

SCHOLARLY AND SCIENTIFIC BOYCOTTS OF ISRAEL
Abusing the Academic Enterprise

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By Kenneth Lasson*

Veritas vos liberabit, chanted the scholastics of yesteryear. *The truth will set you free*, echo their latter-day counterparts in the academy.

Universities like to be perceived as places of culture in a chaotic world, protectors of reasoned discourse, peaceful havens where learned professors roam orderly quadrangles and ponder higher thoughts – a community of scholars thirsting for knowledge in sylvan tranquility.

The real world of higher education, of course, is not quite so wonderful.

Instead of a feast for unfettered intellectual curiosity, much of the modern academy is dominated by curricular deconstructionists who disdain western civilization, and in fact are radical social reformers pushing their own narrow political agendas. Students, on the other hand, instead of being presented a bustling marketplace of ideas nurtured in the warmth of academic freedom, are today confronted by increasingly hostile learning forums manipulated by pseudo-scholarly extremists.

Little such indoctrination has come to the fore as much as the current campaign to impose academic and scientific boycotts against Israeli universities and individual scholars. This Article will explore the history of economic, academic, and scientific boycotts, describe the singular efforts to vilify the State of Israel, and analyze the implications of such boycotts for the academic enterprise.

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Introduction

In the Spring of 2002, a campaign was begun to urge American universities to divest themselves of stock holdings in companies doing business with Israel. This movement started at elite universities such as Columbia, Georgetown, California at Berkeley, Harvard, Yale, and Princeton, and soon spread elsewhere around the country.¹ By November at least universities had active divestment groups.²

In the Fall of that year, a large consortium of pro-Palestinian organizations held a conference at the University of Michigan to harmonize ideology and orchestrate strategy. Besides divestment, the group also demanded the “Right of return and repatriation for all Palestinian refugees” and “an end to the Israeli system of apartheid and discrimination.” Although several speakers declared their disapproval of suicide bombing, conference organizers refused to condemn Palestinian terrorism as a tactic for achieving political goals.³

¹ *Movements Draw Criticism from Pro-Israel Students, Harvard President*, UNIVERSITY WIRE, May 20, 2002.

² At Yale, the issue took on broader dimensions when anti-Israel students brought forth both moral and legal arguments to support their position. Lauren A.E. Schuker, *With Petition, Yale Group Joins Push for srael Divestment*, HARVARD CRIMSON, November 14, 2002.

³Samuel G. Freedman, *Divestment Movement Undercuts Israel*, USA TODAY, October 29, 2002 at p. 11A.

The anti-Israel rhetoric and curricular actions were accompanied by aggressive physical conduct. At UC/Berkeley, for example, a cinder-block was thrown through a glass door of the Jewish student center, an obscene slogan was painted on the wall, and Jewish students were assaulted on their way to classes; almost a hundred pro-divestment protestors were arrested after seizing a campus building during a mid-term exam. Similar vandalism has occurred at other campuses around the country.⁴

By far the biggest controversies on campus, however, occurred overseas. A marked increase in anti-Jewish hostilities was noted on campuses throughout Great Britain, including a call from Cambridge university for a boycott of Israeli goods. Jewish students houses were attacked at campuses as diverse as Leeds and Aberystwyth in Wales.⁵ In the Spring of 2002,

⁴ Hilary Leila Krieger, *Anti-Semitic Acts Increase Worldwide Sentiment Down. But Reports Claim Numbers Are Still Lower than in Europe*, JERUSALEM POST, April 6, 2005 at p. 6. In December of 2002, St. Cloud State University in Minnesota, admitted that department administrators had tried to persuade students not to take courses taught by Jewish professors. The settlement proposal came after a lawsuit had claimed that Jewish faculty members were paid less than others, denied promotions, and not given full credit for their teaching experience. The university's president said it "deeply regretted" any anti-Semitic acts that transpired on campus. See Associated Press, *Minnesota University Agrees to Pay Nearly \$365,000 to Settle Allegations of Anti-Semitism*, THE JERUSALEM POST, December 4, 2002.

⁵ Ori Golan, *Boycott by Passport*, JERUSALEM POST, January 17, 2003 at p. 6.

about the same time that American universities were being asked to divest themselves of Israeli stock holdings, Great Britain's Association of University Teachers called for an academic boycott of Israeli institutions and individuals. A similar campaign occurred in 2005. Although both were ultimately voted down and formally withdrawn, their effects have been substantial and far-reaching.

To understand better why Israel is a major target, it is useful to know something about the origins and evolution of boycotts.

I. Economic vs. Academic Boycotts in History

The precursor of the academic boycott is the economic one, which has long been a tactic to make a political statement and achieve reform of a specific group, business, or nation. The most notable recent examples have been the economic boycotts waged against South Africa during its apartheid regime, and against Israel for its policies toward the Palestinians.⁶

Although they are branches of the same tree, economic and academic boycotts differ

⁶ Eugene Korn, *But Such Moral Stands must Be Both Credible and Sound, and the Divestment Initiatives Are Neither*, CHICAGO SUN-TIMES, April 11, 2005 at p. 49.

in several major respects. The former are accepted forms of pressure in the political and commercial arenas, even if they often don't work. Not so with the latter.

The practice of blacklisting individuals and groups for the ideas they espouse or actions they take can be traced back many hundreds of years. The term "boycott," however, is of more recent vintage, originating, as it happens, in Great Britain. Captain Charles Cunningham Boycott was a Nineteenth Century land agent in Ireland, whose refusal to reduce rent resulted in people organizing to avoid doing business with him. As might be expected, the events surrounding this protest engendered a great deal of passion and concurrent media attention. By 1897, the word "boycott" had been integrated into the English language.⁷

International economic boycotts seek to inhibit buying products from a certain country. Several governments have imposed boycotts against other nations. Some are unilateral, like those initiated by the United States against Cuba and the British one against Rhodesia. Others are international, based on the idea that cessation of all economic relations with a country deemed to be in some way "aggressive" will have beneficial consequences. The most prominent case of a government boycott action was taken by the United States

⁷ See <http://www.boycott.org/boycott>. See generally Manfred Gerstenfeld, *The Academic Boycott Against Israel*, JEWISH POLITICAL STUDIES REVIEW 15:3-4 (Fall 2003) [hereinafter, Gerstenfeld].

against the South African apartheid government.⁸ In fact Israel is often likened to apartheid South Africa by those seeking to sever Western economic support of the Jewish State.⁹

There is also a differentiation to be made between declared and concealed but *de facto* economic boycotts. At the time of the Arab boycott, for example, few foreign companies stated that they were not investing in Israel because they considered their connections with Arab countries more valuable. When approached by Israeli companies, they would not say so directly but declared that the proposed projects did not fit their current business strategy. Likewise, people may refuse to attend a conference in Israel or to conduct business with an Israeli supplier, without revealing their true intentions. Although this distinction between declared and concealed boycotts is rarely made, it is an important one since concealed boycotts are among those most difficult to combat.¹⁰

⁸ DONALD L. LOSMAN, INTERNATIONAL ECONOMIC SANCTIONS: THE CASES OF CUBA, ISRAEL AND RHODESIA (University of New Mexico Press, 1979), p. 1.

⁹ *See infra* pages 52-54.

¹⁰ DAN S. CHILL, THE ARAB BOYCOTT OF ISRAEL: ECONOMIC AGGRESSION AND WORLD REACTION (Praeger Publishers, 1976), p 1.

Boycotting Jews

The Jewish people have been at the receiving end of boycotts throughout much of their history.¹¹

In the Middle Ages, Jews throughout Europe were excluded from guilds and certain professions such as ironmongers, shoemakers, tailors, barbers, butchers, or rag dealers. They were also the victims of discriminatory taxes and prohibitions on land ownership, and later they were often forced into ghettos, which prevented them from commercial involvement with the outside world. For many years Jews in the Western world could not become citizens. Limits were often placed on the number of Jews admitted to universities or certain professions, even up to and including the Twentieth Century.¹²

On April 1, 1933 Joseph Goebbels, the Nazi's minister of propaganda, told German citizens that they should avoid commerce with any Jewish-owned businesses for one day to counteract an American Jewish initiative to oppose Nazi anti-Jewish practices. He warned that, if worldwide attacks on Germany continued after that day, "the boycott will be resumed...until German Jewry has been annihilated."¹³ While the actual boycott lasted only for that day, it was the starting point of the campaign against Jews that dominated Nazi

¹¹ Aaron J. Sarna, *Boycott and Blacklist*, p. xiii.

¹² *Id.*

¹³ Anti-Defamation League: <http://www.adl.org/israel/boycott.asp>.

ideology over the next decade.¹⁴

Arab nations sought to impose anti-Israel boycotts well before the creation of the Jewish State in 1948. As early as 1922, a boycott of Jewish businesses was proposed at the meeting of the Fifth Arab Congress in Nablus. Similar calls were made by the First Palestine Arab Women's Congress in October 1929, and by other groups throughout the 1930's. In September of 1937 at the Pan-Arab Conference in Bludan, Syria, participants approved a resolution stating that a boycott of the Jews was “a patriotic duty.”¹⁵

Upon the establishment of the State of Israel, the Central Boycott Office was established by the Arab League in Damascus, whose mission was to coordinate Arab boycott activity.¹⁶

Boycotting Israel

¹⁴ United States Holocaust Memorial Museum:
<http://www.ushmm.org/wlc/article.jsp?ModuleId=10005678>.

¹⁵ Chill, *supra* note 10.

¹⁶ Anti-Defamation League:
<http://www.adl.org/israel/boycott.asp>. Western countries have applied various weapons embargos against Israel. One of the most notable was that by France after the Six-Day War, which led to Israel secretly taking five ships out of Cherbourg harbor in 1969 after the French decided not to supply them to the Israeli navy. *See* Gerstenfeld.

Over the past fifty years, Arab states have applied three types of economic boycotts against Israel: *primary* (prohibiting Arab states, companies, and individuals from any commercial, financial, or trade relations with Israel); *secondary* (companies worldwide that invest in Israel were blacklisted and boycotted by Arab governments and companies); and *tertiary* (extending the boycott to companies doing business with boycotted firms).¹⁷

Some foreign companies divested their Israeli holdings so as not to endanger their commercial ties with Arab countries. The Arab boycott has been particularly effective with respect to investments in oil-related industries. For example, Shell Oil and British Petroleum – joint owners of the Haifa oil refinery when Israel became independent – announced in July of 1957 that they were ceasing operations in Israel; they were followed by Standard Oil, Socony Mobil, and Texaco.¹⁸

In 1954, the Saudi Arabian government announced that it would restrict any foreign aircraft passing over its territory to or from Israel. Beginning in the 1960s, the Central Boycott Office expanded its target base and threatened to blacklist not only firms which

¹⁷ Anti-Defamation League: www.adl.org/israel/boycott.asp.

¹⁸ Aaron Sarna, *Boycott and Blacklist: A History of Arab Economic Warfare Against Israel* (Lanham: Rowman and Littlefield, 1986), p. 16.

invested in Israel, but the suppliers and customers of those companies as well.¹⁹

Besides the academic boycott which is the subject of this Article, there are a number of economic boycotts currently in effect against Israel. They include embargos on weapons and strategic materials; commercial and investment boycotts, such as not buying Israeli products and not investing in Israeli corporations; boycotting or disturbing performances of Israeli artists; sports boycotts (Israel has been excluded from various Asian competitions); and other acts of aggression that are non-violent only in the classic sense of the word, such as blocking Israeli Internet sites.²⁰

Boycotting Academics

Academic boycotts were virtually unknown before the days of apartheid in South Africa, when they were used largely at the behest of that country's own scholars as a pressure tactic against the minority white government. In fact there was never an attempt to cut off all South African academics from international discourse with their peers.²¹

The primary goals of the current efforts to impose academic boycotts against Israel are to inhibit Israeli scholars from obtaining grants; to persuade other academic institutions to sever relations with Israeli universities and faculty; to convince academics not to visit Israel

¹⁹ *Id.* at p. 21.

²⁰ *See* Gerstenfeld.

²¹ *See infra* note 253 and accompanying text.

while not inviting Israelis to international conferences; to prevent the publication of articles from Israeli scholars; to refuse to review work of Israeli scholars; to deny recommendations to students who wish to study in Israel; to promote divestment of Israeli securities or those of American suppliers of weapons to Israel by university foundations; and to expel Jewish organizations from campus.²²

II. Background of the Academic Boycott Against Israel

Origins of the 2002 Boycott

The current campaign for an academic boycott against Israel started in April of 2002, with the publication in the *Manchester Guardian* of an open letter from Prof. Steven Rose, director of the Brain and Behavior research Group at the Open University in London. Prof. Rose called for “a moratorium on all cultural and research links with Israel until the Israeli government abides by [various unspecified] United Nations resolutions, and returned once again to negotiations with Yasser Arafat to be conducted in accordance with the principles laid down in the latest Saudi peace plan.”²³

²² Douglas Davis, *Fears Voiced that Academic Boycott of Israel Could Endanger Lives*, THE JERUSALEM POST, December 15, 2002.

²³ The letter was signed by 123 university academics and researchers (their number would later rise to 250) from across Europe. Edward Alexander, *The Academic Boycott of Israel:*

Rose's petition explained his rationale in simple terms: because Israelis value intellectual life, the threat of academic isolation would be very real to them. Well over 100 academics signed the petition, most of them British, but a good number of scholars from a host of other European countries as well. Their number would soon rise to some 700.²⁴

Prof. Rose was joined by his wife, Hilary, a professor of social policy at Bradford University, who wrote a letter to *The Guardian* which asserted that "Putting pressure on a state which stubbornly refuses to enter serious peace negotiations remains the objective. But anyone who thinks that it is easy to act ethically in such a way as to command universal consensus in a cultural boycott is surely naive." They claimed that Israeli academics were the only non-European Union member scholars eligible for grants from the European Union, and that such grants should be suspended in light of Israel's attitude toward the Palestinians.²⁵

Back to 1933?, JERUSALEM POST, January 3, 2003 at p. 9B. *See also* Stuart Winer, *Government, Universities Unite Against Academic Boycott*, JERUSALEM POST, November 28, 2003 at p. 6.

²⁴ Turpen, Bill L., *Reflections on the Academic Boycott Against Israel*, WASHINGTON REPORT ON MIDDLE EAST AFFAIRS, March 1, 2003 at p. 58.

²⁵ Letter to Editor, *Ethics and Academic Boycotts*, THE GUARDIAN, July 11, 2002.

