

ANTI-ZIONIST EXPRESSION ON THE UK CAMPUS: FREE SPEECH OR HATE SPEECH?

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The last few years have witnessed an explosion of anti-Zionist rhetoric on university campuses across the United Kingdom. Encouraged by the University and College Union's annual calls for discriminatory measures against Israeli institutions and academics, the rhetoric has become even more strident since Operation Cast Lead. A recent boycott-divestment-sanctions campus tour explicitly invoked anti-Semitic tropes. The consequently hostile environment for Jewish students has jeopardized their educational opportunities. The justification for tolerating anti-Zionist expression on campus is always "academic freedom" and the response of the universities has been one of inaction. This justification is without merit. University codes of conduct and UK law recognize that an important university goal is the promotion of equality of opportunity for minority students and their protection from discrimination, including harassment. Given the growing consensus that anti-Zionism is in fact anti-Semitism in a new guise, this goal is flouted with respect to Jewish students every time that anti-Zionist expression takes place on a university campus.

There has been a proliferation of anti-Zionist expression¹ on UK university campuses since 2002 when, on 6 April, 125 British academics published an open letter in *The Guardian* calling for an EU moratorium on funding for grants and research contracts for Israeli universities in

order “to condemn [Israel’s] policy of violent repression against the Palestinian people in the occupied territories.”² This letter marked the official start of the British “academic boycott of Israel” and acted as a catalyst for the use of the British university campus as a platform for the expression of anti-Zionist views.

Since then, on-campus anti-Zionist expression has been led by the academic unions — the University and College Union (UCU) and its predecessor unions, the National Association of Teachers in Further and Higher Education (NATFHE) and the Association of University Teachers (AUT) — and by the British Committee for the Universities of Palestine (BRICUP). It has predominantly taken the form of calls for boycott, divestment, and sanctions (BDS) against Israel. A recent example was the combined UCU-BRICUP organized campus tour entitled “Israel, the Palestinians and Apartheid: The Case for Sanctions and Boycott,” which took place at the School of Oriental and African Studies (SOAS) and the Universities of Leeds, Manchester, and Glasgow in December 2009.³

In addition to the calls for BDS on university campuses, there has been an extensive use of anti-Zionist iconography, such as the erection of “apartheid” walls during numerous Israel Apartheid Weeks; organized anti-Zionist protest, such as thirty “Free Gaza” Student Occupations during Operation Cast Lead; and several courses at which representatives of political Islam have been invited to speak. For example, in 2008, Hizballah representative Ibrahim Mousawi conducted extensive campus tours at the invitation of the UCU; in March 2009, Kamal Helbawy of the Muslim Brotherhood gave a series of seminars at the invitation of SOAS; and on 9 February 2010, invited by the student Islamic Society, Hamas supporter Dr. Azzam Tamimi told an audience at SOAS that “if fighting for your homeland is terrorism, I take pride in being a terrorist,” and “Israel does not belong to my homeland and must come to an end.”⁴

The use of the university campus as a forum for the expression of anti-Zionist views is by no means unique to the United Kingdom. The United States and Canada have had similar experiences on their campuses. Just two recent examples are an anti-Zionist conference at Toronto’s York University on 29 June 2009, and an anti-Semitic, anti-Zionist speech by Amir Abdel Malik Ali at the University of California, Irvine, on 13 May 2010 during which he referred to the Jewish students present as the “new Nazis.”⁵ Within Europe, anti-Zionist expression has been found in both German⁶ and Norwegian academia; in the autumn of 2009 the Norwegian University of Science and Technology (NTNU) hosted a series of anti-Israeli seminars and proposed an official boycott of Israeli academia.⁷

Nevertheless, the mood of hostility toward Israel is thought to be at

its most prevalent on British university campuses, a situation presumed to be encouraged by the persistent calls from BRICUP and the UCU, and its predecessor academic unions, for discriminatory measures against Israel. As antiboycott activist Prof. David Hirsh has noted, “the campaign to boycott Israeli universities, but no others in the world, has dominated academic Congresses in 2003, 2005, 2006, 2007, 2008, and 2009.”⁸

A few proboycott activists justify the use of the campus to express their anti-Zionist views by claiming that Israeli academics are “complicit in the occupation.”⁹ For most, however, the justification is the right to academic freedom. It is because of a broad understanding of the nature of academic freedom that university authorities in the UK, while rejecting outright the call for an academic boycott,¹⁰ have permitted anti-Zionist expression to take place on their premises. This has unfortunately resulted in a situation where anti-Semitism is flourishing on UK campuses, causing direct harm to Jewish students and confirming their “outsider” status.¹¹

