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Scholarly and Scientific Boycotts of Israel: Abusing the Academic Enterprise

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SCHOLARLY AND SCIENTIFIC BOYCOTTS OF ISRAEL: ABUSING THE ACADEMIC ENTERPRISE

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 themselves to be perceived as places of culture in a chaotic world, protectors of reasoned discourse, peaceful havens for learned professors roaming orderly quadrangles and pondering higher thoughts—a community of scholars seeking 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, people who call themselves multiculturalists but, in fact, are radical social reformers pushing their own narrow and sometimes extremist political agendas. On the other hand, today, instead of being presented a bustling marketplace of ideas by professors basking in the warmth of academic freedom, students are confronted by increasingly hostile learning forums.

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Meanwhile, parents who pay the bills are largely unaware of the indoctrination of their children. Only occasionally does it come to the fore in the national psyche, and then in mere passing mention.

One such instance is 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.

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 of that year the Universities of Maryland and Massachusetts had similarly active divestment groups.²

At the same time, 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

¹ Meg Duwadi, *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. See Lauren A.E. Schuker, *With Petition, Yale Group Joins Push for Israel Divestment*, HARVARD CRIMSON, Nov. 14, 2002, at 1.

Palestinian refugees . . .” and “an end to the Israeli system of apartheid and discrimination.” Although several speakers did declare their disapproval of suicide bombing, conference organizers refused to condemn Palestinian terrorism as a tactic for achieving political goals.³

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 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, about the same time

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

⁴ Hilary Leila Krieger, *Anti-Semitic Acts Increase Worldwide Sentiment Down. But Reports Claim Numbers Are Still Lower than in Europe*, JERUSALEM POST, Apr. 6, 2005, at 6. In December of 2002, St. Cloud State University in Minnesota conceded that department administrators had tried to persuade students not to take courses taught by Jewish professors. In addition a lawsuit claimed that Jewish faculty members were paid less than others, denied promotions, and not given full credit for their teaching experience. The University settled out of court. See Associated Press, *Minnesota University Settles Anti-Semitism Case*, JERUSALEM POST, Dec. 4, 2002.

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

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 campaigns 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 use of the economic boycott has long been a tactic to make a political statement if not to 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 the practice of blacklisting individuals and groups for the ideas they espouse or actions they take can be traced back hundreds of years, the term "boycott" 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

⁶ Eugene Korn, *But Such Moral Stands Must Be Both Credible and Sound, and the*

integrated into the English language.⁷

International economic boycotts seek to inhibit buying products from a certain country. Some are unilateral, like those imposed by the United States against Cuba and Great Britain against Rhodesia. Others are international, based on the idea that cessation of all economic relations with a country that has been deemed “aggressive” will have beneficial consequences. The most prominent case of an international boycott action was that taken against the South African apartheid government⁸ which is relevant in the context of this article because Israel is often likened to apartheid in 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. When the Arab boycott against Israel was first implemented some forty years ago few foreign corporations conceded that they were avoiding Israel because they considered their connections with Arab countries more valuable. When approached by Israeli companies, they would declare that the proposed projects “did not fit their current business strategy.” Similarly, people may refuse to attend a conference in Israel or to use an Israeli supplier without revealing their true

Divestment Initiatives Are Neither, CHICAGO SUN-TIMES, Apr. 11, 2005, at 49.

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”].

⁸ DONALD L. LOSMAN, INTERNATIONAL ECONOMIC SANCTIONS: THE CASES OF CUBA, ISRAEL, AND RHODESIA 1 (1979).

⁹ See *infra* text accompanying notes 172-184.

intentions. This distinction between declared and concealed boycotts is rarely made, perhaps because the latter are among the most difficult to combat.¹⁰

Although they are branches of the same tree, economic and academic boycotts differ in several major respects. The former are accepted forms of pressure in the political and commercial arenas, even if they often don't work. However, this is not so, as we shall see later, with the academic boycotts.

A. Boycotting Jews

The Jewish people have been the objects of boycotts throughout much of their history.¹¹

In the Middle Ages, Jews throughout Europe were excluded from various guilds and professions, such as shoemaking, tailoring, barbering, or meat-cutting. They were also subjected to discriminatory taxes and restrictions on land ownership and were forced into ghettos, thereby impeding commercial involvement with the outside world. Often, they could not become citizens of the countries in which they lived. Limits were placed on the number of Jews admitted to universities—a practice which continued through the first half of the Twentieth Century.¹²

On April 1, 1933, Joseph Goebbels, the Nazi's minister of propaganda, told German citizens that they should boycott Jewish-

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

¹¹ AARON SARNA, *BOYCOTT AND BLACKLIST: A HISTORY OF ARAB ECONOMIC WARFARE AGAINST ISRAEL* (1986).

¹² *Id.*

owned businesses for one day, to counteract an American Jewish initiative to oppose Nazi anti-Jewish practices. If worldwide attacks on Germany continued after that day, he warned, “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 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 a 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 Arab League established a Central Boycott Office in Damascus, whose mission was to coordinate all Arab boycott activity.¹⁶

B. Boycotting Israel

The Anti-Defamation League identifies three types of

¹³ Anti-Defamation League, *Arabs Reactivate Economic Boycott of Israel*, available at <http://www.adl.org/israel/boycott.asp>. See Gerstenfeld, *supra* note 7.

¹⁴ United States Holocaust Memorial Museum, *Boycott of Jewish Businesses*, available at <http://www.ushmm.org/wlc/article.jsp?ModuleId=10005678>.

¹⁵ CHILL, *supra* note 10.

¹⁶ Anti-Defamation League, *supra* note 13. Western countries have applied various weapons embargos against Israel. One of the most notable was that by France after the Six-Day War; in 1969, after the French decided not to supply ships to the Israeli navy, Israel

economic boycotts that Arab states have applied over the past fifty years against Israel: *primary* (prohibiting Arab states, corporations, and individuals from any trade with Israel); *secondary* (companies worldwide that invest in Israel were blacklisted and boycotted by Arab governments); 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 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

secretly took five vessels out of the harbor at Cherbourg. See Gerstenfeld, *supra* note 7.

¹⁷ *Id.*

¹⁸ SARNA, *supra* note 11, at 16.

¹⁹ *Id.* at 21.

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

C. 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: (1) inhibit Israeli scholars from obtaining grants; (2) to persuade other institutions to sever relations with Israeli universities and faculty; (3) to convince academics not to visit Israel while not inviting Israelis to international conferences; (4) to prevent the publication of articles from Israeli scholars and refuse to review their work; (5) to deny recommendations to students who wish to study in Israel; (6) to promote divestment of Israeli securities or those of American suppliers of weapons to Israel by university foundations; and (7) to expel Jewish organizations from campus.²²

²⁰ See Gerstenfeld, *supra* note 7.

²¹ See *infra* note 169 and accompanying text.

²² See Douglas Davis, *Fears Voiced that Academic Boycott of Israel Could Endanger*

II. BACKGROUND OF THE ACADEMIC BOYCOTT AGAINST ISRAEL

A. 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 Steven Rose, director of the Brain and Behavior research Group at the Open University in London. Professor Rose called for “a moratorium on all cultural and research links with Israel until the Israeli government abided by (unspecified) [United Nations] resolutions and returned yet again to negotiations with Yasser Arafat to be conducted in accordance with the principles laid down in the latest Saudi peace plan.”²³

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 a hundred 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 seven hundred.²⁴

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 “[p]utting pressure on a state which stubbornly

Lives, JERUSALEM POST, Dec. 16, 2002, at 4.

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

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

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 scholars eligible for grants from the E.U., and that such grants should be suspended in light of Israel’s attitude toward the Palestinians.²⁵

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

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

²⁵ Uri Geller, Letter to Editor, *Ethics and Academic Boycotts*, THE GUARDIAN (London), July 11, 2002, at 19.

²⁶ See Hilary & Steven Rose, *The Choice Is to Do Nothing or Try to Bring About Change*, GUARDIAN WEEKLY, July 18, 2002, available at <http://www.guardian.co.uk/GWeekly/Story/0,3939,757273,00.html>.

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, Professor 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.²⁹ She also declared that she would 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

²⁷ *Id.* See also Ori Golan, *A Conscientious Objector*, JERUSALEM POST MAGAZINE, Jan. 17, 2003, at 6. 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. *Id.*

²⁸ See Gerstenfeld, *supra* note 7.

²⁹ JOHN D. A. LEVY, *The Academic Boycott and Antisemitism*, in *THE NEW ANTISEMITISM? DEBATING JUDEOPHOBIA IN 21ST CENTURY BRITAIN* 254 (Paul Iganski & Barry Kosmin, eds., 2002).

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.

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

Charlotte Edwardes, *Fury as Academics are Sacked for Being Israeli American Scholar Leads Condemnation of ‘Repellent’ British Action*, SUNDAY TELEGRAPH (London), July 7, 2002, at 8.

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*, SUNDAY TELEGRAPH (London), Sept. 29, 2002, at 10.

³¹ Oliver Burkeman, *Harvard Overturns Bar on Oxford Poet*, THE GUARDIAN (London), Nov. 21, 2002, at 6. See also Robin Stamler, *Paulin’s Hateful Rhetoric*, THE GUARDIAN (London), Jan. 9, 2003, at 17. For a more detailed account of the Paulin case, see *infra* note

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 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 home in the United Kingdom, he was told

163 and accompanying text.

³² Notes from interview with Miriam Schlesinger, July 27, 2003 (on file with author).

³³ Benjamin Sachs, M.D., *Europeans Mix Science and Medicine with Israeli Politics*, INDIANA JEWISH POST AND OPINION, June 11, 2003, at 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, Mar. 12, 2003.