The war of the Roses heated up further in July of 2002, when *The Observer* published a sizable article written by Steven and Hilary. Its opening paragraph:

The carnage in the Middle East continues; today a suicide bomber, tomorrow an Israeli strike on Palestinians with helicopters, missiles, and tanks. The Israelis continue to invade Palestinian towns and expand illegal settlements in the occupied territories. Ariel Sharon refuses to negotiate while “violence” (i.e. Palestinian resistance) continues. Our own government sheds crocodile tears at the loss of life while inviting a prime minister accused of war crimes to lunch and providing his military with F16 spare parts.²⁶

²⁶ Hilary and Steven Rose, *The Choice Is to Do Nothing or Try to Bring About Change*, GUARDIAN WEEKLY, July 18, 2002.

The Roses went on once again to compare Israel with South Africa: “The international academic, cultural, and sporting communities had played a major part in isolating South Africa and we have increasingly learned of individuals who thought that cooperating with Israeli institutions was like collaborating with the apartheid regime.”²⁷

Nowhere in either the Rose petition calling for a moratorium on collaboration with Israeli institutions, nor in subsequent correspondence and articles, does there appear to be any negative commentary about Palestinian actions, nor a justification as to why Israel is singled out for approbation.²⁸

One of the signatories to the Rose letter was Mona Baker, director of the Center for Translation and Inter-cultural Studies at the University of Manchester’s Institute of Science and Technology. In June of last year, Prof. Baker saw fit to dismiss two Israelis – Miriam Shlesinger of Bar-Ilan University and Gideon Toury of Tel Aviv University – from the boards of two journals she owns and edits. She said that the two Israelis could remain on the board if they would leave Israel, severing all ties with it.²⁹ She also declared that she would

²⁷ *Id.* Even *The Jerusalem Post* provided a substantial forum for the Roses, where again they expressed their moral outrage at Israel and compared the country to apartheid South Africa. Ori Golan, *A Conscientious Objector*, THE JERUSALEM POST MAGAZINE, January 17, 2003.

²⁸ See Gerstenfeld.

²⁹ John D. A. Levy, *The Academic Boycott and Antisemitism*, Paul Iganski and Barry

no longer accept articles from any Israeli researchers, and that she would not “allow” books originating from her private publishing house (St. Jerome) to be purchased by Israeli institutions.³⁰

For the most part, the dismissals raised little public opposition from within the British

Kosmin, eds., *A NEW ANTISEMITISM? DEBATING JUDEOPHOBIA IN 21ST CENTURY BRITAIN* (London: Profile Books, 2002), p. 254.

³⁰ Alexander, *supra* note 23. In a press interview, Baker said that “Many people in Europe have signed a boycott against Israel. Israel has gone beyond just war crimes. It is horrific what is going on there. Many of us would like to talk about it as some kind of Holocaust which the world will eventually wake up to, much too late, of course, as they did with the last one.” Charlotte Edwardes, *Fury as Academics are Sacked for Being Israeli*, *THE DAILY TELEGRAPH*, July 7, 2002.

Another UMIST academic, Michael Sinnott, claimed in an email that there was a worldwide Zionist conspiracy: “[Israel’s] atrocities surpass those of Milosevic’s Yugoslavia. Uniformed Israeli troops murder and mutilate Palestinian children, destroy homes and orchards, steal land and water, and do their best to root out Palestinian culture and the Palestinians themselves...With the recent crop of atrocities the Zionist state is now fully living down to Zionism’s historical and cultural origins as the mirror image of Nazism.” David Harrison, *Professor’s Anti-Israeli Tirade Revives Sacked Academics Row*, *THE DAILY TELEGRAPH*, September 29, 2002.

university system, just as there had been scant outcry the prior year when an Oxford professor urged that American Jews living in the disputed territories of Judea and Samaria “should be shot dead.”³¹

But the Israeli academics who were dismissed by Mona Baker were more than mildly chagrined – particularly because they disagree with many of the policies of their government vis-a-vis the Palestinians – and even then tried to rationalize the difference between boycotting institutions and individuals. “Seven hundred academics may have signed in favor of the boycott,” noted Miriam Schlesinger of Bar Ilan, “but most of them signed in favor of academic boycotts in general and not against specific individuals. A lot of people say there has to be an academic boycott against Israel for reasons a, b, and c, but this should not be an academic boycott against individuals but only against institutions. I don’t agree with academic boycotts at all, but it’s much more complex than I initially realized. I think that most of the 700 would not agree to an academic boycott against individuals.”³²

The boycott had even more sinister and ironic repercussions for others. For example, although Israeli doctors routinely give equal treatment to both Palestinian and Israeli victims

³¹ Oliver Burkeman, *Harvard Overturns Ban on Oxford Poet*, THE GUARDIAN, November 21, 2002. See also Neville Nagler, *Paulin's Hateful Rhetoric*, THE GUARDIAN, January 9, 2003. For a more detailed account of the Paulin case, see *infra* note 248-249 and accompanying text.

³² Notes from interview with Miriam Schlesinger, July 27, 2003 (Author’s Files).

of violence and terror, the chief of Hadassah Hospital's gene-therapy institute – engaged in research to cure a blood disease prevalent in Palestinian community – was refused assistance from a Norwegian scientist, who said, “Due to the present situation in the Middle East, I will not deliver any material to an Israeli university.”³³

To the contrary of any outrage, at least two UK unions of scholars urged colleges and universities to sever all academic links they may have with Israel. In the spring of 2002, Britain's Union of University and College Lecturer's Union (NAFTHE), one of the two faculty associations in the UK, passed a motion at its annual conference asking institutions to sever their links with Israel.³⁴ The other union of professors, the Association of University Teachers (AUT), also passed a motion critical of Israel.³⁵

When a British lecturer working at Tel Aviv university applied for a post at back

³³ Benjamin Sachs, M.D., *Europeans Mix Science and Medicine with Israeli Politics*, INDIANA JEWISH POST AND OPINION, June 11, 2003 at p. NAT2. Even during the current intifada, Israel has continued to provide humanitarian aid to Palestinians. *30 Trucks Loaded with Food Enter the Gaza Strip*, Global New Wire, Infoprod, March 12, 2003

³⁴ Ronnie Fraser, *Understanding Trade Union Hostility toward Israel and the Consequences for Anglo Jewry*, IGANSKI AND KOSMIN, EDS., A NEW ANTISEMITISM?, p. 259.

³⁵ Donald MacLeod, *Israelis under Fire*, THE GUARDIAN, June 25, 2002.

home (in the United Kingdom), he was told by the head of the first department to which he applied: “No, we don't accept any applicants from a Nazi state.”³⁶ Similarly, two Israeli co-authors, Oren Yiftachel and As'ad Ghanem – one Jewish and one Arab – submitted a learned paper to the English journal *Political Geography*. It was returned by the journal's editor, with a note saying it had been rejected because its authors were Israelis. (The editor suggested he'd be prone to accept the paper if its authors would insert some more paragraphs likening Israel to apartheid South Africa.)³⁷

³⁶ *Id.*

³⁷ *The Guardian* noted the irony that Yiftachel had made extreme anti-Israeli remarks such as “Israel is almost the most segregated society in the world.” In a clarification afterwards, *The Guardian* reported that *Political Geography*'s editor had asked for corrections and

At around the same time Andrew Wilkie, a pathology professor at Oxford, rejected an Israeli student who had applied as a Ph.D. candidate for a research position in his lab specifically because of his country's policies toward the Palestinians:

thereafter would have referred the paper without guarantee that it would be published. It was eventually sent out for review, but only after an American editor and the editorial board intervened. Ori Golan, *supra* note 5 at p. 6. *See also infra* note 258 and accompanying text.

Thank you for contacting me, but I don't think this would work. I have a huge problem with the way that the Israelis take the moral high ground from their appalling treatment in the Holocaust, and then inflict gross human rights abuses on the Palestinians because the Palestinians wish to live in their own country. I am sure that you are perfectly nice at a personal level, but no way would I take on somebody who had served in the Israeli army. As you may be aware, I am not the only UK scientist with these views but I'm sure you will find another suitable lab if you look around.³⁸

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Professor Wilkie thus joined a number of British academics who have threatened to boycott Israel over human rights. However, after his comments were leaked, he apologised and insisted that he was not racist or anti-Semitic. “I regret that it (the e-mail) is not a hoax,” he said. “My act was out of conscience about the war and I was completely open about my reasons.” Nevertheless, Wilkie was suspended from Oxford for two months. Glen Owen, *Oxford professor suspended for rejecting Israeli*, LONDON TIMES, October 28, 2003 at p. 5. Prof. Harold Lehmann of the Johns Hopkins School of Public Health, one of Wilkie’s American counterparts, called his behavior “totally offensive” and in violation of principles of academic freedom and of collective punishment. (E-mail in Author’s Files.) *See also* Polly Curtis, *Academic Campaigner Backs Oxford's Israeli Rejection*, THE GUARDIAN, June 30, 2003; Luke Layfield, *Oxford 'Appalled' as Professor Inflames Boycott Row*, THE GUARDIAN, July 4, 2003; Lucy Ward, *Oxford Suspends Don Who Rejected Student for Being Israeli*, THE GUARDIAN, October 28, 2003; and Polly Curtis, *Suspension Not Enough for Oxford Don, Say Students*, THE GUARDIAN, October 28, 2003.

*

The 2002 petition was the first open boycott by academics in Britain against colleagues in other countries solely on the basis of their citizenship,³⁹ and was followed by similar initiatives in France, Italy, Belgium, Scandinavia, and other parts of the world.⁴⁰

In December of 2002, the call for a boycott of Israeli academic institutions crossed the English channel, where the governing body of the Université Pierre et Marie Curie in Paris approved a motion similar to that proposed in England, as well as a suspension of cooperation with visiting Israeli lecturers, researchers, and students. The University of Lille also went on record as refusing to cooperate with any Israeli institution.⁴¹

The involvement by French universities appears to have escalated the controversy, because no longer was this a private initiative by relatively little-known academics but an exhortation for collective punishment sanctioned by a formal french institution – which proposed the official exclusion of Israeli researchers from scientific committees, conferences,

³⁹ *Id.*

⁴⁰ Sue Fishkoff, *UK Scientist to Lead 'Anti-Boycott' Mission*, JERUSALEM POST, March 5, 2003 at p. 2.

⁴¹ *Id.*

and scientific journals, as well as placing a ban on student-exchange programs with Israel.⁴²

On some French university campuses like Nanterre, Villetaneuse and Jussieu, the climate had already become difficult for Jews, who are castigated during demonstrations supporting the Palestinian cause. Lecturers demanded that the UEJF take a principled

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Id. The Union of French Jewish Students vociferously opposed the boycott, as did the General Students Union and the Union Nationale des Etudiants de France. Philosopher Bernard-Henri Levy said: “The French university is the only major institution which has not repented its mistakes under the Vichy regime. In this context the boycott [of Israeli universities] by Paris 6 seems even more shameful.”⁸³ He added that the Israeli universities are “the heart of the peace.” See Benjamin Cohen, *UEJF/Paris VI: les coulisses de la mobilization*,” TOHU BOHU, no. 2, 2003 and X. T., *Claude Lanzmann appelle au 'boycott des boycotteurs*, LE MONDE, January 6, 2003. The French boycott was also criticized by the French Education Minister and the Mayor of Paris Bertrand Delanoë. After the public protests the university canceled its motion, claiming that the university was not entitled to debate political or religious issues. See Philip Carmel, *Critics, Rally Force Paris School to Back Off Israel Boycott Threat*, JEWISH TELEGRAPHIC AGENCY, January 9, 2003.

position against Israel.⁴³

Meanwhile, on the economic side, French customs authorities ordered that Israeli farmers in the Jordan Valley mark their products as “Produce of Palestine.” At the same time synagogues were firebombed from Paris to Marseille, and many other Jewish buildings in France were vandalized.⁴⁴

Possibly because there are close to four million Arabs living in France, the government has been slow to prosecute, and even more hesitant to incarcerate.

In Italy, seven professors of Ca' Foscari University in Venice signed a European petition (with 400 other academics) which included the statement that “my conscience doesn't permit me to collaborate with official Israeli institutions, including universities.”⁴⁵

⁴³ Ori Golan, *Same Word, Same Meaning*, THE JERUSALEM POST MAGAZINE, January 17, 2003.

⁴⁴ Gurfunkiel, Michel, *France's Jewish Problem*, Commentary, July-August, 2002 at p.38.

⁴⁵ The rector of Ca' Foscari declared that the boycott appeals by the university's professors were personal and did not reflect the university's positions. Sara D'Ascenzo, *Boicottiamo I prof israeliani: sostengono Sharon*, CORRIERE DEL VENETO, February 8, 2003. *See also* Leila Moseley and Rana Foroohar, *Boycotts: Cracking Down on Israel?*, NEWSWEEK, July

In December of 2002 in Belgium, after several Jewish students put up pro-Israeli posters around the campus (reading “*Which was the first state in the Middle East which gave Arab women the right to vote?*” and “*Terror attacks against civilians are an abomination*”), they received an anonymous phone-call threatening that their families would be harmed if the posters were not removed.⁴⁶ In February 2003, the Federation of Belgian Students moved to have a resolution against Israel passed in the Board of the Free University of Brussels.⁴⁷

Elsewhere, Germany announced its decision to stop all arms sales to Israel⁴⁸ – a

15, 2002, at p. 8.

⁴⁶ Sharon Sadeh, *Death Threats against Pro-Israel Activists on Brussels Campus*, Ha'aretz, December 21, 2002.

⁴⁷ The motion was withdrawn. See Gerstenfeld.

⁴⁸ Peter Finn, Germany, *In Protest, Suspends Arms Sales to Israel*, WASHINGTON POST, April 10, 2003 at p. A15. In response, Israel canceled its annual multimillion dollar contract for its nationwide DAN buses, which were manufactured in Germany. As noted by Zvi Ravner, Israel's deputy ambassador to England, “The last time that Jews were boycotted in universities was in 1930s Germany.” Quoted by Polly Curtis and Matthew Taylor, *Lecturers Vote to Boycott Israeli Universities*, LONDON GUARDIAN, April 23, 2005.

policy long advocated by activists in other countries. Norway and Sweden were asked to halt the export of new products to Israel. The European Parliament called for a suspension of trade agreements.⁴⁹

While efforts to mount an academic boycott against Israel were most prevalent in Europe, they were by no means limited to countries there.

