



## **Abby Martin's Lawsuit Over Israel Loyalty Oath Mandate in US**

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**Abby Martin (AM):** In February of this year, I was supposed to give a keynote speech at Georgia Southern University. Before the event I refused to sign a state-mandated pledge to not boycott Israel in order to speak. My invitation was rescinded, and the conference cancelled as a result. I decided to sue the state of Georgia, because signing an anti-BDS clause in order to work in the state is a direct violation of my constitutional rights to free speech and to participate in political boycotts. Similar laws exist in 28 states across the country. You can watch the whole press conference with my lawyers, with CAIR (Council on American–Islamic Relations) and the Partnership for Civil Justice Fund on our YouTube channel, which we’ll link to below. Joining me now is one of the main lawyers to give an update on the case, Mara Verheyden-Hilliard of the Partnership for Civil Justice Fund.

Thank you so much for joining me Mara. So, I first wanted to get an update on my lawsuit filed with CAIR (Council on American–Islamic Relations) and the PCJF (Partnership for Civil Justice Fund). Back in February when we had that press conference, the lawsuit was filed that day. Can you give us any updates on what has happened, what they’ve done to respond legally since then.

**Mara Verheyden-Hilliard (MVH):** Since we filed the initial lawsuit, we have filed an amended complaint in this case, in which we’ve also been able to include some of the material that has come out since the initial filing that shows the communications going on behind the scenes in Georgia, where they were taking action to stop you from being able to speak in service to the law that acts

as a censor against those who support the BDS (Boycott, Divestment and Sanctions) movement. The defendants in this case have since moved to dismiss, which is what we expected. They've filed a motion to dismiss. We have filed an opposition to that, and there has now been an amicus brief that's been filed in support of your case by J Street and by a Jewish human rights organisation of rabbis in the United States who feel very strongly that the First Amendment cannot tolerate this kind of censorship, and so they have joined in this effort, because they don't believe that the BDS law is constitutional, regardless of their own feelings about BDS.

**AM:** Just days after this lawsuit was filed and widely reported in the press, Netanyahu tweeted this. He said: Whoever boycotts us will be boycotted ... In recent years, we've promoted laws in most U.S. states, which determine that strong action is to be taken against whoever tries to boycott Israel. So, here you have a foreign country essentially threatening economic consequences to dictate the constitutional rights of Americans. Then you had Georgia state officials essentially citing, I mean actually citing, Israel, Netanyahu, as part of their defence for these laws. I mean, this is a free speech case under the U.S. constitution. So, why is it that you have a foreign leader making veiled threats for economic consequences? And then you have actual state officials in Georgia citing foreign officials as their reason to undermine the U.S. constitution here.

**MVH:** It's remarkable and fundamentally distressing that you have elected officials in the United States who actually are willing to sacrifice Americans' First Amendment rights, cherished First Amendment rights, at the request of a foreign country, and it's demanding basically that you and anyone else sign a loyalty oath to a foreign country in order to be able to contract with the state of Georgia, and the situation is so extreme that, in fact, one of the state legislators, Deborah Silcox, when they were seeking to amend the law and raise that limit to a hundred thousand dollars to try and moot your case, actually said in a committee meeting at the state legislature that she had been asked to take that step by the Israeli consulate and apparently even brought a member of the Israeli consulate to speak in that meeting. This is the United States. This is where, you know, we're told over and over again that, you know, it's American rights, that we have the First Amendment, that we have the constitution, that we have the Bill of Rights, that this stands for American freedom, and then they can

just quickly turn around and say, well, another country directed that we take these actions and so we're going to do that. The fact that Netanyahu is responding to this litigation and to the challenges and the effort that's coming from the, you know, this highest official in Israel to a movement in the United States and worldwide says something about the impact of that movement. I mean, the history of boycotts, the history of boycotts in the United States and global boycotts is one of struggle, one of unity, one where people come together in non-violent collective action to fight for justice, and when you think obviously of the boycott of apartheid South Africa, when you think about the Montgomery bus boycott in the United States or Cesar Chavez and the grape boycott, these have been crucial moments where people are able to find a way to act in collective action and have an impact when they need to have an impact, and Israel and Netanyahu are very afraid of this movement and are trying to do everything they can to stop a movement for justice that they oppose.

**AM:** And you mentioned one of the efforts to dismiss this case was changing the cap on independent contractors from 1,000, which was my initial contract. I was going to get paid a thousand dollars to speak, to give that keynote speech, change it from 1,000 to 100,000. They're essentially trying to say that you have free speech if you're making less than this. Anything more, you have to forfeit your rights to work. Talk about the logic behind trying to put a dollar amount on your free speech rights.