³⁴ Ronnie Fraser, *Understanding Trade Union Hostility toward Israel and the Consequences for Anglo Jewry*, in *THE NEW ANTISEMITISM? DEBATING JUDEOPHOBIA IN 21ST CENTURY BRITAIN* 259 (Paul Iganski & Barry Kosmin, eds., 2002).

³⁵ Donald MacLeod, *Israelis under Fire*, THE GUARDIAN (London), June 25, 2002, at 9.

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*. The journal’s editor returned it with a note saying that 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

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:

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

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 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 6. See also *infra* note 175 and accompanying text.

³⁸ Professor Wilkie thus joined a number of British academics who have threatened to

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—

boycott Israel over human rights. However, after his comments were leaked, he apologized 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, Oct. 28, 2003, at 5. Professor 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*, GUARDIAN UNLIMITED, June 30, 2003; Luke Layfield, *Oxford 'Appalled' as Professor Inflames Boycott Row*, GUARDIAN UNLIMITED, July 4, 2003; Lucy Ward, *Oxford Suspends Don Who Rejected Student for Being Israeli*, GUARDIAN UNLIMITED, Oct. 28, 2003; Polly Curtis, *Suspension Not Enough for Oxford Don, Say Students*, GUARDIAN UNLIMITED, Oct. 28, 2003.

³⁹ See *supra*, note 38.

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

⁴¹ *Id.*

which proposed the official exclusion of Israeli researchers from scientific committees, conferences, 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 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

⁴² *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.” He added that the Israeli universities are “the heart of the peace.” See Benjamin Cohen, *UEJF/Paris VI: les coulisses de la mobilisation*, TOHU BOHU, no. 2, 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, Jan. 9, 2003.

⁴³ See Golan, *supra* note 5.

⁴⁴ Michel Gurfinkiel, *France’s Jewish Problem*, JERUSALEM POST, July 5, 2002, at 9B.

included the statement that “my conscience doesn’t permit me to collaborate with official Israeli institutions, including universities.”⁴⁵

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”), an anonymous phone-call threatened 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 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

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, Feb. 8, 2003 (cited by Gerstenfeld, *supra* note 7). See also Leila Moseley & Rana Foroohar, *Boycotts: Cracking Down on Israel?*, NEWSWEEK, July 15, 2002, at 8.

⁴⁶ Sharon Sadeh, *Death Threats against Pro-Israel Activists on Brussels Campus*, HA'ARETZ, Dec. 22, 2002.

⁴⁷ The motion was withdrawn. See Gerstenfeld, *supra* note 7.

⁴⁸ Peter Finn, Germany, *In Protest, Suspends Arms Sales to Israel*, WASHINGTON POST, Apr. 10, 2003, at 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 & Matthew Taylor, *Lecturers Vote to Boycott Israeli Universities*, THE GUARDIAN (London), Apr. 23, 2005, at 1.

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 A14; *Nearly 20,000 Protesters Took Part in Anti-Israel Demonstration in London*, RIA NOVOSTI, Apr. 13, 2002.

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

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

⁵⁰ See Patrick Lawnham, *Academics Split on Israel Sanctions*, AUSTRALIAN NEWSPAPER, May 22, 2002, at 4; see also Mark Schulman, *News in Brief*, JERUSALEM POST, May 26, 2002, at 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 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.

Editorial, *Academic Boycott Like Book Burning*, AUSTRALIAN NEWSPAPER, May 23, 2002, at 10.

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-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 dare not openly support Israel or otherwise manifest their 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 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

⁵¹ Melissa Radler, *Concordia University Hillel Banned by Student Union*, THE JERUSALEM POST, Dec. 8, 2002, at 2. See also *Judge Grants Injunction Against Mideast Talk at Canadian University*, JERUSALEM POST, Nov. 17, 2002, at 4; Bram Eisenthal, *Pro-Arab Body at Montreal School Shuts Campus Hillel over Israel Flier*, JEWISH TELEGRAPHIC AGENCY, Dec. 6, 2002.

⁵² Bram Eisenthal, *Canadian Jewish Students Scared? Ad in Newspaper Fuels a New Debate*, JEWISH TELEGRAPHIC AGENCY, Dec. 24, 2002. See also Jenny Hazan, *Israel Welcomes New Wave of 'Birthright,'* JERUSALEM POST, Dec. 29, 2002, at 3.

⁵³ See Hilary Rose & Steven Rose, *Sanctions Can Work . . .*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005, at 14.

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 and surrounded a group of Jewish students and community members, shouting “[g]et 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

⁵⁴ Andrew Wallenstein, *Big Matter on Campus*, HADASSAH MAGAZINE, Aug./Sept., 2002, at 29.

⁵⁵ Abraham H. Foxman, Letter to the Editor, *Jews Target of Hate*, NAT’L L. J., Sept. 30, 2002, at A21. See also Abraham Foxman, *Divestment Equals Anti-Semitism*, 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, Jerusalem Center for Public Affairs, Nov. 13, 2002, <http://www.jcpa.org/phas/phas-berman2.htm>.

⁵⁷ John Podhoretz, *Hatefest by the Bay*, N.Y. POST ONLINE, May 14, 2002, <http://www.nypost.com/seven/05142002/postopinion/opedcolumnists/47871.htm>.

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

Divestment was the primary 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's web-site declared 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." Organizers of the conference further claimed Israel is currently in violation of "more United Nations resolutions about human rights and international law than any other state in the world."⁵⁹

B. 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,

⁵⁸ Richard Lacayo, *A Campus War over Israel*, TIME MAGAZINE, Oct. 7, 2002, at 63.

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

⁶⁰ Bill Speirs, *More Splits over the Academic Boycott of Israel*, THE GUARDIAN (London), July 17, 2002, at 21.

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 intellectually and morally bankrupt,” adding that “excluding 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

⁶¹ Geoffrey Alderman, *The Gesture Politics of an Israel Boycott*, GUARDIAN UNLIMITED, 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*, GUARDIAN UNLIMITED, July 17, 2002, at 5. See also Staff and agencies, *Morris Condemns Israeli Sacking*, GUARDIAN UNLIMITED, July 11, 2002.

⁶² Charlotte Edwardes, *Fury as Academics are Sacked for Being Israeli, American Scholar Leads Condemnation of ‘Repellent’ British Action*, SUNDAY TELEGRAPH (London), July 7, 2002, at 8 (quoting Sidney Greenblatt).

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

⁶⁴ Francis Elliott & Catherine Milner, *Blair Vows to End Dons’ Boycott of Israelis Prime Minister ‘Appalled’ by Discrimination Against University Academics*, DAILY TELEGRAPH

big name to challenge the proponents of divestment. “Serious and thoughtful people,” he said publicly, “are advocating 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, 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

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

(London), Nov. 17, 2002, at 16.

⁶⁵ Lawrence H. Summers, “Address at Morning Prayers,” <http://www.ajc.org> (last visited Sept. 17 2002). See also Edward Alexander, *Pushing Divestment on American Campuses*, JERUSALEM POST, May 12, 2004, at 13. In November of 2002, seventy U.S. medical professors, of whom twelve were from Harvard, held an international conference in Jerusalem to protest the divestment campaign and other anti-Israel activities on American campuses. Judy Siegel-Itzkovich, *70 US Medical Professors Coming to Protest Divestment*, JERUSALEM POST, Nov. 19, 2002, at 5.

⁶⁶ University of Pennsylvania Almanac, available at <http://www.upenn.edu/almanac/v49/n09/divestment.html>.

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, opposed the demand on his campus that Columbia divest from all companies that produce or sell 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

Baroness Susan Greenfield, a pharmacology professor at Oxford and head of the Royal Institution of Great Britain, led opposition to the first British boycott. “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 dialogue with them [as] the best way to bring them back to negotiations.”⁷⁰ In early May, the New York Academy of Sciences’ human rights committee condemned the proposed moratorium on grants and contracts with research institutions in Israel, declaring that the “proposed

⁶⁷ Daniel Fichter & James Kirchick, *The Truly Extremist Side of Divestment*, YALE DAILY NEWS, Nov. 18, 2002, available at <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> (Nov. 7, 2002); see also Jacob Gershman, *Bollinger Opposed to British Boycott*, N.Y. SUN, May 3, 2005, at 3.

⁶⁹ Fishkoff, *supra* note 40, at 2.

⁷⁰ Press Release, N.Y. Acad. of Sciences, “EU Commissioner for Research Philippe Busquin replies to call for boycott on scientific and cultural relations with Israel,” Apr. 25,

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 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

Hebrew University created a web site to support of academics opposed to the boycott. By June 2003, 15,000 academics from all over the world had signed the anti-boycott petition. Similar initiatives

2002.

⁷¹ Press Release, N.Y. Academy of Sciences, “NY Academy of Sciences Committee on Human Rights Opposes Proposed ‘Moratorium’ on Research Grants to Israel,” May 3, 2002.

⁷² For a detailed analysis of this case, see Gerstenfeld, *supra* note 7.

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

were also taken elsewhere, including in Australia and the U.S.⁷⁴ The European council of Ben-Gurion University issued 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, 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 international scientific meetings in Israel, to promote worldwide understanding and appreciation of Israeli scientific and academic achievements, and to create research fellowships in the U.S. for both 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

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

⁷⁵ Douglas Davis, *Two Nobel Winners Fight Anti-Israel Boycott*, JERUSALEM POST, July 21, 2002, at 2.

