doubt, I must assume either (i) that Gallagher got the manuscript from Finkelstein (or from one of the "scholars" to whom you have sent it) rather than directly from the Press, or (ii) that Gallagher is lying. Either way, this gives you an idea of the caliber of the people with whom you are dealing. Perhaps more important, your assertion that "any mention of Mr. Dershowitz will be minimal in relation to the whole of the publication" is contradicted by Finkelstein himself. His own website states that the "core analysis of Beyond Chutzpah sets Dershowitz's assertions on Israel's human rights record against the findings of the mainstream human rights community".<sup>1</sup> He has also said that the book will "devote a full chapter" to the plagiarism charge. Even the title is a reference to Professor Dershowitz's *Chutzpah*. Of course, on one level, it does not matter if you are right and Finkelstein is lying about his own book: even if only a relatively small part of the book accused Professor Dershowitz of plagiarism, it would be defamation all the same. (It would also of course be a key part of Finkelstein's, and perhaps the Press's, efforts to get people to buy the book.) On another level, however, the disparity between your version and Finkelstein's matters a great deal. Assuming as I do that you believe what you say to be true, either (i) Finkelstein has misrepresented the content of his book on his website and in other public statements, or (ii) he or someone working for him has misrepresented it to you. Either way, it puts you on notice that Finkelstein is willing to make false statements to advance his agenda—in case that were not already clear from Finkelstein's "scholarly" record. Publishing Finkelstein's false

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<sup>1</sup> See [www.normanfinkelstein.com/content.php?pg=11](http://www.normanfinkelstein.com/content.php?pg=11).

statements with knowledge of his willingness to lie constitutes defamation. Even of a public figure.

Fourth, you have ignored my offer to provide you and your fact-checkers with the documents that prove the falsity of Finkelstein's statements. We can show you the handwritten manuscript for *The Case for Israel*. We can show you that the document Finkelstein says is an instruction to "copy" Peters's book is in fact an instruction to "cite" Peters's book. We can show you the Israeli Supreme Court decision referred to in my previous letters. Given the facts we have told you and Finkelstein's history of deliberate misquoting and misrepresentation, your refusal to review (and to allow your "attorneys, editors, and respected scholars" to review) the material proving Finkelstein's charges to be false plainly constitutes reckless disregard for the truth. That is defamation. Even of a public figure.

We have told you the facts. We have offered you the proof. You cannot hide behind the fact that Professor Dershowitz is a public figure.

You are on notice.

In the interests of avoiding a lawsuit and upholding the "quality" of the works published by the Press, I encourage you to contact us to review the proof of the falsity of Finkelstein's claims. I also encourage you to make sure that my letters and their attachments are provided to the "attorneys, editors, and respected scholars" who are reviewing Finkelstein's manuscript. If I do not hear from you, I will assume that you have chosen not to do so.

Sincerely,



Rory O. Millson

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