The situation on campus has become a lot worse since Operation Cast Lead, with the anti-Zionist effort seemingly growing in confidence and strength. The abovementioned, four-day campus tour, “Israel, the Palestinians and Apartheid: The Case for Sanctions and Boycott,”¹² included among its speakers Bongani Masuku, international secretary of the Congress of South African Trade Unions (COSATU), who, only days before the campus tour began, was accused by the South African Human Rights Commission of hate speech against South Africa’s Jews.¹³ The other speakers were Omar Barghouti, founding member of the Palestinian Campaign for Boycott, Divestment and Sanctions against Israel (PACBI), whose hostility to Israel is legendary; Ronnie Kasrils of the African National Congress, who publicly said of Israel after the 2006 Second Lebanon War: “We must call baby killers ‘baby killers’ and declare that those using methods reminiscent of the Nazis be told that they are behaving like Nazis”;¹⁴ Prof. Steven Rose, initiator of the 6 April 2002 letter to *The Guardian* and founding member of BRICUP; Tom Hickey, national executive member of the UCU and architect of its recurring proboycott motions; and Yasmin Khan, senior campaigns officer with the charity War on Want, whose charitable status is under threat because of its one-sided political campaign against Israel.¹⁵

Predictably, their on-campus speeches during the December 2009 tour invoked the traditional anti-Semitic tropes of the “blood libel” (“slaughter of Palestinians,” “ethnic cleansing of Palestinians,” “contamination of Palestinian water supplies,”) and “Jewish criminality” (“theft of Palestinian water supplies,” “Israeli crimes”), as well as the newer anti-Semitic tropes of “Zionism-equals-Nazism” (“attempt to wipe Palestinians from the face of history,” “would you have

collaborated with Nazi Germany?") and "Israel-equals-apartheid South Africa" ("Palestine reminds us of the nightmare we went through in South Africa").¹⁶ Bongani Masuku even justified Palestinian terrorism.¹⁷ All this caused great distress to the Jewish students who attended the lectures in order to debate the issues.¹⁸ Their distress was exacerbated when the speakers refused to take any of their questions and they were jeered by other members of the audience for even trying to ask.¹⁹ They felt "marked out as Jews."²⁰

It is clearly time for UK university authorities to address the issue of anti-Zionist expression on campus. The university has a special duty to foster student growth and wellbeing²¹ and it must honor its duty with respect to Jewish students no less than to any other group.

In allowing anti-Zionist expression to continue on campus, UK university authorities are in breach of their own Equality and Diversity as well as Anti-Harassment policies in relation to Jewish staff and students. These policies are required by law²² to promote equality of opportunity for minorities and to protect them from harassment and ethnic hostility. They place strict limitations on "free speech" in the university environment, thereby making the "academic freedom" justification for anti-Zionist expression nonviable.

Furthermore, UK universities are under a legal duty to prohibit anti-Zionist expression on campus on the grounds that it constitutes anti-Semitic hate speech (1) which can "reasonably" be perceived as creating a "hostile environment" for Jewish staff and students contrary to s. 26 Equality Act 2010; and (2) which causes tangible "harm" to Jewish students in breach of the university's common-law duty of care.

The Equality Act was given the Royal Assent on 8 April 2010, and its s. 26 "hostile-environment harassment" provision comes into force in October 2010,²³ replacing the "hostile-environment harassment" provision in s. 3A Race Relations Act (Amendment) Regulations 2003. The act consolidates and streamlines existing antidiscrimination legislation and from April 2011 will impose an affirmative public-sector "equality duty" on educational establishments and places of work to provide a harassment-free environment for racial minorities²⁴ in order to promote equality of opportunity. Until then, UK universities are subject to the existing "equality duty" enshrined in the Race Relations (Amendment) Act 2000 and the Equality Act 2006.

To address the question of whether anti-Zionist expression on the UK campus constitutes free speech or hate speech, anti-Zionist expression will first be considered within the wide free-speech debate. This will include an analysis of the academic-freedom justification and a consideration of the Equality and Diversity and Anti-Harassment policies of a typical UK university.

The focus will then turn to the reasons for categorizing anti-Zionist

expression as anti-Semitic hate speech. This will include authoritative definitions of “anti-Zionist expression,” “hate speech,” and “anti-Semitism,” as well as the difference between anti-Zionist expression as hate speech and legitimate criticism of Israel.

Finally, the arguments for prohibiting anti-Zionist expression on the UK campus will be considered. This will include a discussion of anti-Zionist expression in the legislative context, with particular reference to “hostile environment,” and the documented harms of hate speech for minority university students, with particular reference to the university’s duty of care and its Equality and Diversity and Anti-Harassment policies.

Free Speech and Hate Speech

Anti-Zionist Expression: The Free-Speech Justification

In the UK, anti-Zionist expression is a protected form of speech in society at large. This is because of the general recognition that freedom of speech represents an important moral, political, and legal value that can only be curtailed when the rights of others are at stake. These rights are prescribed by law.²⁵ There are currently no laws in the UK that specifically proscribe anti-Zionist expression, whether by word, conduct, or symbol. However, there soon may be.

