

ALYZA D. LEWIN

Anti-Zionist Harassment Is Against the Law, Too



AS PRESIDENT of the Louis D. Brandeis Center for Human Rights Under Law, I speak nearly every day to students on university campuses who are experiencing antisemitism. Here is what they are telling me.

- That trip they took to Israel — it was transformative. It opened their eyes to their Jewish heritage and was among the most meaningful experiences of their lives. But they do not dare post a photo of the trip on social media.
- The items that publicly identify them as Jews — a necklace with a Star of David, a kippah, the T-shirt that they got at Hillel with the name of the university in Hebrew letters: They will not wear them. When they do, they become targets of harassment.

- Those student clubs they wish to join to support causes they care about passionately—women’s rights, LGBT rights, immigration, climate change, and more—are increasingly demanding that members pledge “no” to Zionism. It is difficult for Jewish students to belong if they believe Israel has a right to exist.
- That office of diversity, equity, and inclusion—the people assigned to increase sensitivity to bias—is often flummoxed by the uniqueness of Jewish identity. Too often, the DEI officers label Jews as “white,” do not recognize Jewishness as an ethnicity, and assume that Jews are merely a religious group needing only kosher food and Sabbath accommodations. Worse, some DEI staff have denied Jewish history and perpetuated antisemitic stereotypes by describing Jews as privileged and powerful.

The students simply want to engage in classes and extracurricular activities without being demonized and marginalized. But they find it increasingly necessary to hide their Jewish identity in order to be accepted. As with past generations of Jewish students, they are being pressured to shed some or all aspects of their Jewish identity to gain acceptance. Led to believe that if they abandon what distinguishes them as Jews, they will avoid discrimination or worse, many comply.



According to the Anti-Defamation League, antisemitic incidents on campuses increased 41 percent in 2022, to 219—approximately one college incident on any given day when classes are in session. Universities that receive federal funding (a category that includes nearly all universities in the United States) are legally obligated

to protect their Jewish students from such harassment and discrimination. Why, then, are universities so woefully ineffective at protecting Jews?

The problem among university administrators is threefold. Administrators do not understand the nature of contemporary antisemitism. They do not understand Jewish identity and its inextricable relationship with Zionism. And they mistakenly believe that the anti-Zionist animus on campus is simply one side of a good-faith political debate.

As to the first problem: Many administrators today recognize Jew-hatred, such as swastikas spray-painted on a wall or overt denial of the Holocaust, when it comes from white supremacists. Yet, too often, they are unable or unwilling to recognize other forms. They do not understand that antisemitism shows up differently in different generations. The one constant of antisemitism is that no matter the century, Jews are always the scapegoat.

In addition to individual Jews, there exists a Jewish collective—the Jewish nation-state.

There are those today who accuse Israel of being the world's worst violator of human rights, while being stunningly indifferent to human-rights abuses in countries such as North Korea, Syria, or China. There are those who make accusations against Israel that are not only false but also recall classic antisemitic tropes, such as the idea that Israel deliberately targets Palestinian children or harvests Palestinian corpses for organs. There are those who chant "From the river to the sea, Palestine will be free." This duplicitous plea for Palestinian liberation actually calls for the annihilation of a sovereign state—a call that is never made against any other state. Whereas traditional antisemitism seeks to deny individual Jews their place in society, contemporary antisemitism seeks to do the same to the Jewish collective in the society of nations.

This is contemporary antisemitism. But most university administrators do not recognize or even understand it as such.

This is because of the second problem: Most university administrators do not understand Jewish identity. They do not appreciate that Judaism is an *ethno-religion*, a belief system inextricably connected to cultural heritage, traditions, history—and land. The connection between Jews and the Land of Israel permeates the Jewish calendar, Jewish life-cycle events, Jewish law, Jewish prayer, and Jewish history. Over half of the 613 commandments in the Hebrew Bible are related to the Land of Israel and can be observed only there. Three of the most important Jewish holidays are connected to the land: Passover is *Chag HaAviv*, the Spring Festival, when the barley was brought in. Shavuot is *Chag HaKatzir*, the Festival of Reaping. Sukkot is *Chag HaAsif*, the Festival of Ingathering, for all the later-ripening fruits. At Jewish marriage ceremonies, Jews customarily break a glass in remembrance of the destruction of the Jewish Temple in Jerusalem.

Jews who consider this ancestral connection to Israel to be part of their Jewish identity are frequently shunned as “Zionists”—deemed pariahs because they believe that Jews have a right to self-determination in their ancestral homeland. But Zionism is as integral to Jewish identity as observing the Sabbath or keeping a kosher diet. It’s true that not all Jews are Zionists. But not all Jews are Sabbath-observers, either. Both remain core expressions of Jewish identity. Would university administrators permit student clubs to demand that Catholics disavow the Vatican or that Muslims shed their connection to Mecca in order to be accepted? Or would the administrators recognize that such a demand is discriminatory, biased, and immoral?