In Australia, two academics from the national university initiated their own call to boycott both the State of Israel and all its citizens. “How long are we going to look passively at the Israeli crimes of war perpetrated daily and systematically,” they asked, “not as something anomalous, but as a matter of national policy?” More than 90 Australian academics from a wide range of disciplines signed this statement, representing about half of the country’s institutions of higher education.⁵⁰

⁴⁹ See, e.g., Brit Hume et al, *Political Headlines*, FOX SPECIAL REPORT WITH BRIT HUME, May 9, 2002; Eleanor Grant, *Denounce All Terrorism*, THE RECORD (Kitchener-Waterloo, Ontario, Canada), April 17, 2002 at p. A14; and *Nearly 20,000 Protesters Took Part in Anti-Israel Demonstration in London*, RIA NOVOSTI, April 13, 2002.

⁵⁰ See Patrick Lawnham, *Academics Split on Israel Sanctions*, THE AUSTRALIAN NEWSPAPER, May 22, 2002; and Mark Schulman, *News in Brief*, JERUSALEM POST, May 26, 2002 at p. 2. In response to this initiative, a group of Australian academics wrote an open letter to *The Guardian*:

Whereas we hold diverse political views with respect to the past and current

In Canada, Montreal's Concordia University is considered one of the most hostile towards Israel. In September of 2002, a speech scheduled to be delivered there by former prime minister Benjamin Netanyahu had to be canceled after protestors broke into the lecture hall, smashing furniture and windows. The university's student union revoked the status and funding of its Hillel chapter because it had displayed brochures for a program for foreign volunteers in the Israeli Defense Forces at one of its functions. By the end of 2002, the situation at Concordia was so tense that the university administration had to impose a three-

policies of the Israeli government, and whereas we recognize the right of concerned citizens in Israel and elsewhere to express their opinions freely, we are united in our opposition to the proposed boycott....The spectacle of a university or scientific body applying a boycott is inconsistent with the pursuit of intellectual freedom through research, debate and discussion. Such a boycott would have an effect opposite to that intended and would constitute an assault on intellectual freedom. See http://www.geocities.com/academic_freedom_au/read.html.

The *Australian Newspaper* commented in an editorial that:

We expect higher standards and greater objectivity from self-declared members of the intelligentsia who have put their signatures to what is little more than a piece of propaganda....Academics and intellectuals have a right to express their opinions. But such a boycott transgresses the principles of academic freedom and university autonomy. See Editorial, *Academic Boycott Like Book Burning*, THE AUSTRALIAN NEWSPAPER, May 3, 2002.

month moratorium on all Middle East related events.⁵¹ A newspaper advertisement in the *Toronto Globe and Mail* stated that Canadian Jewish students are so traumatized by campus anti-Semitism that they do not dare openly to support Israel or even Judaism.⁵²

Perhaps most noteworthy, Archbishop Desmond Tutu, the 1994 Nobel Peace Prize winner and anti-apartheid campaigner, threw his weight behind the boycott, comparing sanctions against Israel to those imposed on South Africa.⁵³

In the United States, more than a few campuses have become hotbeds for anti-Israel activism. According to the Anti-Defamation League, the Palestinian cause is now being

⁵¹ Melissa Radler, *Concordia University Hillel Banned by Student Union*, THE JERUSALEM POST, December 8, 2002. See also The Associated Press, *Judge Grants Injunction Against Mideast Talk at Canadian University*, THE JERUSALEM POST, November 16, 2002, and Bram Eisenthal, *Pro-Arab Body at Montreal School Shuts Campus Hillel over Israel Flier*, JEWISH TELEGRAPHIC AGENCY, December 5, 2002.

⁵² Bram Eisenthal, *Canadian Jewish Students Scared? Ad in Newspaper Fuels a New Debate*, JEWISH TELEGRAPHIC AGENCY, December 23, 2002. See also Jenny Hazan, *Israel Welcomes New Wave of 'Birthright,'* JERUSALEM POST, December 29, 2002 at p. 3.

⁵³ See Hilary Rose and Steven Rose, *Sanctions Can Work...*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005 at p. 4.

championed by all extremist left-wing organizations. “The left has come into an alliance with the Palestinians, but to a certain degree the Palestinians have taken over the left agenda.”⁵⁴ According to Anti-Defamation League, “Many declared progressive groups, especially those against globalization, are joining with the pro-Palestinian groups. This alliance is active, vocal and frequently given to anti-Semitic actions and rhetoric.” In an article entitled “Divestment Equals Anti-Semitism,” the ADL’s executive director Abraham Foxman wrote that “The focus on Israel is ludicrous and clearly the result of a double standard being applied, which raises the possibility that anti-Semitism is the real motive of divestment campaigns.”⁵⁵

California universities have a large share of radical student anti-Zionists.⁵⁶ After a Hillel meeting at San Francisco State University, demonstrators poured into a campus plaza

⁵⁴ Andrew Wallenstein, *Big Matter on Campus*, HADASSAH MAGAZINE, August /September 2002, p. 29.

⁵⁵ Abraham H. Foxman, *Jews Target of Hate*, THE NATIONAL LAW JOURNAL, <http://www.nlj.com/oped/093002foxman.shtml>. See also Anti-Defamation League:http://www.adl.org/Anti_semitism/divestment.asp.

⁵⁶ The editor of the *Encyclopedia of Genocide* called Berkeley the capital of Western world’s anti-Semitism. See Second Herbert Berman Symposium, JCPA, Jerusalem, November 2002.

and surrounded a group of Jewish students and community members, shouting “Get out or we will kill you” and “Hitler did not finish the job.” According to one faculty member the Jewish group, trapped in a corner of the plaza under Israeli flags, was forced to retreat to the Hillel House under armed police guard; the police were told by administrators not to arrest anyone.⁵⁷

At around the same time, a number of American universities were being pressured to divest their holdings in Israeli securities, as well as in U.S. companies that supply arms to Israel. Within the University of California system alone more than 7,000 students and faculty members signed petitions supporting divestment. As of October 2002, petitions for divestment had been circulated at more than fifty campuses.⁵⁸

The divestment movement was the key focus of the Second National Student Conference of the Palestine Solidarity Movement, which was held at the University of Michigan in October of 2002. The conference website stated that Israel (as opposed to “other oppressive states”) was an appropriate target because it “dictates the lives of over three million Palestinians, taxing them, yet denying them citizenship and the right to vote.” Furthermore, the conference organizers claimed Israel is currently violating “more United Nations resolutions about human rights and international law than any other state in the

⁵⁷ John Podhoretz, *Hatefest by the Bay*, NEW YORK POST, May 14, 2002.

⁵⁸ *A Campus War over Israel*, TIME, October 7, 2002.

world.”⁵⁹

Early Sentiments in Opposition

Although statements in opposition to the British efforts to impose an academic boycott against Israel may have been relatively muted, they were by no means insignificant. At least three professors at Oxford University who had signed the original Rose petition subsequently asked that their names be removed from it.⁶⁰

The academic dean of American InterContinental University, London, called for a boycott of Mona Baker.⁶¹ A Shakespeare scholar at Harvard University (one of the few Americans to speak out against Baker) called her attitude “repellent, dangerous, and morally

⁵⁹ Student Conference on Palestine: <http://www.divestmentconference.com>.

⁶⁰ *More Splits over the Academic Boycott of Israel*, THE GUARDIAN, July 17, 2002.

⁶¹ Geoffrey Alderman, *The Gesture Politics of an Israel Boycott*, THE GUARDIAN, July 22, 2002. Rod Liddle, also writing in *The Guardian*, was less polite: “Mona Baker ‘unappointed’ two Israeli academics from the journal for which she worked. She hopes that, none the less, she can still be friends with them. I hope they punch her on the nose. Her husband, Ken, whined that they had received 15,000 emails in 24 hours, many ‘abusive and obscene.’ Just 15,000 huh? Better keep them coming.” Liddle, *Watch Who You Call Nazis*, THE GUARDIAN, July 17, 2002 at p. 5. See also Staff and agencies, *Morris Condemns Israeli Sacking*, THE GUARDIAN, July 11, 2002.

bankrupt,” adding that “to exclude scholars because of the passports that they carry or because of their skin color, religion, or political party, corrupts the integrity of intellectual work.”)⁶² As for the moratorium on research funds for and contacts with Israeli academics, several non-British members of Mona Baker’s boards resigned because they objected to the dismissal of people solely “on the basis of their passport.”⁶³

In October of 2002, Prime Minister Tony Blair privately told UK Chief Rabbi Jonathan Sacks that he would do anything necessary to stop the academic boycott. “The Prime Minister is appalled by discrimination against academics on the grounds of their race or nationality,” said one of his aides. “He believes that universities must send a clear signal that this will not be tolerated.”⁶⁴

The president of Harvard, Lawrence Summers, was the first big name to challenge the proponents of divestment. “Serious and thoughtful people,” he said publicly, “are advocating

⁶² Charlotte Edwardes, *Fury as Academics are Sacked for Being Israeli*, THE SUNDAY TELEGRAPH, July 7, 2002 at p. 8 (quoting Sidney Greenblatt).

⁶³ Edward Alexander, *The Academic Boycott of Israel: Back to 1933?*, JERUSALEM POST, January 3, 2003 at p. 9B.

⁶⁴ Francis Elliott and Catherine Milner, *Blair Vows to End Dons' Boycott of Israeli Scholars*,” THE DAILY TELEGRAPH, November 17, 2002.

and taking actions that are anti-Semitic in their effect if not their intent.”⁶⁵

Other university presidents followed Summers’ lead and took out a full-page ad in the New York Times to condemn hate speech and racist conduct on campus. Counter-petitions circulated at Harvard and Michigan, urging financial support of and investment in Israel, attracted widespread backing. Judith Rodin, president of the University of Pennsylvania,

⁶⁵ Lawrence H. Summers, “Address at Morning Prayers,” [http:// www.ajc.org](http://www.ajc.org), 17 September 2002. 22. *See also* Edward Alexander, *Pushing Divestment on American Campuses*, JERUSALEM POST, May 12, 2004 at p. 13. In November of 2002, seventy prominent U.S. professors of medicine, of whom twelve were from Harvard Medical School, held an international medical conference in Jerusalem to protest the divestment campaign and other anti-Israel activities on American campuses. Judy Siegel-Itzkovich, *70 Medical Professors Coming to Protest Divestment*, THE JERUSALEM POST, November 18, 2002.

sent a letter to the Penn community stating that:

Because Penn defends freedom of expression as a core academic and societal value, we will not use the power of the University either to stifle political debates or to endorse hostile measures against any country or its citizens. Divestiture is an extreme measure to be adopted rarely, and only under the most unusual circumstances. Certainly, many countries involved in the current Middle East dispute have been aggressors, and calls for divestment against them have been notably absent.⁶⁶

⁶⁶ University of Pennsylvania

Almanac:<http://www.upenn.edu/almanac/v49/n09/divestment.html>.

At Yale University, pro-Israel students argued in the *Yale Daily News* that the national divestment movement “has officially condoned terrorism.”⁶⁷

Although defenders of the divestiture campaign claim that there is nothing anti-Jewish about the movement, the comparison of Israel with apartheid South Africa spurred a good deal of disagreement with economic-boycott initiatives. Lee Bollinger, president of Columbia University, wrote that he opposed the campaign that demanded Columbia University divest from all companies that produce or sell arms or other military hardware to Israel. “The petition alleges human rights abuses and compares Israel to South Africa at the time of apartheid, an analogy I believe is both grotesque and offensive.”⁶⁸

Opposition to the first British boycott was led by Baroness Susan Greenfield, a pharmacology professor at Oxford and head of the Royal Institution of Great Britain. “I don’t think scientists should be political,” she said.⁶⁹

In the latter part of April, 2002, the European Union expressed its concern with “a policy of sanctions against the parties to the conflict,” advocating instead “a continuous

⁶⁷ *Yale Daily News*: <http://www.yaledailynews.com/article.asp?AID=20843>.

⁶⁸ Lee C. Bollinger, Current Communications President's Office: <http://www.columbia.edu/cu/president/israel.html> (7 November 2002); *see also* Jacob Gershman, *Bollinger Opposed to British Boycott*, NEW YORK SUN, May 3, 2005 at p. 3.

⁶⁹ Fishkoff, *supra* note 40 at p. 2.

dialogue with them [as] the best way to bring them back to negotiations.”⁷⁰ In early May, the Committee on Human Rights of Scientists of the New York Academy of Sciences condemned the proposed moratorium on grants and contracts with research institutions in Israel, declaring that the “proposed moratorium/boycott on funding violates the basic principles of scientific freedom and scholarship” and that science “will be undermined for the sake of some political goals.”⁷¹

In June of 2002 *Science* editorialized against a scholar who had published her research results in two medical journals and afterwards refused for political reasons to supply cell lines and other genetic materials from her laboratory to Israeli scientists who wished to pursue this line of research. “[Authors are] “obliged to share material...with readers who request them unless such transfers are prohibited by laws or regulations, such as those designed to deter bio-terrorism.” The editorial also said the paper would hesitate to publish

⁷⁰ Press Release, “EU Commissioner for Research Philippe Busquin replies to call for boycott on scientific and cultural relations with Israel,” No. D/0050/02 PR4/02, 25 April 2002.

⁷¹ Press Release, New York Academy of Sciences, “NY Academy of Sciences Committee on Human Rights Opposes Proposed 'Moratorium' on Research Grants to Israel,” 3 May 2002.

authors who refuse to comply with that policy.⁷²

Even in France there was a substantial outcry against the academic boycott announced by the university of Paris. The French education minister, the mayor of Paris, and various communal groups all voiced their opposition. The leading French newspaper *Le Monde* editorialized: “Far from promoting dialogue, it increases the logic of confrontation, fear and violence.”⁷³

The Hebrew University developed a website calling for support of academics opposed to the boycott and attracted many signatories from all over the world. By June 2003, 15,000 academics had signed the anti-boycott petition. Similar initiatives were also taken elsewhere, including in Australia and the U.S.⁷⁴ The European council of Ben-Gurion University came out with a statement that the boycott “infringes the fundamental concept of academic freedom and restricts the flow of knowledge, which benefits all mankind.” Among them were two Nobel Prize winners David Trimble and Aron Klug. This statement mixed principled and utilitarian arguments: “The signatories from Britain, Germany, France, Italy,

⁷² For a detailed analysis of this case, *see* Gerstenfeld.

⁷³ *European Press Review*, ONASA News Agency, January 7, 2003. *See also L'Universite Française sous Influence*, LE MONDE, January 14, 2003.

⁷⁴ *See* http://www.geocities.com/academic_freedom_aus/list.html and <http://www.anti-boycott-petition.org>.