**MVH:** What they were trying to do is, right after the lawsuit was filed, the legislature considered amending the law. The reason they were doing that is solely to dismiss your case and try and dissuade other cases. What they were hoping is that, right now the law as written says that it comes into play for any contract of a thousand dollars or more. They wanted to up that amount to a hundred thousand dollars, because their hope is twofold. One, that there will be a fewer number of people who are caught in that net that will be less likely to challenge the constitutionality of the law, and also then that if a hundred thousand dollars is on the line, a person is far less likely to challenge the constitutionality of the law. That's their hope. What they wanted to do specifically with that is really just to render your case moot. It was just an obvious attempt to render your case moot. This is something that happened in Texas, where CAIR, who is also bringing this case, had successfully litigated a

BDS case in Texas. Then the legislature changed the law to up the contractual amount to a hundred thousand. The plaintiff in that case had a contract at issue that was under that, and they were using that to have that case dismissed. That's what this is about.

**AM:** Are you worried about similar outcomes that shut down the lawsuits in those states?

**MVH:** Well, as I mentioned, the defendants of course filed a motion to dismiss, which we would expect them to do. That's the natural course of litigation. We have filed an opposition. The court, the district court, will make a determination based on these filings and obviously also the amicus brief that was filed in support of the First Amendment right to boycott. I believe that this case is a critical case in terms of free speech in the United States, and I believe certainly that it is patently obvious that no government under the First Amendment has the right to say your receiving a contract or getting payment or ability to engage in an activity is going to be conditioned on a particular point of view, that we won't sign a contract with you unless you give up and disavow a particular point of view and a political activity, which is specifically here engaging in a boycott in support of BDS. That is illegal. It is unconstitutional. It is completely unsound, and we certainly expect that this law will be struck as unconstitutional.

**AM:** You mentioned that two organisations recently filed an amicus brief to support this lawsuit, J Street and T'ruah. What are these organisations and what does it mean that they filed an amicus brief to support the case?

**MVH:** The organisations are very well-known, well-respected organisations in the United States that represent Jewish communities in the United States, and they both made the point of saying that they don't, by their filing, they are not saying that they are endorsers or supporters of the BDS movement per se, but what they are saying is that they believe it is crucial that the BDS movement be able to express itself, that Americans be able to engage in First Amendment collective boycott activity, that they oppose censorship, and they make the point in their brief as well, in addition to the legal arguments, the history of censorship and persecution in the United States, including how it has affected Jewish people when there is an effort to politically scapegoat or politically attack people, who are engaged in freedom of association and political activity

and the dangers of that, and so they stand in opposition to this law. Because once you start being able to pick and choose what it is that people may be able to express, what they may join together in collective action to oppose or to fight for, when you allow the government, either on a state level or a federal level, to censor people and censor collective action or individual speech, it is a path that is ultimately going to be extraordinarily damaging to everyone in the United States, and they recognise that.

**AM:** Obviously this isn't just about me or Georgia, but hypothetically if we win this case in Georgia, what are the implications for the 28 or so other states that have these laws on the books.

**MVH:** Right now, because there is this other, there is a split, where you have, depending on how the circuit court rules in the Arkansas case, there is a question as to whether or not this will go up to the Supreme Court of the United States. At the moment, these laws seem so facially unconstitutional, it seems extraordinary that this can even be a matter of debate, and yet it is. So, I think without question this is, you know, a matter that will end up having to be settled. I believe that ultimately it will be settled with an understanding that the First Amendment cannot countenance the government putting its finger on the scale of debate and telling the people of the United States or the people of any state or any person that seeks to contract with the state what they may or may not advocate, what they may or may not do in terms of conduct and activity that is protected by the First Amendment.

**AM:** And lastly, it does seem like pro-Palestine speech in general is a primary target. And Mara, if I'm not mistaken, there's a contradictory law present in Georgia that protects this notion of free speech, but only for certain figures and not for others.

**MVH:** Well, in an Alice-in-Wonderland-like way, there has been what's called the campus free speech movement, which is actually a movement to support particular speech, generally right-wing, reactionary, the speech of the powerful, and to suppress the speech of those who object or who protest against it, and the Georgia state legislature actually passed one of those campus free speech laws that enshrines again the fact that the campuses cannot take any action with regard to students' First Amendment activities, which in general, one would

support, but the way that these laws are written and the ways that they are carried out in exercise is generally to actually allow only the First Amendment speech of those who are frequently espousing very racist, threatening, reactionary views, and those folks actually are entitled to have their free speech, but then if you want to have free speech in opposition to those views, the oppositional free speech is what actually gets shut down. And this law, which has impacted you in a campus setting but of course could impact anyone in Georgia who's contracting in any setting in Georgia, but here you have a campus setting, and because it's a campus setting, it would appear to just run straight into this other law that is ostensibly protecting free speech on campus.

**AM:** I do think that these anti-BDS laws are the most important issue of free speech today. Mara, I'm very thankful to have you representing me. Thank you so much for your time and to give us an update on the case.

**MVH:** I'm very glad too.

**END**