

We are writing to address the publication of *Toward Nakba as a Legal Concept* and to inform you of the steps that the Board is taking to remedy the significant process failures that have attended the review and editing of this piece.

As you may have seen in the statement that was circulated yesterday, on Sunday afternoon the Board became aware that the Review would be publishing *Toward Nakba as a Legal Concept* in the May volume to be released on Monday, June 3. We were also informed that this piece had not been subject to the usual processes of review or selection for articles at the Law Review, and in particular that a number of student editors had been unaware of its existence until two days before (Saturday, June 1).

The secrecy that surrounded this article's editing and substantiation review is unacceptable. It is also unprecedented, in that every piece is either worked on by, or available on request to, all student editors during the editing process. Whatever the intent, such secrecy is a profound deviation from the norms of respect, trust, and collegiality on which the Review depends. It also inevitably raises questions about the adequacy of the editing and substantiation processes to which the piece was subjected.

On the afternoon of Sunday, June 2, we asked that publication be delayed for a few days so that all student editors would have an opportunity to read the piece, raise any questions or concerns, and otherwise engage. We thought that was necessary in fairness to student editors who had not been part of the group working on the piece and were not previously aware of the piece's content or even its existence. Whatever your views of this piece, it will clearly be controversial and potentially have an impact on all associated with the Review.

Unfortunately, on Monday morning, the Board learned that despite an agreement to delay publication until June 7, the piece was going to be published on the Review's website that morning. In order to preserve the status quo and provide student editors some window of opportunity to review the piece, as well as provide time for the Law Review to determine how to proceed, we temporarily suspended the website.

We want to underscore that this decision was based on the Board of Directors' concerns about the secrecy and deviation from the Review's usual processes here, and the potential impact of such secrecy and process failures on the membership of the Law Review as a whole. It did not reflect a view on the content of the piece or a decision on publication.

As you know, the Board of Directors traditionally is not involved in selecting or determining the content of the Law Review—that is the student editors' job. It is, however, our job to ensure that the Review is governed in accordance with its mandate and highest standards of editorial integrity. It is the serious lapses in good governance that we are attempting now to redress to the extent possible.

In this case, the piece is already circulating publicly, which we think as a practical matter means it is published. We also would like to get the website back up as soon as possible, as having it down is now preventing access to the Review's scholarship.

We believe, however, that the process deviations in the context of this piece require public acknowledgement. Because publication was not delayed, there was no opportunity to address those deviations internally.

We have concluded that the best way to further the many important values at stake at this point is to include the following statement with the Eghbariah piece. The statement acknowledges that the secrecy in the process here deviated from the Review's usual procedures. The statement also makes clear that some student editors did not have the opportunity to provide input on the piece because of the secrecy with which it was treated. We are fine with the statement being from the Board of Directors, if that is the preference of the administrative board.

*"Toward Nakba as a Legal Concept* was not subject to the usual processes of review and editing at the Law Review. It was solicited outside of the usual articles selection process and edited and substantiated by a limited number of student editors. Contrary to ordinary practice, it was not made available for all student editors to read. As a result, a number of student editors were unaware of the piece and did not have the usual opportunity to provide input on its content prior to its publication."

We think there are additional measures that the administrative board could take to address the process problems that occurred here. Those include considering whether to refrain from labeling the piece an article, given that it was not picked up by the articles committee, or soliciting a response.

Finally, we are concerned about the atmosphere on the Review, and about statements some students have made to us about feeling excluded and unwelcome at the Review. We hope to work with you to address those issues going forward.