Spain, and the Netherlands note that Ben-Gurion University is at the cutting edge of research in desert studies, drylands agriculture, and water research - areas of critical importance to the Middle East and to much of the developing world.”⁷⁵

The International Academic Friends of Israel was established to host and support international scientific meetings in Israel, to bring Israeli and global academic and scientific leaders together in other forums, to promote worldwide understanding and appreciation of Israeli scientific and academic achievements, and to create research fellowships in the U.S. for Israeli and Palestinian students.⁷⁶

A number of other scholars and scientists have similarly gone on record that the call for a boycott of Israel is immoral, dangerous, and misguided – but that has not assuaged the two Israeli professors who were sacked by the British linguistics journal. As might be expected, they reacted with some bitterness. Dr. Schlesinger of Bar Ilan felt the boycott would have absolutely no effect on Israeli policies. Dr. Toury of Tel Aviv University was somewhat more terse, saying that he “would appreciate it if the announcement made it clear

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Douglas Davis, *2 Nobel Winners Fight Anti-Israel Boycott*, THE JERUSALEM POST, July 21, 2002.

⁷⁶ *International Academic Friends of Israel*, www.iafi-israel.org. See also Will Woodward, *Lecturers Reject Call to Boycott Israel*, THE GUARDIAN, May 10, 2003.

that he was appointed as a scholar and unappointed as an Israeli.”⁷⁷

Continuing Campaigns For and Against

Although pressure for a boycott against Israeli academic institutions subsided somewhat in 2003, the economic initiatives did not. In 2004, the Presbyterian Church (U.S.A.) voted to begin divesting from companies it believes benefit from Israeli occupation.⁷⁸ That action spurred similar initiatives by both the Episcopal Church, the United Methodist Church, and the World Council of Churches. In July of 2005, the United Church of Christ voted in favor of a more limited proposal calling for “multiple, non-violent strategies, including economic leverage, to promote peace in the Middle East.”⁷⁹

No doubt these economic sanctions were spurred by the academic boycotts, which

⁷⁷Suzanne Goldenberg and Will Woodward, *Israeli Boycott Divides Academics: Sackings on Two Obscure Journals Fuel Debate on Cooperation with Universities*, MANCHESTER GUARDIAN, July 8, 2002 at p. 4.

⁷⁸ Carol Eisenberg, *Protestant Leaders Back Down on Israel*, NEWSDAY, July 6, 2005 at p. A45. Why single out Israel? See *infra* notes 280-281 and accompanying text. See also Lizette Alvarez, *Professors in Britain Vote to Boycott 2 Israeli Schools*, NEW YORK TIMES, May 8, 2005 at p. 18.

⁷⁹ Sam Ser, *Now United Church of Christ Mulls Divestment*, JERUSALEM POST, July 1, 2005 at p. 5.

came to be pressed anew in 2005 in Great Britain and elsewhere. In April, a committee of the UK's Association of University Teachers (AUT), whose membership numbers close to 50,000 professors, recommended that an academic boycott once again be imposed against Israel. This time, however, the focus was on specific cases of alleged grievances – particularly against the University of Haifa and Bar Ilan University. The action, allegedly in response to an appeal by a number of Palestinian organizations, would bar the two universities from taking part in academic conferences or joint research with their British colleagues.⁸⁰

Specifically, Bar Ilan was targeted for maintaining academic relations with the College of Judea and Samaria of Ariel, considered an illegal settlement in the occupied territories. The University of Haifa was boycotted for purportedly restricting the academic freedom of Ilan Pappé a senior lecturer in the department of political science. Pappé claimed that he was treated harshly for supporting a student's 1999 master's thesis which charged that Israeli soldiers massacred Palestinians in the village of Tantura during Israel's 1948 War of Independence.⁸¹

⁸⁰ *Id.*

⁸¹ Mati Wagner, *Diaspora Jews Launch Grassroots Campaign Against Academic Boycott*, JERUSALEM POST, May 19, 2005 at p. 5. “This is a call for ending the occupation,” Pappé was quoted as saying, “– an anti-colonialist and anti-apartheid struggle against Israel, which ‘became a state at the expense of the indigenous population of Palestine.’” Hasdai

The AUT recognized his claim that in May of 2002 the university sent him a letter notifying him that he faced trial and possible dismissal from his positions. In fact Katz's thesis was not rejected as the AUT claims because it “documented” a massacre. Rather a civil court judge determined in a suit brought against Katz by Hagana veterans that the thesis contained falsifications. Israel’s Supreme Court dismissed Katz's appeal, holding that the civil court had established that the thesis contained “facts which are untrue and which defame the plaintiffs.”⁸²

Westbrook, *Is This Any Way for Scholars to Behave?*, WASHINGTON POST, May 15, 2005 at p. B3. Prof. Pappé, an Israeli Jew and an ardent anti-Zionist, has long been a focal point of controversy on campus. He once characterized a conference at the university’s Herzl Center – entitled “The Demographic Problem and Israel’s Demographic Policy” – as “The Arabs as a Demographic Problem in Israel.” Talya Halkin, *A Rumbling Dispute About Truth in Academe*, JERUSALEM POST, May 16, 2005 at p. 1. *See also* Alvarez, *supra* note 177.

⁸² *Id.* The thesis in question had also been examined by a university panel, which concluded that charges were not substantiated. Alvarez, *supra* note 177. *See also* Halkin, *supra* note 180. *But see* Richard Bartholomew, Letter to the Editor, *Ethics and Academic Boycotts*, THE GUARDIAN, July 2, 2002, which ignores the fact that the premise of the thesis was false. Although the AUT resolution was limited to the accusations noted above, Pappé said the case contained two other principal issues: (1) the treatment of Arab students; and (2) “the closing down of the theater department because it put on political plays.” Several sources at the

Part of the new boycott petition read as follows:

[W]e, the undersigned, defenders of Palestinian academic freedom and supporters of the academic boycott against Israel, call for a response to the deterioration of Palestinian education as a consequence of Israeli policies from those leaders of Israel's universities who now organize to fight the boycott.

Academics worldwide should have an accurate picture of the situation that has long confronted Palestinian education: the Israeli government has set up a system of roadblocks and checkpoints that makes it difficult or impossible for Palestinian teachers and students to reach their universities, colleges and schools. Its policy of harassment, arrests, random shootings and assaults is carried out almost weekly by Israeli troops on Palestinian campuses. All of this takes place against the backdrop of an ongoing 37 year occupation and relentless attack on Palestinian civil society, thus disrupting the necessary framework for any successful educational structure. Such Israeli government policies negate Palestinian academic freedom.

university, including the dean of the Faculty of the Humanities and the chair of the theater department, said that the theater department had never closed down and remains active. *Id.*

The University of Haifa threatened to sue the AUT, claiming allegations against it were untrue and defamatory. Taylor, *supra* note 184. See also Phil Baty, *Haifa Threatens AUT With Legal Action*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005 at p. 5.

Given the destructive nature of Israeli government action against Palestinian education and academic freedom, and your simultaneous expression of concern for Israeli academic freedom in the face of the boycott, we feel that it is only fair to ask the Israeli academic leadership where it stands on the issue of current Israeli policy as described above, and to share with us what Israeli academic institutions are doing to challenge the behavior of your government.⁸³

⁸³ The petition was signed by 542 academics from around world. (E-mail in Author's Files.) *See also* Deirdre Fernand, *Why I Want to Boycott Israel*, LONDON TIMES, May 8, 2005 at p. 6; and David Seddon and Martha Mundy, *Why We Support the Israeli University Boycott*, THE INDEPENDENT, May 12, 2005.

Steven Rose, one of the instigators of the earlier boycott effort in 2002, again joined the fray, arguing that such sanctions can work. “The Israeli government flouts UN resolutions, imposes collective punishments, curfews, road blocks and house demolitions, and sanctions murders and the shooting of civilians, not least children, with impunity.” He added that Israeli academics also serve in the country’s armed forces, and that the current boycott initiative was in response to pleas from a Palestinian group called the Campaign for the Academic and Cultural Boycott of Israel, which asked that the international academic community refrain from participating in any form of academic and cultural collaboration with Israeli institutions but “excluding . . . conscientious Israeli academics and intellectuals opposed to their state’s colonial and racist policies.”⁸⁴

When the AUT responded positively, Omar Barghouti, founder of Campaign for the Academic and Cultural Boycott of Israel, declared: “The taboo has been shattered at last. From now on it will be acceptable to compare Israel’s apartheid system to its South African predecessor.”⁸⁵

⁸⁴ Hilary Rose and Steven Rose, *Sanctions Can Work*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005 at p. 14. An internal survey at the Palestinian Al-Quds University found that 75% supported a boycott. Some 76% felt that working with an Israeli would compromise the boycott, and 73% said that such co-operation was against their national interest. Letter from The Academic Friends of Israel, April 5, 2005 (Author’s Files).

⁸⁵ Matthew Taylor, *Israeli Threat to Sue Union Over College Boycott*, LONDON GUARDIAN,

Susan Blackwell, an English professor at the University of Birmingham and a sponsor of the boycott proposal, said that the Palestinian request for the action added legitimacy to the campaign. She added that over the past three years the boycott has been as active as ever, but on a quieter level than before and aimed more at individuals – a covert activity “where people are quietly getting on with it. It's a passive boycott that dares not speak its name.”⁸⁶

The AUT's 2005 boycott decision again led to an angry backlash both in the UK – the Oxford, Cambridge, and Warwick branches of the AUT all came out in opposition – and around world. Abraham Foxman, national director of Anti-Defamation League, said: “These are not ignorant peasants or extremist ideologues. They are intellectuals teaching future

May 12, 2005 at p. 4.

⁸⁶ Letter from The Academic Friends of Israel, April 5, 2005 (Author's Files). Prof. Blackwell said that had a similar request been made by groups in Cuba, China, or Sudan it might also have been heeded. Alvarez, *supra* note 177. Prof. Blackwell's web-site is said to contain anti-semitic links (e.g., linking Israel to 9/11 attacks. See Deirdre Fernand, *Why I Want to Boycott Israel*, LONDON TIMES, May 8, 2005 at p. 6. The AUT boycott was supported by only 16 percent of students, according to a *Times Higher Education* poll; 41 percent of students feel that British academic institutions should not boycott, while 16 percent said they should, and 42 percent “don't know.”

Phil Baty, *Haifa Threatens AUT With Legal Action*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005 at p. 5.

generations to respect, to dialogue and to cooperate, and they are saying boycott the Jews again. . . . What about those who are suffering in Cuba and China and Rwanda? Where is the support to deal with Sudan?”⁸⁷

In mid-May, 2005, a group of Diaspora academics launched a counter-campaign, issuing a statement that read in part:

⁸⁷ Alvarez, *supra* note 177.

We the undersigned are men and women from all walks of life Jews and non-Jews Israelis and non-Israelis academics and non-academics who feel deep concern about the AUT's misbegotten boycott of Israeli universities. The boycott is counterproductive racist and bigoted. It was voted on and approved under conditions which guaranteed its outcome without full and proper debate. It singles out the only Jewish State in the world for punishment yet ignores the numerous despotic oppressive tyrannical fundamentalist and repressive regimes in the world. It is for that reason alone hypocritical and represents the interests of a small minority of anti- Israeli and anti-Semitic activists only.⁸⁸

⁸⁸ Mati Wagner, *Diaspora Jews Launch Grassroots Campaign Against Academic Boycott*, JERUSALEM POST, May 19, 2005 at p. 5.

Jonathan Sacks, the chief rabbi of England, pointed out in the *London Times* that historically, intellectual openness has been the exception, not the rule. Although academic freedom obviously matters a great deal to many people, it can be lost overnight. The University of Haifa, in particular, he noted, reaches out to the Arab population – which forms almost a quarter of the student body. “How ironic it is that while Israeli academics are fostering dialogue, some of their British counterparts are trying to silence it. And how tragic that Jews, after all they have contributed to academic life, are made to feel like pariahs on campus if they dare support a country they love – the country that brought democracy and academic freedom to the Middle East.”⁸⁹

An article in the *National Post* of Canada suggested that if the AUT’s proposed boycott were carried out to its fullest extent, the professors ought not to use various computer and medical products developed or manufactured in Israel. Proportionally, Israel has more university graduates than any other country, while its scientists and engineers publish more professional papers per capita than do their counterparts anywhere else in the world. Further, Israel has the largest concentration of high-tech companies outside Silicon Valley.⁹⁰

Another critic noted that there had been no AUT petition to boycott Egypt in 2000, when the Egyptian government sentenced a professor to seven years of hard labor for his pro-

⁸⁹ Jonathan Sacks, *Why Academic Freedom Is A Religious Matter*, LONDON TIMES, May 7, 2005 at p. 106.

⁹⁰ Douglas Davis, *Boycotting Israel? Read This*, NATIONAL POST, April 21, 2005.

democracy views, nor in 2002 when an Iranian professor was convicted for his anti-religious tyranny stance. On the other hand, Israel is the only country in the Middle East where academics enjoy complete freedom of expression. Seven universities were established in Palestinian territories since 1967. During the 1970's and 1980's, illiteracy rates fell dramatically in the West Bank and Gaza, while the number of schoolchildren in the West Bank and Gaza increased by 102% and the number of classes by 99% – this, even though the Palestinian population had grown by only 28%. Illiteracy rates dropped.⁹¹

Also among those opposed to the boycott were 21 Nobel Prize winners who, writing in the London Guardian, characterized the action as “essentially wrong” and called for its rejection.⁹² So did the U.S. National Academy of Sciences, the New York Academy of Sciences, the American Association for the Advancement of Science (which publishes the leading journal, *Science*), and the U.K.’s Royal Society.⁹³

A group of twenty-five AUT members petitioned for a special meeting to reconsider the boycott, which they claimed had not been fully debated. Some 250 people attended a

⁹¹ Efraim Karsh, *London Dispatch*, THE NEW REPUBLIC ONLINE, April 28, 2005. Karsh is head of the Mediterranean Studies Programme at King’s College, University of London.

⁹² Polly Curtis and Matthew Taylor, *Second Opinion*, THE GUARDIAN, May 24, 2005.

⁹³ Mason Inman, *Boycott of Israeli Universities Overturned*, SCIENCE MAGAZINE, Vol 308, Issue 5727, p.1397 - 3 June 2005.

meeting at the end of May, 2005, at which two-thirds voted to overturn the resolution.⁹⁴

The American Association of University Professors strongly objected to the AUT resolution – the same position it took in regard to boycotts of South African universities under apartheid, and toward Cuban faculty exchanges since U.S. imposed economic embargo.⁹⁵ Others called for an American boycott of British universities (“The only answer to a slap in the face is a kick in the teeth.”)⁹⁶

⁹⁴ *Id.* See also Yaakov Lappin, *AUT Overturns Boycott by Two-Thirds in a Re-Vote*, JERUSALEM POST, May 26, 2005.