⁷⁶ See generally *International Academic Friends of Israel*, www.iafi-israel.org/iafi4.html (last visited March 1, 2006). See also Will Woodward, *Lecturers Reject Call to Boycott*

policies. Dr. Toury of Tel Aviv University was somewhat more terse, saying that he “would appreciate it if the announcement made it clear that ‘he’ . . . was appointed as a scholar and unappointed as an Israeli.”⁷⁷

C. 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 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

Israel, THE GUARDIAN, May 10, 2003, at 5.

⁷⁷ Suzanne Goldenberg & Will Woodward, *Israeli Boycott Divides Academics: Sackings on Two Obscure Journals Fuel Debate on Cooperation with Universities*, THE GUARDIAN (London), July 8, 2002, at 4.

⁷⁸ Carol Eisenberg, *Protestant Leaders Back Down on Israel*, NEWSDAY, July 6, 2005, at A45. Why single out Israel? See *infra* note 220 and accompanying text. See also Lizette Alvarez, *Professors in Britain Vote to Boycott 2 Israeli Schools*, NEW YORK TIMES, May 8, 2005, at 118.

⁷⁹ See Alvarez, *supra* note 78. See also Sam Ser, *Now United Church of Christ Mulls Divestment*, JERUSALEM POST, July 1, 2005, at 5.

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

The AUT recognized his claim that in May of 2002 the

⁸⁰ See generally *id.*

⁸¹ See Alvarez, *supra* note 78; Mati Wagner, *Diaspora Jews Launch Grassroots Campaign Against Academic Boycott*, JERUSALEM POST, May 19, 2005, at 5. See also, Hasdai Westbrook, *Is This Any Way for Scholars to Behave?*, WASHINGTON POST, May 15, 2005, at B3 (“‘This is a call for ending the occupation,’ Pappé told [Westbrook, the author of the Washington Post article] by e-mail—‘an anti-colonialist and anti-apartheid struggle’ against Israel, which ‘became a state at the expense of the indigenous population of Palestine.’”). Talya Halkin, *A Rumbling Dispute About Truth in Academe*, JERUSALEM POST, May 16, 2005, at 1 (stating “[i]n an interview with The Jerusalem Post a few days ago the university’s Ilan Pappé a senior lecturer in the department of political science complained bitterly about the conference which he said was being held under the title ‘The Arabs as a Demographic Problem in Israel.’ He said he had ‘told his Arab students that they are a demographic problem and they now have to be careful because the Jews don’t like demographic problems.’”).

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

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

⁸² See Alvarez, *supra* note 78, at 118 (noting that the thesis in question had been examined by a university panel, which concluded that charges of massacring Palestinians made against Israeli soldiers were not substantiated in the thesis). But see Richard Bartholomew, Letter to the Editor, *Ethics and Academic Boycotts*, THE GUARDIAN, July 11, 2002, at 19 (ignoring the fact that the premise of the thesis was false). See also Halkin, *supra* note 81 (discussing that although the AUT resolution was limited to the accusations noted above, according to Pappe, the case contained two other principal issues "[t]he first he said is the treatment of Arab students, while the second 'is the closing down of the theater department because it put on political plays.'"). However the article later notes that "several sources at the university, including the dean of the Faculty of the Humanities and the chair of the theater department, told the [Jerusalem] Post that the theater department had never closed down and is active." Matthew Taylor, *Israeli Threat to Sue Union Over College Boycott*, THE GUARDIAN (London), May 12, 2005, at 4 (discussing that the University of Haifa whose student body consists of many Arab-Israeli citizens, threatened to sue the AUT, claiming allegations against it were untrue and defamatory). See also Fania Oz-Salzberger, *Israelis Need Not Apply*, WALL STREET JOURNAL, May 8, 2005; Phil Baty, *Haifa Threatens AUT With Legal Action*, THE TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005 No. 1691, at 5.

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.

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

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

⁸³ The petition was signed by 542 academics from around world (on file with author). See also Deirdre Fernand, *Why I Want to Boycott Israel*, LONDON TIMES, May 8, 2005, at 6. See also David Seddon & Martha Mundy, *Why We Support the Israeli University Boycott*, 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

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

INDEPENDENT, May 12, 2005, at 3.

⁸⁴ See Rose, *supra* note 53. 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 (on file with author).

⁸⁵ Taylor, *supra* note 82.

⁸⁶ Letter from The Academic Friends of Israel, Apr. 5, 2005 (on file with author). Professor 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 78. Professor Blackwell’s website is said to contain anti-semitic links (e.g., linking Israel to 9/11 attacks). See Fernand, *supra* note 83. See also Baty, *supra* note 82. According to a *Times Higher Education Poll*, the AUT’s boycott was supported by only 16% of students, and “41 per cent of students feel that British academic institutions should not ‘boycott their Israeli counterparts,’ while 16% said they should, and 42% ‘don’t know.’” *Id.*

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 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:

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

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

⁸⁷ Alvarez, *supra* note 78.

⁸⁸ Wagner, *supra* note 81.

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-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

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

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

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 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 embargo⁹⁵—

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

⁹² Polly Curtis & Matthew Taylor, *Academics May End Israel Boycott*, THE GUARDIAN, May 24, 2005, at 5.

⁹³ Mason Inman, *Boycott of Israeli Universities Overturned*, 308 SCIENCE MAGAZINE, at 1397-3 (June 3, 2005).

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

⁹⁵ *For The Record: The AAUP Opposes Academic Boycotts*, ACADEME, July/Aug. 2005, available at <http://www.aaup.org/statements/REPORTS/boycotts.htm>.

interpreting its academic-freedom principles to forbid academic boycotts based on national origin. The freedom to teach must include the right to interact with other scholars wherever such interaction would advance the pursuit of knowledge.⁹⁶ Others called for an American boycott of British universities (“The only answer to a slap in the face is a kick in the teeth.”).⁹⁷ The National Union of Students in England came out full-force in opposition to the academic boycott, labeling it “inherently racist.”⁹⁸

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 . . .

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 viewed. 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.

See also Aisha Labi, *British Scholars Seek to Overturn Faculty Union's Boycott of Israeli Universities*, CHRONICLE OF HIGHER EDUCATION, May 13, 2005, at 41; Roger Bowen, Letter to the Editor, *Scholarly Exchange Should Be Protected*, NEW YORK TIMES, May 13, 2005, at A22.

⁹⁶ Marc Stern, *Academic Freedom – An American Viewpoint: The Elusive and Unenforced Search for Balance*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm.

⁹⁷ Sidney Zion, *Anti-Semites Are Cruising for a Bruising*, NEW YORK DAILY NEWS, May 12, 2005, at 39.

⁹⁸ Rosie DiManno, *Muzzlers of Academic Free Speech Unfit to Teach*, TORONTO STAR, Jan. 29, 2003, at A02.

collaborations—and encouraging their institutions to do the same.”⁹⁹

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.”¹⁰⁰ In conjunction with the American Society of the University of Haifa, the AJC established an Anti-Boycott Fund.¹⁰¹

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.¹⁰²

In late January the newly formed International Advisory Board for Academic Freedom held its first annual conference at Bar-Ilan University outside of Tel Aviv. There a wide variety of well-known academics, all sympathetic to Israel’s position on the issue, addressed ongoing attempts to boycott Israeli scholars and universities to the still active dissemination of the *Protocols of the Elders of Zion* as proof that the Jewish goal of world domination

⁹⁹ Opinion, *Don’t Boycott Israel’s Scientists*, NATURE, May 2, 2002, at 417.

¹⁰⁰ See *AJ Congress Teams With International Academic Friends of Israel to Highlight Israeli Academic Achievement and Crush Calls for Academic Boycott of Israel*, PR Newswire, May 2, 2005.

¹⁰¹ *American Jewish Committee Launches Fund to Fight Anti-Israel Boycott*, U.S. NEWswire, May 17, 2005.

continues unabated.¹⁰³

In February the American Association of University Professors announced that it had postponed a conference on academic boycotts in Bellagio, Italy, when more than a third of those invited were found to publicly support boycotts of Israeli universities.¹⁰⁴

Another decisive revelation was that one of the papers distributed prior to the conference was an anti-Semitic article by a Holocaust denier. Entitled “The Jewish Declaration of War on Nazi Germany: The Economic Boycott of 1933,” the article appeared in a journal of revisionist history, and stated that Hitler’s actions against the Jewish people were “a defensive . . . measure” in response to Jewish leaders’ call for an economic boycott of Germany.¹⁰⁵

Professor Gerald Steinberg, who chaired the Bar Ilan conference, said that “by inviting some of the most virulent supporters of boycotts and sanctions, the AAUP conference would have turned into another ideological effort to place Israel on trial. The contrast between the proclaimed objectives designed to explore the issue of academic freedom, and the preponderance of obsessive anti-Israel activists, was untenable. To their credit, the funding agencies (the Ford and Rockefeller Foundations) recognized this contradiction [which] would have reiterated the slogans and agenda

¹⁰² *Id.* See also Rose, *supra* note 84.

¹⁰³ International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, first annual conference, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm. See also Gerald M. Steinberg, *Keep the Channels of Intellectual Communication Open*, JERUSALEM POST, Jan. 24, 2006, at 16.

¹⁰⁴ Talya Halkin, *Academic Boycotts Conference Put Off*, JERUSALEM POST, Feb. 9, 2006.