The third problem follows directly from the second. Failing to recognize that anti-Zionism is antisemitic, they do not see that ostracizing, marginalizing, or excluding Jews on the basis of the Zionist component of their Jewish identity is not “speech.” It is discrimi-

natory and unlawful conduct. Most university administrators who fail to recognize antisemitic rhetoric when the word “Zionist” is substituted for the word “Jew” appear to believe they are witnessing a good-faith political debate about Israel’s policies. And yet, when Jewish students seek to speak with or debate their harassers, they are routinely rebuffed. Increasingly, those who oppose “normalizing” relations with Israel boycott Hillel and other pro-Israel organizations on campus and refuse to speak with Jewish students who support Israel’s right to exist.



A recent episode at the University of Vermont suggests a way forward.

Title VI of the Civil Rights Act of 1964 requires universities that receive federal funds to protect students from harassment and discrimination based on race, color, or national origin. Title VI does not mention religion, but according to sub-regulatory guidance, members of religious groups, including Jews, Sikhs, and Muslims, are protected by Title VI if they are harassed or discriminated against on the basis of their actual or perceived shared ancestry or ethnicity. In addition, Executive Order 13899 on Combating Anti-Semitism, enacted in 2019, directs agencies, including the Department of Education, to refer to the International Holocaust Remembrance Alliance Working Definition of Anti-Semitism when investigating Title VI complaints of antisemitic harassment and discrimination. The Department of Education includes FAQs about EO 13899 on its website. It recently referred university administrators to this resource in a “Dear Colleague” letter issued by the Department of Education pursuant to the Biden administration’s National Strategy to Counter Antisemitism.

President Biden’s Department of Education recently demonstrated its understanding of the law when it announced its first campus

antisemitism resolution in a case involving anti-Zionist harassment and discrimination at the University of Vermont (UVM). The complaint in that case, filed by the Brandeis Center and the Jewish on Campus student advocacy group (JOC), described how Jewish Zionists were being excluded from two UVM student groups, and how a university teaching assistant repeatedly harassed Jewish Zionists online. In one tweet, she wrote: “Is it unethical for me, a TA, to not give Zionists credit for participation?? i feel like it is good and funny, -5 points for going on birthright in 2018, -10 for posting a pic with a tank in the Golan heights, -2 points just cuz i hate ur vibe in general.”

The Department of Education Office for Civil Rights (OCR) treated the harassment as a form of national-origin discrimination on the basis of shared ancestry and required UVM, among other things, to revise its policies, procedures, and training to ensure they address it. Jewish students at UVM reported to me that they quickly saw a marked improvement in the way the university responded to their concerns.

The UVM case was the first Biden-administration campus antisemitism case. There were, however, also resolution agreements issued by the Trump administration in campus antisemitism cases at New York University, Duke, and the University of North Carolina at Chapel Hill, and OCR is currently investigating the University of Southern California, the University of Illinois at Urbana-Champaign (UIUC), George Washington University, CUNY Law, and Brooklyn College, among others, in response to Title VI complaints alleging that the universities failed to protect Jewish students from anti-semitic harassment and discrimination.

But the first campus antisemitism investigation to be opened by OCR *after* the National Strategy was announced involves a complaint filed by the Brandeis Center and JOC against SUNY New Paltz. In that case, two Jewish students were kicked out of a group of

sexual-assault survivors and then bullied, harassed, and threatened online on the basis of their Jewish and Israeli identities. Leaders of the student organization removed the Jewish students (one of whom had founded the group) after the Jewish students shared on their *personal* Instagram accounts an infographic that said, “Jews are an ethnic group who come from Israel” and “you cannot colonize the land your ancestors are from.” The students were cancelled, stalked, intimidated, and harassed so intensely that they felt compelled to leave campus for their safety. Coming on the heels of the UVM resolution agreement and the release of the National Strategy, the opening of the SUNY New Paltz investigation sends a clear message that OCR is taking this form of antisemitism seriously.



The best antidote to harassment and discrimination is self-confidence and pride. To counter campus antisemitism, we must reject “erasive antisemitism”—defined by the writer Ben Freeman as the erasure of Jewish identity or of Jews as victims of prejudice—and push back against those who ignore or, worse, revise Jewish history and deny the uniqueness of Jewish identity.

No one has the right to demand that Jews shed their sense of peoplehood and repudiate their historic yearning for and connection to Zion (another name for Jerusalem). DEI programs must recognize Jews as both a religious group and a national and ethnic identity. Universities should start, as UIUC did, by issuing statements recognizing that for many students, Zionism is an integral part of their Jewish identity. When Jews are marginalized and excluded on the basis of a fundamental element in their ancestral heritage, society must condemn it as harassment and discrimination. It is time for us to use our legal tools to protect Jews on the

basis of not only our religious practice, but also our national, ancestral, and ethnic heritage. The UVM case is just an early drop in the proverbial bucket. But it provides an important model for the ongoing effort to counter campus antisemitism. *