⁹⁵ “Since its founding in 1915, the AAUP has been committed to preserving and advancing the free exchange of ideas among academic irrespective of governmental policies and however unpalatable those policies may be views. We reject proposals that curtail the freedom of teachers and researchers to engage in work with academic colleagues, and we reaffirm the paramount importance of the freest possible international movement of scholars and ideas.” *The AAUP Opposes Academic Boycotts*, AAUP FOR THE RECORD, July August 2005. See also Aisha Labi, *British Scholars Seek to Overturn Faculty Union’s Boycott of Israeli Universities*, CHRONICLE OF HIGHER EDUCATION, May 13, 2005 at p. 41; and Roger Bowen, Letter to the Editor, *Scholarly Exchange Should Be Protected*, NEW YORK TIMES, May 13, 2005 at 22.

⁹⁶ Sidney Zion, *Anti-Semites Are Cruising for a Bruising*, NEW YORK DAILY NEWS, May 13, 2005.

The National Union of Students in England came out full-force in opposition to the academic boycott, labeling it “inherently racist.”⁹⁷

The scientific journals, for the most part, responded similarly. *Nature* itself, perhaps the most prestigious of such publications, asked pointedly in an editorial: “Should we also boycott Palestinian researchers because the Palestinian authority has not done enough to prevent suicide bombers?” it went on to suggest that “Rather than signing boycotts, which will achieve nothing, researchers worldwide can help the peace process concretely by actively initiating more . . . collaborations – and encouraging their institutions to do the same.”⁹⁸

It is fair to say that the calls for divestment have likewise engendered a good deal of anti-boycott backlash in the United States. The knife, of course, cuts both ways. Some American conservative groups have mounted a campaign to withdraw government funding from Arabist scholars and courses that are claimed to be pro-Palestinian or anti-Israel. Last year the American Jewish Congress published a series of advertisements suggesting that American tourists should “consider not visiting France.”⁹⁹ In conjunction with the American

⁹⁷ Rosie DiManno, *Muzzlers of Academic Free Speech Unfit to Teach*, TORONTO STAR, January 29, 2003 at p. A02.

⁹⁸ *Don't Boycott Israel's Scientists*, NATURE, May 2, 2002 at p. 417.

⁹⁹ PR Newswire, *AJ Congress Teams With International Academic Friends of Israel to*

Society of the University of Haifa, the AJC established an Anti-Boycott Fund.¹⁰⁰

None of the criticisms, however, changed the plans of those who had urged the original sanctions. “The boycott remains,” said Steven Rose of the Open University, who said he will continue to honor it.¹⁰¹

III. Analysis / Commentary

The academic boycotts initiated by Professors Rose and Baker in 2002 and reincarnated in 2005 have long ceased to be confined to mere musings by those ensconced in the Ivory Tower. The debates quickly took on political lives of their own. A broad range of pundits and social activists have joined the fray. Cyberspace is filled with intense e-mail exchanges on the subject, which has also spawned a variety of reports, statements, essays, editorials, letters, and fodder for radio talk-shows.

Nevertheless, no major academic institution or organization came out in support of the boycotts, and no American university decided to divest itself from Israeli shares. In fact,

Highlight Israeli Academic Achievement and Crush Calls for Academic Boycott of Israel, May 2, 2005.

¹⁰⁰ *American Jewish Committee Launches Fund to Fight Anti-Israel Boycott*, U.S. NEWSWIRE, May 17, 2005.

¹⁰¹ *Id.*

many more scholars the world over signed petitions in opposition.¹⁰²

From this optimistic perspective, it might also be surmised that the overall practical effects of the proposals for scientific boycotts have thus far amounted to very little. “A storm in a teacup,” says one Oxford professor.¹⁰³ Indeed when Colin Blakemore, the Oxford don who was one of the original signatories to the Rose letter, withdrew his support, it was viewed as remarkable in the stodgy circles of academe: here was a noted scholar, obviously capable of reasoned and logical analysis, realizing as he did that he had been caught up in the passion of a political moment – and acknowledging that he had made a mistake.¹⁰⁴ In a commentary in *Nature* magazine Professor Blakemore, together with three of his Oxford colleagues, wrote that “discrimination against a group of scientists on the basis of their citizenship is explicitly ruled out in the statutes of the international council of science.” The principle of universality of science, they pointed out, entails freedom of association and expression, access to data and information, and freedom of communication and movement in connection with international scientific activities – without any discrimination on the basis of

¹⁰² See Gerstenfeld.

¹⁰³ Ori Golan, *supra* note 5 at p.6.

¹⁰⁴ Suzanne Goldenberg and Will Woodward, *Israeli Boycott Divides Academics: Sackings on Two Obscure Journals Fuel Debate on Cooperation with Universities*, MANCHESTER GUARDIAN, July 8, 2002 at p. 4.

such factors as race, religion, ethnicity, language, age, gender – or citizenship.¹⁰⁵

Thus, reasoned the Oxford scholars, the threshold needed to justify a boycott of scientific colleagues must be very high. There has to be good reason to believe that a boycott would help change the unacceptable behavior of the regime – and that it would be part of an extensive program of measures, imposed by international agreement to reach that goal, which would likewise include diplomatic, economic, and cultural sanctions.¹⁰⁶

Since the value of a given contribution to science ought to be judged on its own merits, rather than on the basis of any characteristics of the individual contributor, the exclusion of a particular group of people solely because of citizenship is a perversion of the objectivity that science demands.

Another academic who withdrew his signature was Peter Fonagy, a Jewish professor at University College, London. His correspondence on the matter achieved a good deal of notoriety in scientific circles, and had repercussions for both him and others. Shmuel Erlich, president of the Israel Psychoanalytic Society, was one of the scholars who wrote to Fonagy.

The fact that you, a prominent psychoanalyst who has close ties with so many of us, chose to sign this petition, was met with a sense of outrage and

¹⁰⁵ Colin Blakemore et al, *Is A Scientific Boycott Ever Justified?*, NATURE, January 23, 2003 at p. 314. *See also* Ori Golan, *supra* note 5 at p.6.

¹⁰⁶ *Id.* *See also* Letter from Colin Blakemore et al, JERUSALEM POST, January 10, 2003 at p. 8.

injury by many of our members, who wish to convey to you their deep hurt and protest. It was already pointed out that the petition is totally unbalanced, one sided, and unfair in its allocation of guilt and responsibility. No such petition was addressed to the Palestinian academia, while innocent Israeli children, men, and women were indiscriminately butchered, and people are afraid to walk the streets or gather. The petition . . . pulls the rug from under those in Israel, within academia and outside it, who are doing their best to achieve a more balanced and even-handed approach. It immediately supports those who opt for a more radical solution, who feel and preach that no matter what we do, the world is and will be against us. An outrageously one-sided approach, such as this petition signifies, is interpreted to mean that even people in academia, who are expected to seek objective views and regard matters impartially, are unwilling or unable to do so when it comes to Israel.¹⁰⁷

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In light of the widespread objections that the initiatives toward academic boycotts of Israel engendered, have they failed?

Unfortunately, optimism in this direction may be superficial and premature. After all, a full third of the members of the A.U.T.'s special committee convened to reconsider their colleagues' earlier boycott resolution – all with demonstrated intellectual capacities supposedly rooted in reason – voted to support an anti-Israel boycott. Even though many scholars and scientists have decried the boycotts, and consumers may have begun to change their personal buying habits, the very fact that the academic and scientific communities have spawned anti-Israel crusades is still shocking to many observers, especially to Americans, both within and outside of the Ivory Tower.

¹⁰⁷ See Gerstenfeld.

Moreover, even the short-lived attempts at full-scale boycotts are having an effect.

Various international academic conferences in Israel have been canceled, for example, and professors from abroad are refusing to travel to there for joint research projects – in part because of fears for security, but also because such collaborations are increasingly seen as political statements.¹⁰⁸ Of the estimated 7000 research papers submitted by Israelis for reference abroad; in 2002, about twenty-five came back from scholars who refused to look at them.¹⁰⁹

“Even if the AUT boycott proves to be a largely symbolic act,” wrote an op-ed contributor in the *Washington Post*, “it is very troubling. Not only is it dangerous to underestimate the power of symbolism, but . . . this destructive kind of anti-Zionist thinking may be creeping into leftist rhetoric in America, too, particularly in academia.”¹¹⁰

¹⁰⁸ See Suzanne Goldberg and Will Woodward, *Israeli Boycott Divides Academics: Sackings on Two Obscure Journals Fuel Debate on Cooperation with Universities*, THE GUARDIAN (LONDON), July 8, 2002 at p. 4.

¹⁰⁹ Douglas Davis, *Fears Voiced that Academic Boycott of Israel Could Endanger Lives*, THE JERUSALEM POST, December 15, 2002.

¹¹⁰ Hasdai Westbrook, *Is This Any Way for Scholars to Behave?*, WASHINGTON POST, May 15, 2005 at p. B3.

There is no shortage of ironies at work here. Although Baker is Egyptian, Rose is Jewish. And a small number of Israeli academics also signed his petition. In addition, many Israeli academics are decidedly on the political left – vociferously opposing government policies vis-a-vis the Palestinians – and they are the ones who are being ostracized by the proposed boycott. Dr. Schlesinger, the Bar Ilan linguist, was chairperson of Amnesty International in Israel, and has been active in the last two years in defying Israeli army blockades to deliver supplies to Palestinian towns in the West Bank.¹¹¹ The Israeli scientist who in 2002 was denied access to data described in *Science* magazine needed it for her research in developing treatments for Palestinian victims of the blood disorder thalassemia.¹¹²

Thus the academic boycott being urged by the Europeans is likely to damage one of the last remaining preserves of dissent in Israel, whose populace has become increasingly supportive of the hardline policies of the current government.

Regardless of its actual effects, however, the symbolism of the boycott is important. Blacklisting other academics because of their nationality undermines a primary foundation of academic freedom. If scholars don't take the principle of academic freedom seriously, then

¹¹¹ *Id.*

¹¹² Andrea Peyser, *Israeli Researchers Hit by Misguided Backlash*, NEW YORK POST, April 25, 2003.

why should anyone else.¹¹³

Although the direct impact of the AUT academic sanctions against Bar Ilan and Haifa was not likely to be substantial, the real threat could come from the proposed boycott's broader political objectives. While there have been many efforts to de-legitimize Israel by the United Nations – the “Zionism is racism” resolution in 1975, the Durban conference in 2001, various claims by academics and Amnesty International and Human Rights Watch – the fact is that, while talking about peace, boycott-backers are contributing to hostility and hatred.¹¹⁴

Even some Arab scholars recognize the untenability of the boycott. Bat Ye'or, an Egyptian academic who describes the “new Judeophobia,” of Eurabia's cultural

¹¹³ Prof. Jeffrey Weintraub, who organized an anti-boycott campaign, as quoted by Hasdai Westbrook, *Is This Any Way for Scholars to Behave?*, WASHINGTON POST, May 15, 2005 at p. B03

¹¹⁴ Gerald M. Steinberg, *Boycotting the Jews*, WALL STREET JOURNAL, April 30, 2005.

preconceptions, as well as a resurgent anti-Americanism.” She argues that the current hate campaign against Israel has been encouraged by the media, “with incitements and caricatures similar to the Nazi period and by unfounded accusations of prominent politicians.” In the AUT’s proposed academic boycott against Israel, she sees a Palestinian revival of Nazism:

The aim of Euro-Palestinianism is to criminalize the birth of the State of Israel in order to create an Israeli guilt toward the Arabs, similar to the European guilt for the Holocaust, while in fact Israel represents the liberation of the Jewish people from the yoke of the jihad-dhimmitude rules imposed over all the Islamic empire, including the Land of Israel. This Eurabian policy endorses the legitimacy of jihadism, including against Christians. . . . The Euro-Arab policy attributes to Israel the causes of Islamic terrorism and of all the world’s problems. . . . It is assumed that the disappearance of Israel would bring peace to the world and Muslim-Christian reconciliation, which is clearly the continuation of the Nazi mentality.¹¹⁵

How can one explain the silence of French politicians about recent anti-Jewish actions? How can this be explained? Some have observed that the main causes of French anti-Semitism are rooted in denial – both that there is anti-Zionism in France and that the Holocaust ever really happened. This theory might sound absurd to the American mind, but it takes on a certain plausibility when one considers that there are some French intellectuals who are convinced that the attacks on synagogues were either being arranged or fabricated by the Israeli secret service

¹¹⁵ John W. Whitehead, *Eurabia: The Euro-Arab Axis. An Interview with Bat Ye’or*, OLDSPEAK, June 9, 2005. See also Editorial, *Don’t Boycott Israel’s Scientists*, NATURE, May 2, 2002 at p. 417.

(Mossad) in order to distract attention from what Israel is doing at home.¹¹⁶

The Europeans and their Muslim allies may not fully understand that boycotts work both ways. They may be conditioned to thinking of Jews as defenseless entities. The reality is very different. Already some activists have called for a reverse action: a complete boycott of travel and products from France, Belgium, Spain, Germany, Sweden, Switzerland, Norway, Denmark, Holland, and China due to their support, sponsorship, and/or participation in global Islamic terror.

The U.N. voting record of many other countries (Belgium, China, Denmark, Germany, Holland, Norway, Spain, Sweden, Switzerland) appears to openly endorse Islamic terror by virtue of their sponsorship of the radicals in their midst. The European Union gives over \$10 million per month to the Palestinian Authority, knowing fully the money is funneled to buy, import, and train Muslim terrorists and their weapons of mass murder.¹¹⁷

As always, the disturbing specter of broad-scale anti-Semitism has not gone unnoticed. As a columnist for the Israeli daily *Ha-aretz* summed it up: “There is no escaping

¹¹⁶*Mossad Behind Attacks on French Synagogue: French Activist*, MIDDLE EAST NEWS ONLINE, April 29, 2002; *ADL Condemns Iranian Report Blaming Israeli Mossad for ‘Organizing’ Attacks Against Jews in France*, U.S. NEWSWIRE, May 2, 2002.