¹⁰⁵ Robin Wilson, *After Accidentally Distributing Anti-Semitic Article, AAUP Postpones Meeting on Boycotts*, CHRONICLE OF HIGHER EDUCATION, Feb. 10, 2006, at 13.

of the 2001 Durban conference” that renounced Israel as a racist state.¹⁰⁶

Meanwhile, the Anglican Church of England voted to end financial investments in companies supporting Israel’s occupation of Palestinian territories. “The decision was well-received by many Former Anglican Archbishop Desmond Tutu, a South African activist and Nobel Prize winner, is vocal champion of Palestinian rights,”—comparing life under occupation to his own experiences living under apartheid life in the Occupied Territories.¹⁰⁷

Former Archbishop of Canterbury Lord Carey claimed to be “ashamed to be an Anglican,” charging that it “ignores the trauma of ordinary Jewish people” in Israel subjected to “terrorist attacks.” The Anti-Defamation League called it a “moral outrage.”¹⁰⁸

Later, a group representing some of Britain’s most prominent architects considering calling for an economic boycott of Israel’s construction industry in protest at building of Israeli settlements and the separation barrier in the Occupied Territories. The main target of the plan will be Caterpillar, whose machines have been used to demolish Palestinian homes; Caterpillar says the U.S. military sold them to Israel, but Church of England only aims to sell LL2.5m shares anyway. “The meeting discussed boycott of Israel—targeting Israeli-made construction materials and Israeli architects and construction for companies—as well as possibly calling for the

¹⁰⁶ Halkin, *supra* note 104.

¹⁰⁷ Will Youmans, *Church of England Votes to Divest from Israel*, PALESTINE CHRONICLE, Feb. 10, 2006, available at <http://palestinechronicle.com/story.php?sid=02100623044>.

¹⁰⁸ *Id.*

expulsion of Israeli architects from the International Union of Architects.”¹⁰⁹

“Architecture and planning,” said Professor Steven Rose, who led the academic boycott of Israel, “are an integral part of the racist apartheid state.”¹¹⁰

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, many more scholars the world over signed petitions in opposition.¹¹¹

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

¹⁰⁹ Oliver Duff, Rob Sharp & Eric Silver, *Architects Threaten to Boycott Israel Over 'Apartheid' Barrier*, THE INDEPENDENT ONLINE EDITION, Feb. 10, 2006, available at http://news.independent.co.uk/world/middle_east/article344510.ece.

¹¹⁰ *Id.*

¹¹¹ Manfred Gerstenfeld, *Anti-Semitic Motifs in Anti-Israelism*, POST-HOLOCAUST AND ANTI-SEMITISM, No. 2, November 1, 2002, jcpa.org/phas/phas-2.htm.

teacup,” says one Oxford professor.¹¹²

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.¹¹³ 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 the Universality of Science, they pointed out, “entails freedom of association and expression, access to information, and freedom of communication and movement in connection with international scientific activities without any discrimination on the basis of such factors as citizenship, religion, creed, political stance, ethnic origin, race, colour, language, age or sex.”¹¹⁴ It allows all academics, particularly scientists, to pursue their work without being discriminated against on illegitimate grounds, such as on nationality.¹¹⁵

¹¹² Golan, *supra* note 5, at 6.

¹¹³ Goldenberg, *supra* note 77, at 4.

¹¹⁴ Colin Blakemore et al., *Is A Scientific Boycott Ever Justified?*, 421 *NATURE*, Jan. 23, 2003, at 314. See also Golan, *supra* note 5, at 6.

¹¹⁵ As promulgated by the International Council of Scientific Unions (ICSU), which was founded as an umbrella group for all the national academies of science in the world, the principle of the Universality of Science is fundamental to scientific progress. This principle embodies freedom of movement, association, expression and communication for scientists as well as equitable access to data, information and research materials. In pursuing its objectives in

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.¹¹⁶

The value of any contribution to science should be judged on its own merits, rather than on the basis of any characteristics of the individual contributor. Therefore, the exclusion of scholars and scientists solely because of their 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

respect of the rights and responsibilities of scientists, the ICSU actively upholds this principle, and, in so doing, opposes any discrimination on the basis of such factors as ethnic origin, religion, citizenship, language, political stance, gender or age.

The principle thus differs somewhat from academic freedom, which seeks to guarantee that people working in universities be entitled to choose topics of their research, and to publish results of research even if unpopular or contrary to accepted opinion. Michael Yudkin, *The Principle of the Universality of Science*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm.

¹¹⁶ *Id.* See also Letter from Colin Blakemore et al, JERUSALEM POST, Jan. 10, 2003, at 8.

who has close ties with so many of us, chose to sign this petition, was met with a sense of outrage and 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.¹¹⁷

The much ballyhooed quest for “balanced” presentations raises problems of its own. How much balance is required under this implied and explicit obligation? What of truly radical positions with racist overtones? Must Holocaust studies be balanced by Holocaust denial? To what extent can evolution be balanced by “intelligent design?” Does the obligation toward balance cover every point taught in a course, or only major disputes? Who is to enforce the norm? Where will the time come from to ensure balance?¹¹⁸

¹¹⁷ See Gerstenfeld, *supra*, note 7.

¹¹⁸ Stern, *supra* note 96.

The legal roots of modern academic freedom date to the early Twentieth Century, when the widow of the founder of Stamford University (and its sole trustee) successfully demanded the discharge of a faculty member whose views outside of the classroom on economic issues she deemed too progressive. The firestorm of protest that ensued led to the formation of the AAUP and its 1915 statement on academic freedom.¹¹⁹

In *Sweezy v. New Hampshire*, a professor at the public University of New Hampshire, who resisted an investigation into several of his lectures, was charged with contempt of the legislature. The Supreme Court held that the investigation was unconstitutional. Justices Frankfurter, concurring, wrote about the four pillars of academic freedom:

It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail “the four essential freedoms” of a university—to determine for itself on academic grounds whomay teach, what may be taught, how it shall be taught, and who may be admitted to study.¹²⁰

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

¹¹⁹ *Id.*

¹²⁰ 354 U.S. 234, 263 (1957). Stern, *supra* note 96 (“It is incumbent on friends of Israel to expose and combat irrational, hardcore anti-Israel sentiment—some of it anti-Semitic—where it exists. But jettisoning academic freedom is not a sound way to deal with a problem

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.

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.¹²¹ 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.¹²²

“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

that is not yet out-of-control, and can be remedied in other ways.”).

¹²¹ Goldenberg, *supra* note 77, at 4.

¹²² Douglas Davis, *Fears Voiced that Academic Boycott of Israel Could Endanger Lives*, JERUSALEM POST, Dec. 15, 2002, at 4.

¹²³ Westbrook, *supra* note 81, at B3.

academia.”¹²³

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.¹²⁴ 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.¹²⁵

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 hard-line 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

¹²⁴ See *id.* See also Israel Academia Monitor, available at <http://israel-academia-monitor.com>.

¹²⁵ Andrea Peyser, *Israeli Researchers Hit by Misguided Backlash*, NEW YORK POST, Apr. 25, 2003, at 28.

freedom. If scholars don't take the principle of academic freedom seriously, then why should anyone else? ¹²⁶

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.¹²⁷

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

¹²⁶ Westbrook, *supra* note 81 at B3 (quoting Professor Jeffrey Weintraub).

¹²⁷ Gerald M. Steinberg, *Boycotting the Jews*, WALL STREET JOURNAL, Apr. 30, 2005, at A8.

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.¹²⁸

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 (Mossad) in order to distract attention from what Israel is doing at home.¹²⁹

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,

¹²⁸ John W. Whitehead, *Eurabia: The Euro-Arab Axis. An Interview with Bat Ye'or*, OLDSPEAK, June 9, 2005, available at <http://rutherford.org/oldspeak/blog/articles/interview/bat-yeor.html>. See also Editorial, *Don't Boycott Israel's Scientists*, NATURE, May 2, 2002, at 417.

¹²⁹ *Mossad Behind Attacks on French Synagogue: French Activist*, MIDDLE EAST NEWS ONLINE, Apr. 29, 2002; *ADL Condemns Iranian Report Blaming Israeli Mossad for*

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 currently gives over \$10 million a month to the Palestinian Authority, even though it is clear that much of the money is funneled into training Islamic terrorists and importing weapons of mass murder.¹³⁰

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 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.”¹³¹

¹³⁰ ‘Organizing’ Attacks Against Jews in France, U.S. NEWswire, May 2, 2002.

¹³⁰ See, e.g., Rob Borsellino, *Conservatism Is In the Air(waves)*, DES MOINES REGISTER, Nov. 17, 2003, at 2A.

¹³¹ Ben Lynfield, *British Boycott Riles Israeli Academics*, CHRISTIAN SCIENCE MONITOR, May 12, 2005, at 6 (quoting columnists Alexander Yacobson & Mark Regev). See also Westbrook, *supra* note 81, at B3

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% more than in 2003, and the highest total since records began in 1984.¹³²

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

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.

¹³² Phil Baty, *NATFHE Tackles Rise of Racism*, TIMES HIGHER EDUCATION SUPPLEMENT, May 13, 2005, at 5.

¹³³ Abraham M. Foxman, *Britain's Jewish Problem*, NEW YORK SUN, May 18, 2005, at 9.

of racially-inspired anti-Semitism.¹³³

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 elsewhere is influenced by events in the Middle East.”¹³⁴

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.”¹³⁵

A. 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

¹³⁴ *Id.* See also Yossi Alpher, *Boycott Verges on Anti-Semitism*, DAILY STAR, May 23, 2005, available at http://www.dailystar.com.lb/article.asp?edition_ID=10&article_ID=15298&categ_id=5.