¹¹⁷*See, e.g., Rob Borsellino, Conservatism Is In the Air(waves)*, DES MOINES REGISTER, November 17, 2003 at p. 2A.

the conclusion that beyond any legitimate political criticism, the emotional stance of Europe towards Israel is influenced – and not only on the margins – by the deep and ancient European obsession and pathology regarding the Jewish nation.” A spokesman for the Israeli foreign ministry observed: “This has simply exposed these people as one-sided, extremist, and anachronistic.” More recently, London’s Foreign Policy Center noted a deep opposition to Israeli policies in the West Bank in [European] elite opinion and this is reflected to some degree in public opinion.”¹¹⁸

The University and College Lecturers’ Union warned that anti-Semitic incidents are increasing in the UK and that prejudice against Jews “becoming acceptable.” According to the Community Security Trust, there were 532 anti-Semitic incidents in 2004 – 42 percent

¹¹⁸ Ben Lynfield, *British Boycott Riles Israeli Academics*, CHRISTIAN SCIENCE MONITOR, May 12, 2005 at p. 06 (quoting columnist Alexander Yacobson and Mark Regev). *See also* Hasdai Westbrook, *Is This Any Way for Scholars to Behave?*, WASHINGTON POST, May 15, 2005 at p. B3. (“The boycott campaign represents a strain of anti-Zionism that has always been stronger in Britain and other Western European nations than in the United States, not because of America's pro-Israel lobby, but because of the European legacy of colonialism. Horrified by their country's imperial past, some British academics have made Israel a scapegoat for Britain's colonial sins. Israel's occupation of the West Bank and Gaza intensifies their perception of colonial oppression.”)

more than in 2003, and the highest total since records began in 1984.¹¹⁹

For many, of course, the anti-Zionist problem in Britain goes well beyond the academic boycott of Israel. Israelis remember how their refugee ships from Nazi Germany were turned back by the British, then in control of Palestine. More recently, London's Mayor Ken Livingstone compared a Jewish reporter to a Nazi concentration camp guard. Lord Nazir Ahmed, the first Pakistani member of the House of Lords, hosted a lecture by a virulent anti-Semite who condemned Jewish media barons. Jewish members of the National Union of Students Executive Committee resigned because of their anger and frustration at unchecked anti-Semitism on British campuses. These phenomena are particularly shocking to Americans, who have traditionally viewed Britain as the brave nation that valiantly held out against the Nazi menace for two years before the U.S. entered World War II, and a country that has been relatively free of racially-inspired anti-Semitism.¹²⁰

However, hostility to Jewish national aspirations has always run deep. "And when politicians or academics or celebrities argue not against Israeli policy, but against Israel's very legitimacy, that increases the feelings of vulnerability among many British Jews. That should not be surprising, given there is solid evidence that anti-Jewish violence in Britain and

¹¹⁹ Phil Baty, *NATFHE Tackles Rise of Racism*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005 at p. 5.

¹²⁰ Abraham M. Foxman, *Britain's Jewish Problem*, NEW YORK SUN, May 18, 2005 at p. 9.

elsewhere is influenced by events in the Middle East.”¹²¹

Other critics of the AUT suggest that even its majority espouses little more than freedom to conform: those prepared to denounce Israel as colonial and racist are accepted; those who refuse are subjected to an anonymous peer-review process that in theory is meant to ensure fairness but in practice allows discrimination and political bias to go unchecked. The same is true with grants, scholarships, and conferences – “blackmail masquerading as crusade for freedom.”¹²²

Anti-Semitism vs. Anti-Zionism

Faculty supporters of divestment and academic/scientific boycotts chafe under the criticism that they are anti-Semitic. A Harvard professor, for example, told a reporter that he didn’t consider himself anti-Semitic at all, but that he was definitely hostile to the aggressive eye-for-an-eye, tooth-for-a-tooth policies of the current Israeli leadership.”¹²³ So, indeed,

¹²¹ *Id.* See also Yossi Alpher, *Boycott Verges on Anti-Semitism*, DAILY STAR, May 24, 2005.

¹²² Emanuele Ottolenghi, *Why Can’t They “Just Get Along”?*, National Review Online, May 2, 2005. See also Abraham Cooper and Harold Brackman, *Divest Them of Their Prejudice*, NATIONAL POST, June 5, 2005; and Alexander H. Joffe, *Academics Against Israel*, FRONTPAGE MAGAZINE, June 1, 2005.

¹²³ See Patrick Healy, *Summers Hits ‘Anti-Semitic’ Actions*, BOSTON GLOBE, September 20, 2002 at p. A1 (quoting Peter Ashton, a research professor of forestry).

might we all be. But in light of the current situation in Israel and elsewhere, we might more reasonably come to expose anti-Zionists as anti-Semites in masquerade.¹²⁴

Despite the intellectual credentials of academics who are pushing for a boycott of Israeli institutions and individuals, it is difficult to avoid the conclusion that the root cause of their antipathy is an inherent strain of anti-Semitism.¹²⁵ The reasons for that racism, however, which have been examined at length and treated in depth elsewhere,¹²⁶ are harder to fathom. They range broadly from envy¹²⁷ and religious intolerance¹²⁸ to resentment¹²⁹ and

¹²⁴ See *infra* note 283 and accompanying text.

¹²⁵ Thus do the views of European academics reflect those of the general population. A recent survey by the Anti-Defamation League of twelve European countries found that anti-Semitic opinions have slightly declined, but are still popular. Nearly thirty percent of respondents believe that Jews have too much power in the business world. While 42 percent believe that the Holocaust is “probably true,” many also feel that Jews talk too much about it. Sam Ser, *Anti-Semitic Attitudes Decline Slightly in Europe, ADL Poll Shows*, JERUSALEM POST, June 7, 2005 at p. 6.

¹²⁶ See, e.g., Gil Troy, *The New Anti-Semitism: Series of Books Look at the Reinvention of An Ancient Scourge*, THE NEWS & OBSERVER (Raleigh, N.C.), July 11, 2004 at p. G4.

¹²⁷ See, e.g., Stephanie Simon, *Anti-Semitism on Upswing in Former Soviet Republics*,

Judaism itself.¹³⁰

Indeed the Jewish professors who condemn Israel, although they are relatively few in number, are an especially troubling breed. Prof. Gerstenfeld identifies two stereotypical models that come strongly to the fore. The first is the “humane” Jew, who reflects on the Holocaust and draws “politically correct” inferences from it; they conclude that, whatever

CHICAGO SUN-TIMES, June 12, 1992, at p. 25.

¹²⁸ See, e.g., Shmuly Boteach, *The Gospel Untruth*, JERUSALEM POST, November 13, 2003 at p. 15 (suggesting that some early Christians turned a peace-loving Jesus into a primary source of Christian anti-Semitism, and noting that the New Testament contains over a hundred degrading references to the Jews, thereby creating an ineradicable hatred against them). See also ARTHUR BLEICH, *THE CAUSES OF ANTI-SEMITISM: A CRITIQUE OF THE BIBLE*.

¹²⁹ See, e.g., Richard John Neuhaus, *Bach, Hitler, and the People Called German*, FIRST THINGS: A MONTHLY JOURNAL OF RELIGION AND PUBLIC LIFE, November 1, 2004 at p. 66 (citing STEVEN OZMENT, *A MIGHTY FORTRESS: A NEW HISTORY OF THE GERMAN PEOPLE* (noting resentment that Jews, less than one percent of the population, occupied so many places in the elite professions).

¹³⁰ See DENNIS PRAGER AND JOSEPH TELUSHKIN, *WHY THE JEWS? THE REASON FOR ANTI-SEMITISM*.

happens in world events, Jews must always be humane, progressive, and peace-loving. Another way of characterizing this view is that Jews are acceptable only as victims.¹³¹

This sometimes amounts to an insidious form of Holocaust denial, which, unfortunately, is no longer the sole province of neo-Nazis. Since it is human to wish that the Holocaust never happened, some who deny that it occurred may be those who can't bear to admit that it did; that is to say, it is easier to argue that Israel induces guilt about what happened during World War II than it is to acknowledge that France was so weak during that terrible era in human history.¹³² How far any of this can go to explain the rationale behind academic boycotts, however, must be left to one's individual judgment.

The other stereotype is the "violent Jew," who becomes the aggressively portrayed Israeli, also depicted as a colonialist oppressor – nowadays personified by Israel's Prime

¹³¹ Compare this approach with the admonition of Maimonides, who warned that if the Jewish people "do not call out and do not blow the shofar, but rather say that this is happening to us because it is the way of the world," they will inevitably bring still further trouble upon themselves and their brethren. Maimonides, *Laws of Fast Days* 1:3.

¹³²Christopher Caldwell, *Liberte, Egalite, Judeophobia; Why Le Pen Is the Least of France's Problems*, THE WEEKLY STANDARD, May 6, 2002 at p. 20.

Minister Ariel Sharon.¹³³

These perceptions enable the media – which should seek to explain even complex events and social phenomena concisely and clearly – to depict Israel as evil without explicitly stating that Jews are bad. They also allow various Western intellectuals to declare themselves anti-Zionists while purporting that they are neither anti-Semites nor racists. Similarly, organizations that claim to support human rights and oppose racism often tend to ignore anti-Semitism.¹³⁴

This theory is one way to explain why Jewish professors are among the ranks of supporters of an anti-Israel boycott. By explicitly denouncing the acts of the Israeli government and dissociating themselves from it, they escape identification with the “violent Jew” and view themselves as “the good, ethical Jews”. Moreover, they often express sympathy for the suffering of the Palestinians and justification for their suicide-bomb attacks

¹³³ Manfred Gerstenfeld, *Anti-Semitic Motifs in Anti-Israelism*, POST-HOLOCAUST AND ANTI-SEMITISM, no. 2, November 1, 2002.

¹³⁴ The Canadian B’nai B’rith reported a 60 percent increase in anti-Semitic incidents in 2002, noting that occasion that Canada’s multicultural and anti-racist organizations had failed to support the Jews in their battle against anti-Semitism. *Id.* See also Leslie Scrivener, *Sharp Increase Seen in Anti-Semitic Hate*, TORONTO STAR, March 7, 2003.

of civilians.¹³⁵

In so doing they gain a good deal of media attention, especially when they portray Israel as an ethnic-cleansing rogue state, sometimes compared to Nazi Germany or apartheid South Africa, while at the same time holding Israel to a higher moral standard than other countries.¹³⁶

In Israel itself, besides the aforementioned Prof. Pappé at the University of Haifa, Tanya Reinhart, who teaches Linguistics at Tel Aviv University, has been actively promoting the academic boycott against Israel. “[W]hat Israel is doing now,” she wrote a colleague in 2002, “exceeds the crimes of the South Africa's white regime. It has started to take the form of systematic ethnic cleansing, which South Africa never attempted.”¹³⁷ Some left-wing

¹³⁵ *Id.* See also GORDON W. ALLPORT, *THE NATURE OF PREJUDICE* (1958), at p. 147. Some Jewish professors who signed the original boycott petition change their minds upon deeper reflection. See, e.g., analysis of the case of Peter Fonagy, discussed *supra* at p 38.

¹³⁶ *Id.* See also Abigail Radoszkowicz, *An Ancient Evil Stirs*, *THE JERUSALEM POST MAGAZINE*, January 17, 2003. Among the most notable anti-Israel Jewish academics are Austrian political scientist John Bunzl, Noam Chomsky of the Massachusetts Institute of Technology, and Jean-Marc Levy Leblond of the University of Nice. *Id.*

¹³⁷ Tanya Reinhart, http://www.nthposition.com/politics_boycott.html (May 17, 2002).

Israeli organizations often operate in concert with the Arabs in anti-Israel boycott campaigns.¹³⁸

On some American campuses the driving force behind the academic boycotts are Arabist professors who seek to prosecute the war against Israel as a way of diverting attention away from corrupt regimes. In the academic world the radical agenda is supported by faculties in Mid-Eastern and Islamic studies.¹³⁹ Anti-Semitic statements emanate from prominent academics. At Columbia University, for example, there have been numerous reports of intimidation and hostility by faculty members in the Department of Middle East and Asian Languages and Cultures (at least part of whose funding comes from the United Arab Emirates.)¹⁴⁰ In one incident, Prof. Joseph Massad demanded of an Israeli student, “How many Palestinians have you killed?” He told a class that “the Palestinian is the new Jew, and the Jew is the new Nazi.” According to another account, he repeated 24 times in a half-hour period that “Israel is a racist Jewish apartheid oppressive state.”¹⁴¹ He allegedly

¹³⁸ Institute of the World Jewish Congress, “The Revival of the Arab Boycott - Round Two,” *Policy Dispatch*, no. 59.

¹³⁹ See Kenneth Lasson, *Incitement in the Mosques: Testing the Limits of Free Speech and Religious Liberty*, WHITTIER L. REV. (2005).

¹⁴⁰ See Editorial, *Farrakhan for Columbia?*, NEW YORK SUN, January 10, 2005 at p.8.

¹⁴¹ Brigitte Gabriel, *Environment of Hate: Indoctrination in the Arab World and Propaganda*

yelled at a Jewish student, “I will not have anybody here deny Israeli atrocities.”¹⁴² More than a third of Columbia’s Middle East Department signed a petition for the university to divest its holdings in companies doing business with Israel. The chairman of the department, Hamid Dabashi, openly talks about Israel’s “brutal massacres” of innocent Palestinians.¹⁴³

Such anti-Israel faculty are often joined by Leftists, including Jews, who consider Israel and America to be oppressive colonial powers, and who promote revolutionary alternatives by blaming Israel for inviting Arab aggression against it.”¹⁴⁴

The rhetoric emanating from those who would condemn Israel serves to dilute language and meaning. These may be “serious and thoughtful people,” said Harvard President Lawrence Summers, but they “are advocating and taking actions that are anti-

Advocacy in America’s Universities, Foundation for the Defense of Democracies, March 6, 2005.

¹⁴²Uriel Heilman, *Columbia to Check Anti-Israel Bias Charge*, JERUSALEM POST, Oct. 31, 2004 at p. 2. See also Douglas Feiden, *Vile Words of Hate that Shame Top University*, NEW YORK DAILY NEWS, Nov. 21, 2004 at p. 4, and Daniel Pipes And Jonathan Calt Harris, *Columbia’s Self-Hating Americans*, JERUSALEM POST, April 2, 2003 at p.7.

¹⁴³ See Notebook, *A Not So Academic Debate*, NEW REPUBLIC, Jan. 24, 2005 at p.8, and Editorial, *The Bollinger Committee*, NEW YORK SUN, December 10, 2004 at p.14.