¹³⁵ Emanuele Ottolenghi, *Why Can’t They “Just Get Along”?*, NATIONAL REVIEW ONLINE, May 2, 2005. See also Abraham Cooper & Harold Brackman, *Divest Them of Their Prejudice*, NATIONAL POST, June 5, 2005; Alexander H. Joffe, *Academics Against Israel*, FRONTPAGE MAGAZINE, June 1, 2005 available at <http://www.frontpagemag.com/Articles/Printable.asp?ID=18251>.

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.”¹³⁶ So, indeed, 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.¹³⁷

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.¹³⁸ The reasons for that racism, however, which have been examined at length and treated in depth elsewhere,¹³⁹ are harder to fathom. They range broadly from envy¹⁴⁰ and religious intolerance¹⁴¹ to resentment¹⁴² and Judaism itself.¹⁴³

¹³⁶ See Patrick Healy, *Summers Hits ‘Anti-Semitic’ Actions*, BOSTON GLOBE, Sept. 20, 2002, at A1 (quoting Peter Ashton, a research professor of forestry).

¹³⁷ Many other contemporary scholars have noted that there is very little difference between anti-Semitism and anti-Zionism. See, e.g., David Hirsh, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm. See also *infra* note 135 and accompanying text.

¹³⁸ 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 30% of respondents believe that Jews have too much power in the business world. While 42% 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 6. See, Press Release Anti-Defamation League, *ADL Survey in 12 European Countries Finds Anti-Semitic Attitudes Still Strongly Held*, Jun. 7, 2005, available at http://www.adl.org/PresRele/ASInt_13/4726_13.htm.

¹³⁹ See, e.g., Gil Troy, *The New Anti-Semitism: Series of Books Look at the Reinvention of An Ancient Scourge*, NEWS & OBSERVER, July 11, 2004, at G4.

¹⁴⁰ See, e.g., Stephanie Simon, *Anti-Semitism on Upswing in Former Soviet Republics*, CHICAGO SUN-TIMES, June 12, 1992, at 25.

¹⁴¹ See, e.g., Shmuly Boteach, *The Gospel Untruth*, JERUSALEM POST, Nov. 13, 2003, at 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*.

¹⁴² See, e.g., Richard John Neuhaus, *Bach, Hitler, and the People Called German*, FIRST

Indeed the Jewish professors, who condemn Israel, although they are relatively few in number, are an especially troubling breed. Professor 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 happens in world events, Jews must always be perceived as humane and peace-loving. Another way of characterizing this view is that Jews are acceptable only as victims.¹⁴⁴

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.¹⁴⁵ 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

THINGS: A MONTHLY JOURNAL OF RELIGION AND PUBLIC LIFE, Nov. 1, 2004, at 66 (citing STEVEN OZMENT, *A MIGHTY FORTRESS: A NEW HISTORY OF THE GERMAN PEOPLE* 277 (Harper Collins 2004) (2004)) (noting resentment that Jews, less than 1% of the population, occupied so many places in the elite professions).

¹⁴³ See DENNIS PRAGER & JOSEPH TELUSHKIN, *WHY THE JEWS? THE REASON FOR ANTI-SEMITISM* (Simon and Schuster) (1983).

¹⁴⁴ 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.

¹⁴⁵ Christopher Caldwell, *Liberte, Egalite, Judeophobie: Why Le Pen Is the Least of France’s Problems*, THE WEEKLY STANDARD, May 6, 2002, at 20.

oppressor—nowadays personified by Israel’s Prime Minister Ariel Sharon.¹⁴⁶

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.¹⁴⁷

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 of civilians.¹⁴⁸

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

¹⁴⁶ See Gerstenfeld *supra*, note 7.

¹⁴⁷ Leslie Scrivener, *Sharp Increase Seen in Anti-Semitic Hate*, TORONTO STAR, Mar. 7, 2003, at A2. The Canadian B’nai B’rith reported a 60% 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.*

¹⁴⁸ *Id.* See also GORDON W. ALLPORT, THE NATURE OF PREJUDICE (Addison-Wesley Publishing Co. 1979) (1954), at 147. Some Jewish professors who signed the original boycott petition change their minds upon deeper reflection. See, e.g., analysis of the case of

other countries.¹⁴⁹

In Israel itself, besides the aforementioned Professor Pappe 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.”¹⁵⁰ Some left-wing Israeli organizations often operate in concert with the Arabs in anti-Israel boycott campaigns.¹⁵¹

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.¹⁵² 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

Peter Fonagy, discussed *supra* at 39.

¹⁴⁹ *Id.* See also Abigail Radoszkowicz, *An Ancient Evil Stirs*, JERUSALEM POST MAGAZINE, Jan. 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.*

¹⁵⁰ Tanya Reinhart, *The Penal Colonies*, available at http://www.nthposition.com/politics_boycott.html (last visited May 17, 2002).

¹⁵¹ Institute of the World Jewish Congress, “The Revival of the Arab Boycott - Round Two,” *Policy Dispatch*, no. 59, Mar. 2001, available at http://www.worldjewishcongress.org/instwjc_dispatch/html#.

¹⁵² See Kenneth Lasson, *Incitement in the Mosques: Testing the Limits of Free Speech and Religious Liberty*, 27 WHITTIER L. REV. 3 (2005).

whose funding comes from the United Arab Emirates).¹⁵³ In one incident, Professor 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.”¹⁵⁴ He allegedly yelled at a Jewish student, “I will not have anybody here deny Israeli atrocities.”¹⁵⁵ 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.¹⁵⁶

Such anti-Israel faculty are often joined by Leftists, including Jews, who may characterized both Israel and America as oppressive colonial powers, and who in turn blame Israel for inviting Arab aggression against it.¹⁵⁷

There is something seriously awry in the academy when Harvard University—which rejects (perhaps rightly so) military recruiters on campus because of their discriminatory policy against

¹⁵³ See Editorial, *Farrakhan for Columbia?*, NEW YORK SUN, Jan. 10, 2005, at 8.

¹⁵⁴ Brigitte Gabriel, *Environment of Hate: Indoctrination in the Arab World and Propaganda Advocacy in Americas University Classrooms*, Foundation for the Defense of Democracies, Mar. 6, 2005, available at http://www.defenddemocracy.org/research_topics/research_topics_show.htm?doc_id=267593.

¹⁵⁵ Uriel Heilman, *Columbia to Check Anti-Israel Bias Charge*, JERUSALEM POST, Oct. 31, 2004, at 2. See also Douglas Feiden, *Vile Words of Hate that Shame Top University*, DAILY NEWS (New York), Nov. 21, 2004, at 4; Daniel Pipes & Jonathan Calt Harris, *Columbia's Self-Hating Americans*, JERUSALEM POST, Apr. 2, 2003, at 7.

¹⁵⁶ See Notebook: *Not-So-Academic Debate*, NEW REPUBLIC, Jan. 24, 2005, at 8; Editorial, *The Bollinger Committee*, NEW YORK SUN, Dec. 10, 2004, at 14.

¹⁵⁷ Ruth R. Wisse, *Israel on Campus*, WALL STREET JOURNAL, Dec. 13, 2002, at 16.

homosexuals, and which excoriates (perhaps rightly so) its own president for questioning why there are not more women scientists—accepts gratefully a \$20 million gift from Saudi Arabia to establish a program for better understanding of Islamic culture. This is the same Saudi culture that still punishes homosexuals with severe beatings and imprisonment, and still refuses women the right to vote, wear modern clothes, or even drive automobiles—much less participate as equals in university life.¹⁵⁸

Even more disconcerting was the anti-Israel “research paper” published online by John Mearsheimer, Dean of the Kennedy School of Government at Harvard, and Stephen Walt, a leading political scientist at the University of Chicago, entitled, *The Israel Lobby and U.S. Foreign Policy*. Mearsheimer and Walt argue that over the past half-century Israel’s advocates have pressured America into an unwarranted alliance with the Jewish State which has put the United States in peril. What’s startling is not only that this theory which has been widely disseminated by committed anti-Zionists for many years and roundly debunked by both mainstream politicians and scholars, has gained strength in the academic establishment—but that the new paper is so riddled with clear factual errors and faulty logic.¹⁵⁹

¹⁵⁸ See Richard L. Cravatts, Ph.D., *Harvard’s Challenge: Accepting Donations with Ethical Strings Attached*, Dec. 30, 2005, <http://www.intellectualconservative.com/author/richard-l-cravatts-phd/>. Georgetown University has gone the same route. See Steven Stalinsky, *A Saudi Prince’s Indecent Proposal*, NEW YORK SUN, Dec. 21, 2005, at 5; Abby Wisse Schachter, *Perfidious Princes Teaching Tolerance*, NEW YORK POST, Dec. 18, 2005, at 29.

¹⁵⁹ See, e.g., Alex Safian, Ph.D., *Study Decrying ‘Israel Lobby’ Marred by Numerous Errors*, COMMITTEE FOR ACCURACY IN MIDDLE EAST REPORTING IN AMERICA, Mar. 20, 2006, available at http://www.camera.org/index.asp?x_print=1&xcontext=7&x_issue=35&x_article=1099 (last visited Apr. 18, 2006); Eliot Cohen, *Yes, It’s Anti-Semitic*, WASHINGTON POST, Apr. 5, 2006; Editorial, *In Dark Times, Blame the Jews*, VI ISRANET BRIEFING 1338,

There is a negative side to multi-culturalism, which in its pure politically-correct form teaches that all cultures are equal. In the modern context, multi-culturalism values equally the worst attributes of Muslim culture—such as the subjugation of women. But some cultures *are* superior to others in terms of justice and equality. The ultimate sin of multi-culturalists is the *rejection* of western values—that is, their *exclusion* from the required curricula (e.g., at many universities English Literature majors no longer have to take a course in Shakespeare, ostensibly because he is a dead white European male). What's wrong with *preferring* them?