¹⁴⁴ Ruth R. Wisse, *Israel on Campus*, WALL STREET JOURNAL, December 16, 2002.

Semitic in their effect if not their intent.”¹⁴⁵

The same logical inconsistencies or belie a barely camouflaged bigotry. In a press interview, for example, Mona Baker’s sentiments betrayed a good deal more than disaffection with the nationality of some of her professional colleagues: “Many people in Europe have signed a boycott against Israel [because] Israel has gone beyond just war crimes. It is horrific what is going on there. Many of us would like to talk about it as some kind of Holocaust which the world will eventually wake up to, much too late, of course, as they did with the last one.”¹⁴⁶

Similarly, another British academic claimed in an email that there was a worldwide Zionist conspiracy, that Israel’s “atrocities surpass those of Milosevic's Yugoslavia,” with “uniformed . . . troops [who] murder and mutilate Palestinian children, destroy homes and orchards, steal land and water, and do their best to root out Palestinian culture and the Palestinians themselves.... [T]he Zionist state is now fully living down to Zionism's historical

¹⁴⁵ See *supra* note 164 and accompanying text. Lawrence H. Summers, “Address at Morning Prayers,” [http:// www.ajc.org](http://www.ajc.org), 17 September 2002. 22. See also Edward Alexander, *Pushing Divestment on American Campuses*, JERUSALEM POST, May 12, 2004 at p. 13.

¹⁴⁶ Charlotte Edwardes, *Fury as Academics are Sacked for Being Israeli*, THE DAILY TELEGRAPH, July 7, 2002.

and cultural origins as the mirror image of Nazism.”¹⁴⁷

Another important factor in the new anti-Semitism is the major immigration of Arabs and other Moslems to Western countries and the radicalization of significant elements of this community, which is often accompanied by hate propaganda.¹⁴⁸

At the end of 2004, the English department of Harvard University invited Tom Paulin, an academic from Hertford College in Oxford, to give a lecture. In an interview with the Egyptian paper *Al-Ahram*, Paulin had called Israeli settlers “Nazis and racists” for whom he

¹⁴⁷ David Harrison, *Professor's Anti-Israeli Tirade Revives Sacked Academics Row*, THE DAILY TELEGRAPH, September 29, 2002 (quoting Prof. Michael Sinnott). After *The Daily Telegraph* passed the email to the university authorities, Sinnott apologized, saying “I deeply regret sending it and regret any offense it has caused.” Such language is often utilized in apologies of this sort, but falls short of being truly meaningful: the defamer does not retract his views, but expresses regrets for having made them public. Prince Harry uttered the same kind of words after being photographed in a Nazi costume. See Virginia Wheeler, *Harry: My Regret over Nazi Photos*, THE SUN, March 7, 2005. In September of 2002, Ted Honderich, a philosophy professor at University College (London), delivered a lecture at the University of Toronto in which he said that the Palestinians have a moral right to blow up Jews. Jonathan Kay, *Hating Israel is Part of Campus Culture*, NATIONAL POST, September 25, 2002.

¹⁴⁸ See Lasson, *supra* note 238 at .

felt “nothing but hatred” and who should be “shot dead.”¹⁴⁹ Initially, the department canceled the invitation to Paulin, but then overturned the cancellation “out of widespread concern and regret for the fact that the decision not to hold the event could easily be seen . . . as an unjustified breach of the principle of free speech within the academy.” The director general of the Board of Deputies of British Jews, Neville Nagler, protested that Paulin had compared the Jews to Nazis on three different occasions.¹⁵⁰

In light of the millennia that have passed during which the scourge of anti-Semitism has never been erased, one might well question whether it is realistic to think it can or will

¹⁴⁹Oliver Burkeman, *Harvard Overturns Ban on Oxford Poet*, THE GUARDIAN, November 21, 2002.

¹⁵⁰Neville Nagler, *Paulin's Hateful Rhetoric*, THE GUARDIAN, January 9, 2003.

ever be eradicated.¹⁵¹

*

Comparisons made between modern Israel and the apartheid South Africa of the late Twentieth Century are likewise particularly onerous to both Israelis and Jews around the world. The fundamental differences between the two are clear and factual, and should go without saying, but many distortions of Israeli-Arab realities are promulgated by the Palestinians and perpetuated in the media.

In the process, short shrift is given to incontrovertible facts. Among them are that:

* The Israeli Declaration of Independence (1948) declared that the State “will ensure equality of social and political rights to all its inhabitants irrespective of religion, race or sex We appeal, in the very midst of the onslaught launched against us now for months, to the Arab inhabitants of the State of Israel to preserve peace and participate in the building of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.”

¹⁵¹ See *supra* notes 225-230 and accompanying text. See also Troy, *supra* note 225 and accompanying text.

* Israeli-Arabs currently serve in Knesset (currently eleven in all, including two in dominant Likud party). An Arab Justice, Salim Joubran, holds a seat on the Israeli Supreme Court. Israeli Arabs attend and lecture in every Israeli university. Arab Israelis can serve in Israeli Defense Forces if they wish.

* Israel is currently implementing 4-year, 4-billion shekel plan to develop infrastructures in the Arab sector.

* Even diplomatic positions are open to Israeli Arabs, who have held posts in the United States, South America, Finland, and elsewhere.¹⁵²

Needless to say, few if any such exercises in democracy occurred in apartheid South Africa. Those distinctions alone should be enough to rid Israel of odious comparisons with apartheid South Africa, but none as much as the fact that both the government and the people are officially committed to the civil equality of people who happen to be black – and there have been many of them since the influx of Ethiopians over the past several decades. Israeli Arabs consistently state that they'd prefer to remain in Israel rather than join a future Palestinian state. (According to the Haifa-based Arab Center for Applied Social Research, 90 percent of Israel's Arab population would prefer remaining in Israel).¹⁵³

¹⁵² Honest Reporting, *Distorting Israeli Arab Reality*, May 18, 2005

¹⁵³ See Joseph Algazy, *Israeli Arabs Prefer Israel to Palestinian Authority*, HA'ARETZ, August 1, 2000.

In fact during the days of apartheid academic boycotts were used in South Africa largely at the behest of the academics themselves, as a gesture of support. There was never an attempt to cut off all South African academics from international discourse with their peers; lecturers from all over the world, including South Africa, would meet at international conferences.¹⁵⁴

Others ask, why is there no call for a boycott against academics in China, Russia, Sudan, Congo, Zimbabwe, North Korea – all of which oppress academics far more than Israel ever has? Why no boycotts of Muslim countries, where academic freedom either doesn't exist or is under constant attack, such as Syria, Egypt, Iran, and Saudi Arabia? Is the answer that the boycotters' true goal is the elimination of Israel, which they condemn as a "colonial apartheid state, more insidious than South Africa."¹⁵⁵

A few scholars with a history of anti-Israel rhetoric suggested that, while Israel is

¹⁵⁴ See Editorial, *Blinkered and Ill-Timed*, LONDON TIMES, April 25, 2005 at p. 19.

¹⁵⁵ Walter Reich, *Brits Burning Books*, NEW YORK SUN, May 10, 2005 at p. 9. "Awakening to the fact that their guild has been hijacked by a jihad aimed at eliminating Israel, some dissenting British academics are rushing to douse the torch their fellow professors in the U.K. have lit. But the pyre has been built, the dissenters may be unsuccessful in dousing that torch, and there's not telling where the flames, once set, will spread – or what else, as Heinrich Heine famously warned, will then burn." *Id.*

blameworthy in the way it treats Palestinians, the shunning of Israeli academic institutions was not a proper response. They pointed out that Israel – with its diverse society, its academics who often disagree with government is very different from what South Africa was like concerning apartheid. Israel is a much more diverse society. Israeli academics often disagree with government policies; Miriam Schlesinger and Gideon Toury were wrongly sanctioned for policies of government.¹⁵⁶

Claims of Israeli racism by those who advocate academic boycotts have been rebutted by a number of Jewish professors. David Hirsch, a sociology lecturer at Goldsmiths College, University of London, wrote that the boycott would create an atmosphere in the U.K. where one day Jewish academics would be asked if they supported the “colonialist and racist” policies of the Israeli government. “Nobody else is challenged in the way. Russian academics are not asked whether they support their government’s policies in Chechnya, British academics are not asked whether they support their government’s policies in Iraq, and neither should they be.”¹⁵⁷

¹⁵⁶ Juan Cole, *Why We Should Not Boycott Israeli Academics*, CHRONICLE OF HIGHER EDUCATION, July 26, 2002 at p. 13. Cole has made many anti-Israel statements. See, e.g., Steven Plaut, *Old Juan Cole: A Very Sad Soul*, FrontPage Magazine.com, March 23, 2005; and *Juan Cole Kicks It Down A Notch*, Campus Watch: Monitoring Middle East Studies on Campus, June 2, 1005, available at <http://www.campus-watch.org/weblog/id/12>.

¹⁵⁷ Aisha Labi, *British Scholars Seek to Overturn Faculty Union’s Boycott of Israeli*

Oren Yiftachel, the Ben-Gurion University scholar whose paper was rejected by a British academic journal because of his Israeli citizenship, objected that the boycott was essentially misplaced. “One doesn’t dish out collective punishment on that scale against whole institutions, especially when most Israeli faculty members are against the occupation, at least passively. In South Africa, the university system, almost in its entirety, was a part of apartheid, with racist rules.

Israeli universities

don’t operate that way.”¹⁵⁸

On Israel’s political spectrum, Yiftachel is decidedly to the left. “Israel is almost the most segregated society in the world,” he has been quoted as saying.¹⁵⁹ Other Jewish professors may feel likewise, but they draw the line on comparing Israel with South Africa, and especially between economic and academic boycotts.¹⁶⁰

Universities,

CHRONICLE OF HIGHER EDUCATION, May 13, 2005 at p. 41. *See also* Editorial, *Academic Overreach*, BOSTON GLOBE, May 15, 2005 at p. D10.

¹⁵⁸ Lynfield, *supra* note 217. *See also supra* note 37 and accompanying text.

¹⁵⁹ *See supra* note 37 (“Israel is almost the most segregated society in the world.”)

¹⁶⁰ One of them is Dena Davis, a professor at the Cleveland-Marshall College of Law at Cleveland State University:

The references to South Africa’s former government have wasted a lot of time and energy on the pointless question of whether Israel’s human-rights abuses approach the level

Harm and Illegality

Suppositions aside, the passive boycott has already had a painful effect on Israeli scholars. Several dozen people have refused to work for the Israel Science Foundation.¹⁶¹

of that famously immoral regime. I have absolutely no interest in that question. The questions that interest me are: Do Israel's occupation of the Gaza Strip and the West Bank and its treatment of the Palestinians constitute a serious abuse of human rights? I'd say yes. Do I think that economic pressure will force the Israeli government to withdraw from the occupied territories? Maybe; it's worth a try. Do I wish that the Bush administration would make aid to Israel contingent on dismantling the settlements? You bet. Because that is obviously a pipe dream, would I support other, nongovernmental boycotts? Yes. Would I then support an academic boycott? Never. Academic boycotts undermine the basic premise of intellectual life that ideas make a difference, and the corollary that intellectual exchanges across cultures can open minds. Dena Davis, *Why Academic Boycotts Are Wrong*, THE CHRONICLE OF HIGHER EDUCATION, April 18, 2003 (The Chronicle Review Section).

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Professor Nachman Ben-Yehuda, dean of social sciences at the Hebrew University (one of the institutions targeted by the AUT motions), said there have been isolated cases of boycott-

Although proposed academic boycotts of Israel have been consistently voted down, the fact that they have arisen in the first place and have been supported by as many as a third of European scholars is demonstrably harmful.

For example, as a European oncologist wrote to an Israeli colleague:

The scientific support that we, as Europeans, get from the research experience from you and your Israeli colleagues is of outermost importance for cancer research in general and the European research in particular. It would be a great loss that our mutual scientific debate would suffer from political issues, far away from humanity and medical progress. I sincerely hope, in the name of so many cancer patients and for future realizations in preventive cancer research, that no harm penetrates our long lasting fruitful collaboration.¹⁶²

The International Agency for Research on Cancer (IARC), which is part of the World Health Organization, stated that it would become concerned if the shunning of work by Israeli academics continued.¹⁶³

style actions against the university over the past two years, and that a full boycott “would be damaging. There would be severance of all relationships, and there is lots of crossover from the UK to here. It would be enormous.” Letter from The Academic Friends of Israel, April 5, 2005 (Author’s Files).

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See Gerstenfeld.

¹⁶³ Daniel Foggo and Josie Clarke, “*Boycott of Work by Israeli Scientists ‘Could Cost Lives,’*” THE DAILY TELEGRAPH, December 15, 2002.

Could it be too late? “Europe is no longer Europe,” says social commentator Oriana Fallaci, “it is ‘Eurabia,’ a colony of Islam, where the Islamic invasion does not proceed only in a physical sense, but also in a mental and cultural sense. Servility to the invaders has poisoned democracy, with obvious consequences for the freedom of thought, and for the concept itself of liberty.”¹⁶⁴

Perhaps no clearer evidence of rank prejudice – and closely analogous to the calls for academic boycotts – is the treatment of Israel by the International Federation of Red Cross and Red Crescent Societies, whose mission is supposed to be universally humanitarian “without discrimination as to nationality, race, or religious beliefs.” Founded in 1863 by Swiss philanthropist Henri Dunant, the Red Cross has not always lived up to its charter statement. Perhaps most notable was its failure to assist or rescue Jews from Nazi concentration camps – its stunning silence, in fact, even though it was well aware of what was going on.¹⁶⁵

The Mogen David Adom, Israel’s corresponding relief agency, has provided

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Tunku Varadarajan, *Prophet of Decline: An Anterview with Oriana Fallaci*, WALL STREET JOURNAL, June 21, 2005 at p. A12.

¹⁶⁵ The paragraphs that follow about the double standard of the Red Cross are adapted from Kenneth Lasson, *International Red Cross Must Include Israel*, BALTIMORE SUN, November 27, 2001 at p. 11A.

emergency services to countries all over the world since 1939, and it meets or surpasses every other standard for IFRC membership. Yet Israel remains the only nation excluded from the 178-country federation. The rationale sometimes offered by the Red Cross is that the Mogen David Adom uses a red Shield of David as its official emblem.

A spokesman for the International Red Cross says that it is “governments, not the federation, that give emblems the protective force of international law”— and that “governments” are now preparing to adopt an additional emblem, with no religious or national connotations to stand alongside the Red Cross and the Red Crescent, one that Israel could adopt as its own.

But why should the Jewish State have to wait for acceptance by other “governments” – many of whom branded Israel “racist” at the United Nations’ recent Conference on Human Rights in Durban, South Africa? There is no reason to believe that the countries with large fundamentalist Moslem populations will soon change their minds on this issue.

And the International Federation of the Red Cross and Red Crescent already imposes two religious emblems (the cross and the crescent) even as it rejects the Star of David for being too nationalistic or religious. (The IRC also recognized Iran’s Red lion and Sun before the Ayatollah Khomeini came to power in 1980.)

For a short time, the American Red Cross (when it was led by Bernadine Healy in 2000-2001), took a principled position in the controversy: “You don’t belong to a country club that excludes blacks or Jews.” Her views are echoed by Lawrence Eagleburger, former Secretary of State and the ARC’s ambassador at large: “The denial of unconditional

recognition [of Israel]is an abomination.” With strong bipartisan backing in Congress, the United States has withheld payment of its dues to support the federation “until bigotry gives way to tolerance.”

Dr. Healy’s vociferous opposition to the international federation’s blatant hypocrisy ultimately led to her resignation.

The consequences of Israel’s exclusion are more than merely symbolic. While Israel is permitted to attend Red Cross meetings, it is not allowed to vote. Although the international federation continues to function without America’s dues, it has had to lay off six percent of its headquarters staff. This doesn’t impede the amount of Red Cross aid distributed worldwide, but it does present significant logistical and public-relations problems.

Though one may be equally hard put to understand why Israel is the only country in the world to be ineligible to hold a seat on the United Nations Security Council, the facts are that the U.N. is fundamentally political and has been discriminating against the Jewish State ever since its founding in 1948 – no more blatantly than at Durban.

Likewise understandable, perhaps, is the U.S. State Department’s policy that Israel be held to a different standard of conduct in hunting down Palestinian suicide bombers. Similarly, Israel remains the only country in the world without a U.S. embassy in its capital city, despite a clear Congressional mandate to move to Jerusalem – apparently because we do not want to undermine the logical premise of a Palestinian state if and when the Arabs choose to recognize Israel’s legitimacy and right to security.

But the International Red Cross runs afoul of its own widely-trumpeted mission as a

universal, non-discriminatory, humanitarian agency. If America is going to be truly faithful to its equally noble principles, we should continue to demand – and act upon – Israel’s full acceptance in the brotherhood of nations.

*

Are academic boycotts illegal?

Cogent arguments have been advanced that the boycott runs contrary to contract law, statutes prohibiting racial and religious discrimination, and obligations of academic freedom.¹⁶⁶ What should be the responsibilities, obligations, and strategies of the academic and scientific community? Can there ever be circumstances where it is proper to discriminate against an individual, or to sanction a group, solely on the basis of citizenship?

These are questions of great moment.

Scientific boycotts are clearly justified when individuals, groups, or states violate basic human rights. Suppose, for example, that a medical doctor is known to have been

¹⁶⁶ See Phil Baty and Helena Flusfeder, *Backlash May Put Boycott in Jeopardy*, THE TIMES HIGHER EDUCATION SUPPLEMENT, April 29, 2005 at p. 1. See also Alan Dershowitz, *Britain’s Professors Against Peace*, JERUSALEM POST, April 28, 2005 at p. 15. (“By targeting Israeli Jews Britain’s “Professors Against Peace” – that’s what they really should be called – have displayed bigotry against Jews done violence to academic freedom and anti-discrimination laws and are fast closing a window of opportunity for reconciliation in the Middle East.” *Id.*).

personally involved in experiments that use human beings against their will. Can he be fairly and properly blacklisted? The answer is yes: such a boycott in response to the doctor's own actions is not to discriminate against him on any of the grounds that are prohibited by the principle of the universality of science.¹⁶⁷

If the doctor were working on behalf of his government, whose policies are deemed to be reprehensible, can scientists in other countries may take any action to show their abhorrence of the regime? Again, the answer must be in the affirmative: scientists have the same right as other citizens to oppose policies of which they disapprove, by all legal means. They may also seek to persuade their colleagues to protest against the government of another state.¹⁶⁸

The principle here is that the perpetrators of such atrocities should be punished – their behavior deemed unethical, and their “science” boycotted – but that they should not be banned simply because of their nationality.

Unfortunately, of course, the cases noted above are not hypothetical.

When Hitler called upon physicians to help justify his racial policies with a “scientific” rationale (i.e., racial purity), as well as to direct his euthanasia programs and

¹⁶⁷ See Colin Blakemore, Richard Dawkins, Denis Noble, and Michael Yudkin, *Practical Guidance Is Needed to Uphold the Universality of Science*, *Nature* 421, 314 (2003).

¹⁶⁸ *Id.*

ultimately his death camps, almost half of all German physicians joined the Nazi party.¹⁶⁹

What was the scientific community's response to this heinous experimentation? The annals of medicine disclose virtually no history suggesting the international scientific community's ostracization of Nazi doctors who conducted experiments on human beings. This, even though the ethical protocols suggest that such physicians may be shunned or banned or condemned – not for their German nationality, but for their conscious choice to engage in unethical activity.

Besides promoting the politicization of universities, boycott actions against Israel break many academic rules. If they were to succeed, counteractions could ensue and the present academic system could collapse. Thus not only do signatories of the various boycott petitions attack Israel, they are also harmful to fellow academics.¹⁷⁰

Remedies

How can academic and scientific boycotts against Israel best be confronted and condemned?

The responses to date of many learned societies are on point, but not enough. Apt

¹⁶⁹ Michael A. Grodin, George J. Annas, and Leonard H. Glantz, *Medicine and Human Rights: A Proposal for International Action*, THE HASTINGS CENTER REPORT, July 1993 at p. 8.

¹⁷⁰ See Gerstenfeld.

analogies may be drawn with the efforts of those who sought to redress the wrongs of the Holocaust. There were no more eloquent words, for example, than those of General Telford Taylor, the chief prosecutor at the Nazi doctors' trial in Nuremberg, who recognized the importance of the moment in the history of medical ethics and law:

It is our deep obligation to all peoples of the world to show why and how these things happened. . . . to set forth with conspicuous clarity the ideas and motives which moved these defendants to treat their fellow men as less than beasts. The perverse thoughts and distorted concepts which brought about these savageries are not dead. They cannot be killed by force of arms. . . . they must be cut out and exposed the wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated.¹⁷¹

¹⁷¹ Quoted in Grodin et al, *supra* note 268.

The subsequent enactment of the Nuremberg Code was a widely endorsed response to the documented horrors of Nazi experimentation in the death camps – experimentation on a wide scale, without consent, that often had as its expected result the death of the prisoner/subject.¹⁷² But neither the Nuremberg Code nor any other international sanctions for such crimes against humanity has ever been promulgated or enforced since the post-World War II trials.¹⁷³

There are of course other ethical problems to be considered by scholars and scientists. More recent questions have involved, for example, publication of studies conducted without the informed consent of its trial subjects, dissemination of the results of stem-cell research and cloning, or test results suggesting that one race is intellectually inferior to another.¹⁷⁴

When it comes to global politics, the universities – which should be bastions of free speech – have turned instead into battlefields for politically-correct assaults on traditional

¹⁷² See http://en.wikipedia.org/wiki/Nuremberg_Code.

¹⁷³ See Michael Grodin, *The Nuremberg Code and Medical Research*, THE HASTINGS CENTER REPORT, May 1990 at p. 4.

¹⁷⁴ See, e.g., CHARLES MURRAY, THE BELL CURVE: INTELLIGENCE AND CLASS STRUCTURE IN AMERICAN LIFE; Editorial, *Wrongful Research*, THE BOSTON GLOBE, November 22, 2003 at p. A12; and Peter Heinlein, *UN/Cloning Debate*, VOICE OF AMERICA NEWS, November 19, 2004.

civilization. Scant attention is paid to the principle which should be applied – namely, that scientists should not be used as pawns in the arena of entrenched political debate.

Right now, the vogue in many parts of the world is Israel-bashing, which pushes academics everywhere into the thick of a bad scene. Few international political issues are black and white. But those trained to recognize that there are two sides to every story, and that reasonable minds can and do differ, nevertheless find it shocking that so many European scientists and scholars have signed on to the campaign against Israel. Those who truly value academic freedom should likewise have difficulty grasping any validity to their arguments.

Listen to the logic of Mona Baker, a prime mover in the effort to shun Israeli academics. She says that the two scholars she summarily sacked were dismissed “not because of their nationality but because of their professional association with those Israeli universities.” In other words, denying academic positions to scholars simply because they are Israelis because might be unacceptable, but firing them because they happen to teach at an Israeli university is quite all right.¹⁷⁵

Other countries, in fact, have been much more harsh on Arabs, with nary a whimper from the international community.. Jordan killed more Palestinians in a single month (an estimated four thousand, in September of 1970)¹⁷⁶ than Israel has since 1948. Kuwait expelled 300,000

¹⁷⁵ DiManno, *supra* note 196.

¹⁷⁶ See Efraim Karsh, *What Occupation?*, COMMENTARY, July-August 2002. See also Alan M. Dershowitz, *The Case Against Jordan*, JERUSALEM POST, October 7, 2003 at p. 13.

of them during the Persian Gulf War. On the other hand, no Arab country has contributed to the Palestinians' humanitarian needs nearly as much as have their primary benefactors – the United States and Israel.¹⁷⁷

One strategy against the academic boycotters that has proven successful is to take them on one by one, and expose them as racists who discriminate against people solely because of their country of origin – effectively turning the accuser into the accused. This method worked well against the Oxford professor who explicitly excluded an Israeli Ph.D. candidate.¹⁷⁸

Those pushing for academic boycotts against Israel might also be asked why, since 1948, the U.N. has passed many hundreds of resolutions censuring Israel – but not a single one condemning known terrorist organizations or states.¹⁷⁹ This, even when Israel is the only country in the Middle East with a demonstrable record of protecting traditional civil liberties

¹⁷⁷ *Thirty Trucks Loaded with Food Enter the Gaza Strip*, Infopod, GLOBAL NEWS WIRE, March 12, 2003. In addition, three truckloads of medicine and medical supplies entered the West Bank. Eighteen permits for the purpose of improving medical service in Israel and the Palestinian territories were issued.

¹⁷⁸ *See supra* note 38 and accompanying text.

¹⁷⁹ *Why Israel Distrusts the United Nations*, Church and Israel Forum, available at <http://www.churchisraelforum.com/index.html>

and nurturing a truly independent judiciary (which often rules in favor of dissenters and against the government). In addition, unlike many Moslem countries, minorities (like Israeli Arabs) are represented in the Knesset by people for whom they voted in free and open elections, and women are full participants in the country's academic life.¹⁸⁰

It remains the responsibility of educated people to answer accurately and factually the pointed questions often posed nowadays by academics and others, such as why Israel was allowed to “take” Palestinian land in 1948. (At that time Jews and Arabs were equally legal inhabitants of Palestine; the land was won in a hostile war after Arabs refused to accept a United Nations partition plan that would have created two states.) Why was Israel allowed to “occupy” Palestinian territory in 1967? (Israel captured the areas in dispute following the infamous Six Day War – which was instigated by the Arabs – but declined to annex them.) And why is Israel allowed to use its superior military might to crush poorly armed Palestinian freedom fighters? (There is no moral equivalency between terrorist suicide bombers indiscriminately murdering civilians and military responses to such attacks.)

On the other hand, perhaps the most logically pointed question of all is, why single out Israel?

No one has proposed that Chinese scholars be boycotted over what their government

¹⁸⁰See Brigitte Gabriel, *Environment of Hate: Indoctrination in the Arab World and Propaganda Advocacy in America's Universities*, Foundation for the Defense of Democracies, March 6, 2005.

is doing to the Tibetans, or Russian scholars for their actions against Chechniya, or Indonesians for their treatment of civilians in East Timor. Indeed a number of other countries today – including China, Russia, Turkey, Iraq, Spain, even France – control disputed land and rule over people seeking independence.¹⁸¹

As a critic of the divestment policy recently adopted by the United Church of Christ asked: “Are they divesting from Sudan, which is engaged in genocide? No. Are they divesting from Saudi Arabia, which engages in religious and political oppression of its citizens? No. Are they divesting from Egypt, which mistreats its Coptic Christians? No. Only Israel.”¹⁸²

If attempts at academic boycotts of Israel are confronted more effectively, their instigators may begin to be less open about their motivations. Had the Oxford professor who rejected an Israeli Ph.D. candidate been more discreet, for example, he could have ignored the application or lied about the reasons for his refusal. Such concealed boycotting is more difficult to combat. Moreover, continuing efforts to boycott Israel (academically or economically) will inevitably bring into play difficult issues such as free speech on campus, academic freedom, university autonomy, campus extremism and violence, and the

¹⁸¹ See Golan, *supra* note 5 at p. 6.

¹⁸² Carol Eisenberg, *Protestant Leaders Back Down on Israel*, NEWSDAY, July 6, 2005 at p. A45.

politicization of science.¹⁸³

Conclusion

It is the obligation of all academics everywhere either to recognize or refute claims that have no basis in fact or logic – and not to ignore them.

They should shoulder not only their responsibility to be informed and aware, but also an obligation to respond when they see logic and common sense gone awry and objective fact and documented history either ignored or denied.

Not only can offensive speech and conduct be constitutionally confronted and condemned, but responsible administrators, faculty, and students have a moral imperative to do so. Not only are the principles of academic freedom and the universality of science at stake but, ultimately, so are democratic values in a free society.

In the meanwhile, we must continue to confront those who seek to draw a distinction between anti-Semitism and anti-Zionism, and to illustrate how they are betrayed by both their rhetoric and actions. As Martin Luther King once famously wrote:

¹⁸³ *See Gerstenfeld.*

What is anti-Zionist? It is the denial to the Jewish people of a fundamental right that we justly claim for the people of Africa and freely accord all other nations of the globe. It is discrimination against the Jews, my friend, because they are Jews. In short, it is anti-Semitism. The times have made it unpopular in the west to proclaim openly a hatred of the Jews. This being the case, the anti-Semite must constantly seek new form and forums for his poison. How he must revel in the new masquerade. He does not hate the Jews, he is just ‘anti-Zionist!’”¹⁸⁴

¹⁸⁴ *Letter to an Anti-Zionist Friend, 1967*, SATURDAY REVIEW XLVII, August 1967 at p. 76, reprinted in M.L. KING, JR., THIS I BELIEVE, SELECTIONS FROM THE WRITINGS OF MARTIN LUTHER KING, JR.