The rhetoric emanating from those who would condemn Israel serves to dilute language and meaning. These may be “[s]erious and thoughtful people,” said Harvard President Lawrence Summers, but they “are advocating and taking actions that are anti-Semitic in their effect if not their intent.”¹⁶⁰

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.

Mar. 24, 2006, <http://www.isranet.org/>. The paper was so thoroughly and widely criticized that Harvard quickly sought to distance itself from its sponsorship. See Charles Radin, *Harvard Posts Rebuttal to Paper*, BOSTON GLOBE, Apr. 6, 2006.

¹⁶⁰ See *supra* note 65 and accompanying text. See Lawrence H. Summers, *Address at Morning Prayers*, <http://www.ajc.org>, Sept. 17, 2002, at 22. See also Edward Alexander, *Pushing 'Divestment' on US Campuses*, JERUSALEM POST, May 12, 2004, at 13.

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.”¹⁶¹

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 “[u]niformed . . . 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 and cultural origins as the mirror image of Nazism.”¹⁶²

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.¹⁶³

At the end of 2004, the English department of Harvard University invited Tom Paulin, a faculty member at Oxford, to give a lecture. In an interview with the Egyptian paper *Al-Ahram*, Paulin

¹⁶¹ Charlotte Edwardes, *Fury as Academics are Sacked for Being Israeli American Scholar Leads Condemnation of ‘Repellent’ British Action*, SUNDAY TELEGRAPH (London), July 7, 2002, at 8.

¹⁶² See Harrison, *supra* note 30 (quoting Professor 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, Mar. 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, Sept. 25, 2002.

¹⁶³ See Lasson, *supra* note 152, at 23-37.

had called Israeli settlers “Nazis and racists” for whom he felt “nothing but hatred” and who should be “shot dead.”¹⁶⁴ 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.¹⁶⁵

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 ever be eradicated.¹⁶⁶

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:

¹⁶⁴ Oliver Burkeman, *Harvard Overturns Bar on Oxford Poet*, THE GUARDIAN (London), Nov. 21, 2002, at 6.

¹⁶⁵ Robin Stampler, *Letter: Paulin's Hateful Rhetoric*, THE GUARDIAN (London), Jan. 9, 2003, at 17.

¹⁶⁶ See *supra* notes 138-143 and accompanying text. See also Troy, *supra* note 139 and accompanying text.

* 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.”

* 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.¹⁶⁷

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

¹⁶⁷ Honest Reporting, *Distorting Israeli Arab Reality*, May 18, 2005, available at http://www.honestreporting.com/articles/45884734/critiques/Distorting_Israeli_Arab_Reality.asp.

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% of Israel's Arab population would prefer remaining in Israel.)¹⁶⁸

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.¹⁶⁹

Although there is a great deal of literature on apartheid, virtually nothing has been written about academic boycotts.¹⁷⁰ The false analogy between apartheid South Africa and modern Israel serves to underscore the paucity of difference between anti-Semitism and anti-Zionism. The discrimination against Blacks in South Africa involved a complex of laws governing citizenship, access, movement, and land use was imposed upon the 90% of the population who were not white. As one scholar recently pointed out, the boycott

¹⁶⁸ See Joseph Algazy, *Israeli Arabs Prefer Israel to Palestinian Authority*, HA'ARETZ, Aug. 1, 2000.

¹⁶⁹ See Editorial, *Blinkered and Ill-Timed*, THE TIMES (London), Apr. 25, 2005, at 19.

¹⁷⁰ A primary exception is a book by Peter J. Ucko, published in 1987, entitled *Academic Freedom and Apartheid: The Story of the World Archaeological Congress*, which tells story of one of the two occasions on which the academic boycott became a matter of sustained public controversy. Adrian Guelke, *The Academic Boycott of Apartheid South Africa*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, January 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm.

movement abuses the history and meaning of both the word “Holocaust” and “apartheid.” This comparison does not result from any degree of rigorous analysis. Instead

it is about *hijacking history to serve propaganda*. The discriminatory mechanisms of apartheid are entirely absent in Israel. There is no Group Areas Act establishing separate residential areas for different racial groups. There is no Bantu Education Act to restrict the educational opportunities of the Arab minority. There is no Suppression of Communism Act to curb free speech. There is no ban on marriage or on intimate relations between members of different national, ethnic, religious or racial groups. The thesis that Israel in any way resembles apartheid South Africa is a fiction. But this fiction is necessary to preserve the true agenda of the boycott movement: not the withdrawal of Israel to the 1967 lines, but, internally, the dissolution of its Jewish nature and, externally, its removal from the international system of sovereign, independent states.¹⁷¹

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

¹⁷¹ Ben Cohen, *The Ideological Foundations of the Boycott Campaign Against Israel*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http://www.biu.ac.il/rector/academic_freedom/abs.htm (emphasis added).

apartheid state, more insidious than South Africa.”¹⁷²

A few scholars with a history of anti-Israel rhetoric suggested that, while Israel is 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 Shlesinger and Gideon Toury were wrongly sanctioned for policies of government.¹⁷³

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

¹⁷² Editorial, Walter Reich, *Brits Burning Books*, NEW YORK SUN, May 10, 2005, at 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.

Iran, whose human-rights record is, one might say, suspect, has been especially forceful in condemning Israel. In late 2005 its president, Mahmoud Ahmadinejad, called for elimination of the Jewish state entirely. See Mark Steyn, *Diplomatically Speaking, He's A Nut*, ORANGE COUNTY REGISTER, Dec. 11, 2005; Editorial, Jim Hoagland, *Iran's Useful Reminder*, WASH. POST, Oct. 30, 2005, at B7; Peter Brookes, *Iran/Al Qaeda Axis*, NEW YORK POST, Oct. 31, 2005; Editorial, *Beyond Condemnation*, JERUSALEM POST, Oct. 30, 2005, at 13. A few Middle Eastern countries have chosen not to vilify modern Israel. In October 2005, Qatar donated \$10 million to build a sports complex in the northern town of Sakhnin, and Pakistan—unlike its Arab neighbors—welcomed Israeli aid to help its earthquake victims.

¹⁷³ Juan Cole, *Why We Should Not Boycott Israeli Academics*, CHRONICLE OF HIGHER EDUCATION, July 26, 2002, at 13. Cole has made many anti-Israel statements. See, e.g., Steven Plaut, *Old Juan Cole: A Very Sad Soul*, Mar. 23, 2005, available at <http://www.frontpagemag.com/Articles/Printable.asp?ID=17422>; Juan Cole *Kicks It Down A Notch*, Campus Watch: Monitoring Middle East Studies on Campus, June 2, 2005, available

of London, wrote that the boycott would create an atmosphere in the United Kingdom 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.”¹⁷⁴

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.”¹⁷⁵

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.¹⁷⁶ Other Jewish professors may feel likewise, but they draw the line on comparing Israel with South

at <http://www.campus-watch.org/weblog/id/12>.

¹⁷⁴ Aisha Labi, *British Scholars Seek to Overturn Faculty Union’s Boycott of Israeli Universities*, CHRONICLE OF HIGHER EDUCATION, May 13, 2005, at 41. See also Editorial, *Academic Overreach*, BOSTON GLOBE, May 15, 2005, at D10.

¹⁷⁵ Lynfield, *supra* note 131. See also *supra* note 167 and accompanying text.

¹⁷⁶ See *supra* note 37 (“Israel is almost the most segregated society in the world.”).

Africa, and especially between economic and academic boycotts.¹⁷⁷

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.¹⁷⁸ Moreover, a “silent boycott” appears to be at work against Israel: politically correct reasons are given when Israeli scholars are not invited to conferences,¹⁷⁹ and they appear to be published less and with more difficulties.¹⁸⁰

Although proposed academic boycotts of Israel have been

¹⁷⁷ 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 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 S. Davis, *Why Academic Boycotts Are Wrong*, CHRONICLE OF HIGHER EDUCATION, Apr. 18, 2003 at 13.

¹⁷⁸ 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-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 (Apr. 5, 2005) (on file with author).

¹⁷⁹ Conversation with a professor at Haifa University (Nov. 7, 2005) (on file with author).

¹⁸⁰ Herve Seligmann, *Does the Boycott of Israel’s Academy Backlash? An Analysis of Publication Patterns in the ‘Lancet’*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm.

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.¹⁸¹

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.¹⁸²

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

¹⁸¹ See Gerstenfeld, *supra* note 7.

¹⁸² Daniel Foggo & Josie Clarke, *Boycott of Work by Israeli Scientists ‘Could Cost Lives,’ Fears Grow at Threat to Lifesaving Treatments as Universities Back Protects Over Palestinians*, SUNDAY TELEGRAPH (London), Dec. 15, 2002, at 4.

thought, and for the concept itself of liberty.”¹⁸³

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.¹⁸⁴

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

¹⁸³ Tunku Varadarajan, *Prophet of Decline*, WALL STREET JOURNAL, June 23, 2005, at A12.

¹⁸⁴ The paragraphs that follow regarding the double standard of the Red Cross are adapted from Kenneth Lasson’s editorial in the Baltimore Sun. Editorial, Kenneth Lasson, *International Red Cross Must Include Israel*, BALTIMORE SUN, Nov. 27, 2001, at 11A.

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 6% 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. Thus, in late 2005 did the International Federation of Red Cross and Red Crescent Societies finally decide to adopt a new symbol—the Red Crystal, a diamond shape that Israel will be able to use in its international relief efforts. The decision did not answer the questions, why the Star of David itself was not acceptable as an equal or, indeed, why life-saving missions would not be allowed into any disaster area regardless of their logo.¹⁸⁵

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.

¹⁸⁵ See Editorial, *Hiding Behind A Crystal*, JERUSALEM POST, Dec. 11, 2005, at 13.

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.

B. 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.¹⁸⁶ 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 personally involved in experiments that use human beings against their will. Can he be fairly and properly blacklisted? The answer is yes: such boycotts in response to the doctor's own actions are not to discriminate against him on any of the grounds that are prohibited by the principle of the

¹⁸⁶ See Phil Baty & Helena Flusfeder, *Backlash May Put Boycott in Jeopardy*, TIMES HIGHER EDUCATION SUPPLEMENT, Apr. 29, 2005, at 1. See also Alan M. Dershowitz, *Britain's Professors Against Peace*, JERUSALEM POST, Apr. 28, 2005, at 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."). For a compendium of research on academic freedom, see the Scholars At

universality of science.¹⁸⁷

If the doctor was working on behalf of his government, whose policies are deemed to be reprehensible, can scientists in other countries take any action to show their abhorrence of the regime? Again, the answer must be in the affirmative: scientists have the same right, as 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.¹⁸⁸

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 ultimately his death camps, almost half of all German physicians joined the Nazi party.¹⁸⁹

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

Risk Network at scholarsatrisk.nyu.edu.

¹⁸⁷ See Blakemore, *supra* note 114.

¹⁸⁸ *Id.*

¹⁸⁹ Michael A. Grodin, George J. Annas & Leonard H. Glantz, *Medicine and Human Rights: A Proposal for International Action*, 23 HASTINGS CENTER REPORT 4, at 8. See also Michael A. Grodin, *The Nuremberg Code and Medical Research*, 20 HASTINGS CENTER REPORT 3, at 4.

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, academic boycotts against Israel break many academic rules. If they were to succeed, counteractions would likely follow and the consequences for the academic enterprise would be severe. Thus, not only do signatories of the various boycott petitions attack Israel, they are also harmful to fellow scholars and scientists.¹⁹⁰

C. Abuse of Language and the Big Lie

Lawyers are trained to see opposing sides of a dispute, and to seek justice. What is the other side here, and where is the justice? The narrow question—can the academic enterprise support discrimination against individuals and their ideas solely because of their citizenship?—should clearly be answered in the negative. The broader issues are even more troubling, unless their premises are likewise resoundingly rejected: Where one side seeks the destruction of another for ideological or religious reasons, is there any justice in protecting its right to do so? Is there any moral equivalency between suicide bombings of civilians and military actions in response to prevent their repetition?

Such questions, of course, are seldom countenanced in those terms. Instead, they are often framed in an academic voice, which

¹⁹⁰ See Gerstenfeld, *supra* note 7.

suggests that the facts at issue are genuinely in dispute. What should be rhetorical truths are skewed by tortured logic and misused language—the meaning of common words turned on their heads—which then become part of a series of Big Lies. Told often enough, the Big Lie assumes its own veracity, however unsupported it may be by fact or reason

The bigger the lie, the more believable it sometimes becomes. The more the Nazis preached Aryan supremacy, the more they could justify practicing it.¹⁹¹ This was the primary genesis for the Convention Against all Forms of Racial Discrimination, drafted at the twentieth UN General Assembly in 1965, which provides in part that “State parties shall declare an offense punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination as well as acts or violence or incitement to such acts against any race or group of persons of another color or ethnic origin.”¹⁹²

The notorious anti-Semitic forgery entitled *Protocols of the Elders of Zion* is still widely disseminated as proof that the Jewish goal of world domination continues unabated. It is yet another proof of how limitless free speech can turn into a dangerous weapon when cynically misused and manipulated, and how it can become a poisonous virus spread uncontrollably around the world. Some

¹⁹¹ Hadassa Ben-Itto, *Political Engagement, Academic Integrity and Freedom of Speech: Where to Draw the Line*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm.

¹⁹² Article 4 (a). Similar wording can be found in Article 20 of the International Covenant on Civil and Political Rights, and in later European conventions.

countries like Germany and France ban publication or distribution of the *Protocols*. This policy would be criticized by most civil libertarians, who argue that it is wrong to ban any book, even a proven forgery; a lie, they say, will fester and grow if suppressed but will die of its own false weight if given the air of the “Marketplace of Ideas.”¹⁹³

Putting aside the question of whether a proven lie could be defined as an “idea,” the continued use of the *Protocols* as effective propaganda demonstrates the weakness in that argument. The fact that the *Protocols* was a forgery was publicly established as early as 1921, which did not deter Hitler from quoting them in *Mein Kampf*. New editions of the *Protocols* are published almost annually by one or another Moslem country, and distributed to all Arabic speaking countries and to Moslem communities in the West.¹⁹⁴

Thus does the Big Lie prosper.

For example, one might assume scholars would agree that Israel has the right to exist, to defend itself, to be treated equally among nations—and that the same rights should be accorded to all peoples, regardless of their race, religion, or ethnic origin.¹⁹⁵ But

¹⁹³ *Id.* This is often cited as the leading theory to support the First Amendment’s guarantee of free speech. See, e.g., Kenneth Lasson, *Racial Defamation as Free Speech: Abusing the First Amendment*, 17 COLUM. HUM. RTS. L. REV. 11 (1986).

¹⁹⁴ This was done by three different people, all of them non-Jews, from three different countries: Phillip Graves, a British Journalist, Katerina Radziwil, a Russian princess, and Graph Armand Du Chayla, a French theological scholar. Their detailed testimony was published in newspapers in England, America and France. In 1942, Columbia University Professor John Shelton Curtiss published an extensive analysis debunking the forgery, *An Appraisal of The Protocols of The Elders of Zion*. See Ben-Itto, *supra* note 191.

¹⁹⁵ Alan Dershowitz, author of *THE CASE FOR ISRAEL*, points to ten areas where there should be agreement among scholars: (1) the right of Israel to exist; (2) to defend itself; (3) to be treated equally among nations; (4) not to be demonized on college campuses; (5) the

anti-Semitism is legitimized in parts of the Western academy. Professors are so politically correct in their multi-culturalism that they refuse to call it “barbaric” when a Moslem woman is stoned to death because she was raped or because she refused to marry her first cousin. Few academics condemn fake film footage doctored to depict the death of Palestinian children at Israeli hands. Feminist scholars are seldom taken to task for failing to expose and condemn the realities of Islamic gender apartheid.¹⁹⁶

Noam Chomsky, an educator and linguist and leading critic of Israel, often claims that Israeli crimes against the Palestinians could not take place without US support, that most of Israel’s actions to ensure its security (such as construction of a country-long separation fence) violate international law, and that it was Israel, not the Palestinian Authority, which rejected peace proposals.¹⁹⁷

Other tenured leftists demonizing Israel tour the world urging anti-Semites to boycott all of Israel, including the same universities where they are employed.¹⁹⁸

Academics’ and intellectuals’ support of dictators, violence, and racism has a long history. Few remember now, but in his ascent to power, Hitler consistently was most successful among university

right of Jews to live anywhere; (6) to practice Judaism; (7) to be treated equally; (8) to leave any country; (9) the right of Israel and Judaism to survive and thrive; and (10) the right to hope for a better world. Alan Dershowitz, Address at the International Conference of Chabad Lubavitch Emissaries (Nov. 27, 2005).

¹⁹⁶ Phyllis Chesler, *Truth on Trial*, FRONTPAGE MAGAZINE, Oct. 31, 2005, available at <http://www.frontpagemag.com/Articles/ReadArticle.asp?ID=20019>.

¹⁹⁷ See notes on debate between Chomsky and Alan Dershowitz, *Israel and Palestine After Disengagement*, Nov. 29, 2005, available at www.chomsky.info/debates.htm.

¹⁹⁸ Steven Plaut, *Jewish Anti-Semitism*, FRONTPAGE MAGAZINE, Sep. 15, 2004, available at <http://www.frontpagemag.com/Articles/ReadArticle.asp?ID=15059>.

professors—many of whom were drawn into the higher echelons of the Nazi Party and participated in its more gruesome excesses. Mussolini too had a large following of intellectuals, and not all of them Italian. So did Stalin, as well as such post-war dictators as Castro, Nasser, and Mao Tze-tung.¹⁹⁹

In truth, the only crime of the vast majority of victims of Arab terror was being Jewish—exactly as it was during the Nazi era.²⁰⁰

Demonizing Israel and Jews is by no means the exclusive province of gentile anti-Semites. For example, Lev Grinberg, a political sociologist and former director of Humphrey Institute for Social Research at Ben Gurion University, published an article in *La Libre Belgique* accusing the Israeli government of committing symbolic genocide against Palestinians:

All this talk about “peace process” and “right to defend” is nothing but a deception designed to cover up the symbolic genocide carried out by the government of Israel. First it destroyed the authority, institutions and infrastructures of the Palestinian Authority, and now it is destroying what’s left of its hopes: it is killing leaders and ordinary citizens, men and women, children and old people.²⁰¹

Although the facts lead to quite different conclusions, Grinberg’s views have been shared by other Israeli academics. Does their public advocacy of such opinions justify the idea of academic freedom, or

¹⁹⁹ See PAUL M. JOHNSON, *INTELLECTUALS* 319 (1988). See also Alek D. Epstein, *In the Name of Hitler, Stalin and Sheikh Yassin: Politicized Academics and Their (Ab)use of Freedom of Speech*, unpublished paper delivered at first annual conference of International Advisory Board for Academic Freedom, Bar-Ilan University, Jan. 25, 2005, available at https://mail.ubalt.edu/http/www.biu.ac.il/rector/academic_freedom/abs.htm.

²⁰⁰ *Id.*

²⁰¹ Epstein, *supra* note 199.

abuse it?²⁰²

While the government in a democracy should properly be loathe to place limits on speech, a university should have the freedom to restrict the speech of anyone who utilizes its resources (such as a school newspaper, classroom, or lecture hall).²⁰³

Academic accountability may be difficult to implement. But professors should not be able to reject some form of accountability in the name of academic freedom, or to claim immunity from consequences of their failures.²⁰⁴

University professors are not the only ones to pillory Israel with skewed history and rhetoric. Amnesty International places the blame for Islamic honor killings of Palestinian women in the West Bank and Gaza Strip on Israel; such women are said to be “victims of multiple violations as a result of the escalation of the conflict, Israel’s policies, and a system of norms, traditions and laws which treat women as unequal members of society.” Cindy Crawford, the American mother of a soldier killed in Iraq who made headlines for protesting President Bush’s entry into war, likewise blames terrorism on Israel: “You get America out of Iraq and Israel out of Palestine

²⁰² *Id.* An editorial in the Israeli newspaper *Ha’aretz* pointed to the anomalies of academic freedom:

The world of academe is full of people with radical, foolish and destructive opinions of all political persuasions. One can criticize them, demonstrate against them, and keep away from their lectures. And yet, the principal of academic freedom makes it obligatory to enable them to act and express themselves without interference.

Editorial, *HA’ARETZ*, Apr. 25, 2004.

²⁰³ MICHAEL SHERMER & ALEX GROBMAN, *DENYING HISTORY: WHO SAYS THE HOLOCAUST NEVER HAPPENED AND WHY DO THEY SAY IT?* (University of California Press 2000).

²⁰⁴ Martin Sherman, *The Professors of Oslo*, *JERUSALEM POST*, Nov. 3, 2003, at 14.

and you'll stop the terrorism." London's Mayor Kenneth Livingstone compared terrorists who attacked his city's transport system with Israeli soldiers seeking to prevent terrorism. Alexander Cockburn, a columnist for *The Nation*, claims he lacks sufficient "exterior evidence to determine whether the claims that Israel perpetrated the 9/11 attacks are true or not."

European and Middle-Eastern Protestant theologians engage in a "New Anti-Semitism" in order to demonize Israel. For example, Donald Wagner, a Presbyterian minister and director of the Center for Middle Eastern Studies at North Park University in Chicago, says that "the Jewish people ceased to have any attachment to the land so very long ago, and were replaced by the real Israel, the Palestinian Christians." Similarly, the Ecumenical Liberation Theology Center presses for punitive actions against Israel while ignoring Palestinian violence "and ultimately arguing against the legitimacy of a Jewish state."²⁰⁵

The systematic misuse of language to demonize Israel has become the weapon of choice for those who buy into the Islamist agenda. Both academics and the media label terrorists "insurgents." Well-educated killers have become "martyrs" and "freedom fighters."²⁰⁶ Military responses to suicide bombers are summarily condemned as equally repugnant contributions to the "continuing cycle of violence."

²⁰⁵ The quote is from James Besser, a journalist who covers Middle-Eastern affairs. Michael C. Kotzin, *Discredited Christian Theology and the New Anti-Semitism*, JEWISH UNITED FUND, Sept. 9, 2005 available at http://www.juf.org/news_public_affairs/article.asp?key=6398&highlight=discredited+christian+theology.

²⁰⁶ Chesler, *supra* note 196.

All are abetted by a liberal media, which has become highly selective and judgmental in its news reportage. Thus, the *New York Times* chooses consistently to ignore the genocidal anti-Semitism that governs the “philosophy” of Hamas, which despite being designated a terrorist organization by the Department of State, the *Times* usually describes as a philanthropic group for Palestinians. The paper also skips ignores stories about the rank anti-Semitism taught in Palestinian schools and preached in mosques. In an op-ed by noted human rights activist Anne Bayefsky, the *Times* omitted her reference to grotesque anti-Semitism on display at U.N.’s Durban Conference against Racism.²⁰⁷

As Middle- East analysts Phyllis Chesler points out:

We must rescue language . . . made to bear some relationship to the truth and morality; [w]e must insist that criticism of America and Israel be balanced; [w]e need a War Room to counter the Big Lies; [w]e must all stand up to evil in our lifetime; [w]e must support Muslim and Arab dissidents in their fight against Islamic tyranny and gender apartheid If we fail, we will betray all that we believe in as a free people.²⁰⁸

D. 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,

²⁰⁷ THE AMERICAN THINKER, Nov. 17, 2005.

²⁰⁸ Chesler, *supra* note 196.

but not enough. Apt 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. . . . [T]o 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 . . . [t]hey 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."²⁰⁹

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.²¹⁰ 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

²⁰⁹ See Grodin et al., *supra* note 189.

²¹⁰ See http://en.wikipedia.org/wiki/Nuremberg_Code.

trials.²¹¹

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.²¹²

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 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.

²¹¹ See Michael Grodin, *The Nuremberg Code and Medical Research*, THE HASTINGS CENTER REPORT, May 1990, at 4.

²¹² See, e.g., RICHARD J. HERRNSTEIN & CHARLES MURRAY, *BELL CURVE: INTELLIGENCE AND CLASS STRUCTURE IN AMERICAN LIFE* (1994); Editorial, *Wrongful Research*, BOSTON GLOBE, Nov. 22, 2003, at A12; and Peter Heinlein, *UN/Cloning Debate*, VOICE OF AMERICA NEWS, Nov. 19, 2004.

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.²¹³

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)²¹⁴ than Israel has since 1948. Kuwait expelled 300,000 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.²¹⁵

One strategy that has proven successful against the academic boycotters has been to take them on individually, exposing as racists those who discriminate against people solely because of their country of origin. This method—effectively turning the accuser into the accused—worked well against the Oxford professor who so explicitly

²¹³ DiManno, *supra* note 98.

²¹⁴ See Efraim Karsh, *What Occupation?*, 114 COMMENTARY 1, at 46. See also Alan M. Dershowitz, *The Case Against Jordan*, JERUSALEM POST, Oct. 7, 2003, at 13.

²¹⁵ *Thirty Trucks Loaded with Food Enter the Gaza Strip*, GLOBAL NEWS WIRE, Mar. 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.

rejected an Israeli Ph.D. candidate.²¹⁶

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.²¹⁷ This, even when Israel is the only country in the Middle East with a demonstrable record of protecting traditional civil liberties 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.²¹⁸

Since 1951, the United Nations High Commission for Refugees (UNHCR) has worked successfully to find durable solutions to refugee crises around the world. Only Palestinians, originally numbering between 500,000 and 750,000 but now more than four million, have been left out in the cold—despite the half-century existence of a special U.N. agency dedicated solely to caring for them. Moreover, that agency's close relationship with known

²¹⁶ See *supra* note 38 and accompanying text.

²¹⁷ *Why Israel Distrusts the United Nations*, Church and Israel Forum, available at <http://www.churchisraelforum.com/index.html>. In December of 2005, the United Nations held a "Day of Solidarity with the Palestinian People," during which a large map of Palestine, with Israel conspicuously nowhere to be seen, was prominently displayed between U.N. and Palestinian flags.

²¹⁸ See Brigitte Gabriel, *Environment of Hate: Indoctrination in the Arab World and Propaganda Advocacy in America's Universities*, Foundation for the Defense of Democracies, Mar. 6, 2005, available at http://www.defenddemocracy.org/research_topics/research_topics_show/htm?doc_id=267593.

Palestinian terror organizations is at the least troubling.²¹⁹

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 is doing to the Tibetans, or Russian scholars for their actions against Chechnya, 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—

²¹⁹ The United Nations Relief and Works Agency was established in 1949 and given virtual autonomy, largely at the insistence of the U.N.’s Arab bloc. Given the fact that outside the Arab world it is widely accepted that an influx of over four million Palestinian refugees into Israel is not a realistic goal, it is remarkable that they have never been offered another means of resettlement. Arlene Kushner, *Why Does UNRWA Exist?*, JERUSALEM POST, Oct. 28, 2005, at 5.

control disputed land and rule over people seeking independence.²²⁰

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.”²²¹

Where is the outrage? Who in Europe (or in America, for that matter) has heard of Iranian women sentenced to death by stoning for adultery? Do we ever object to the fact that Europe routinely sends back thousands of asylum-seekers?²²²

If attempts at academic boycotts of Israel are confronted more effectively, their instigators may begin to be less open about their motivations. For example, had Andrew Wilkie, the Oxford professor who rejected an Israeli Ph.D. candidate solely because of his nationality, been more discreet, he could have denied the application without detailing his reasons for doing so. 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,

²²⁰ See Golan, *supra* note 5, at 6.

²²¹ Carol Eisenberg, *Protestant Leaders Back Down on Israel*, *NEWSDAY*, July 6, 2005, at A45.

²²² See Editorial, *WALL STREET JOURNAL*, Dec.1, 2005.

religious extremism, and the politicization of science.²²³

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 also 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:

[W]hat 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

²²³ See generally Gerstenfeld, *supra* note 7.

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!”²²⁴

²²⁴ *Letter to an Anti-Zionist Friend*, 1967, SATURDAY REVIEW XLVII, Aug. 1967, at 76, reprinted in M.L. KING, JR., *THIS I BELIEVE, SELECTIONS FROM THE WRITINGS OF MARTIN LUTHER KING, JR.* (1971).