The so-called “Nazification” of Israel,²⁶ a favorite ploy of anti-Zionists, may shortly be legally proscribed in the UK on the ground that it incites hatred against Jews. A 2009 joint report of the European Institute for the Study of Contemporary Anti-Semitism (EISCA) and the Department for Communities and Local Government has recommended that the Home Office, the Association of Chief Police Officers, and the Crown Prosecution Service prepare new guidance for the police on whether the use of Holocaust imagery to refer to contemporary Israeli policy amounts to incitement against Jews.²⁷ The report’s proposals are currently being overseen by a cross-government working group that was set up as a result of the 2006 All-Party Inquiry into Anti-Semitism.

Anti-Zionist Expression: The Academic-Freedom Justification

The academic-freedom justification derives from the free-speech justification. The presumption in favor of free speech in the UK is based both on the nonconsequentialist view that freedom of speech is essential for individual autonomy²⁸ and on the consequentialist view that it is essential for democracy²⁹ because it contributes to the discovery of truth, or to put it another way, to the “market place of ideas.”³⁰

Many believe that the university campus should exhibit even greater freedom of expression than prevails in society at large.³¹ The issue is viewed in terms of academic freedom: the campus is a special marketplace of ideas in society, and its mission is to promote knowledge and seek the truth. This requires the freedom to disseminate all views on campus, even those that are offensive.

As the “market place” metaphor is the traditional understanding of speech on campus,³² the academic-freedom justification for the use of British universities to disseminate anti-Zionist views has been accepted without question by the university authorities. This is so even where Jewish students have deemed the anti-Israeli activism to be physically threatening.³³ As a consequence, the mood of anti-Israeli hostility on campus has readily spread from the activities of the UCU and BRICUP to the activities of student unions.

For example, in November 2009 the University of Sussex Student Union voted to boycott Israeli goods³⁴ and the London School of Economics (LSE) voted to twin its union with the Islamic University of Gaza.³⁵ More recently, on 28 April 2010, the deputy Israeli ambassador was attacked by around forty “Action Palestine” student demonstrators at the University of Manchester.³⁶ She was there to give a talk to the student Politics Society, entitled “Hopes and Challenges in the Middle East.”³⁷ She was “shocked” by the attack, saying, “I genuinely believed [the demonstrators] wanted to hurt me physically.”³⁸ The university authorities were blamed for failing to prevent anti-Zionist activity on campus.³⁹ This was the third time since November 2008 that an Israeli government official was abused by students when trying to speak at a British university.⁴⁰

Notwithstanding the status afforded to free speech and inquiry by British universities,⁴¹ the academic-freedom justification for the use of the campus to express anti-Zionist views is without merit. This is because it is recognized that if the aims of a university are harmed by particular forms of expression, then control of expression on campus is justified. The marketplace metaphor regards the *only* goal of the university as the enlightenment of mankind. This view is outdated. The university has other important aims that include promoting racial, sexual, and disability equality, ensuring equal opportunity, and protecting individuals from discrimination. Such goals are enshrined in the Equality Act 2010, as well as its predecessor legislation,⁴² and will be implemented in the form of an affirmative “equality duty” on universities from April 2011. As a result of the law, all UK universities are required to have Equality and Diversity and broad Anti-Harassment policies that seek to protect minority interests.

For example, Sheffield Hallam University is representative of all UK universities with respect to the content of its Equality and Diversity and

Anti-Harassment policies. It states the following in its “Race Equality” and “Religious Equality” policy documents:

The University values the principles of equal treatment and respect for individual differences and is committed to understanding, respecting and using diversity. It is determined to ensure that:

- It provides a supportive and inclusive learning, working and social environment in which everyone feels valued and can work to their potential
- All students and staff experience fairness and equity of treatment, and are treated with dignity and respect
- The opportunities it provides are open to all.⁴³

In addition, its “Race Equality” policy document specifically states as its aims “the elimination of unlawful discrimination”; “the promotion of equality of opportunity”; and “the promotion of good relations between people of different racial groups.”⁴⁴

These policies are “hate-speech codes” that sanction on-campus speech that compromises the dignity, the work environment, the educational environment, or the various equality rights of minority staff and students. They make nonsense of the “academic freedom” claim that offensive views may be expressed on campus. They are flouted with respect to Jewish staff and students on each occasion that anti-Zionist activity takes place on a university campus.

Causing offense to staff and students is also sanctioned by the “Student Anti-Harassment Policy” document, which states:

Students and staff of Sheffield Hallam University...have the right to be treated with dignity and respect and to operate in an environment free from harassment and bullying. Such a right derives from the ethos of the university itself as an institution which welcomes people from all backgrounds, respects individual differences, upholds equal treatment and seeks to create a culture in which everyone feels valued and able to fulfil their potential.

Harassment is defined as unwanted behaviour which is intended to, or which creates an intimidating, hostile, degrading, humiliating or offensive environment for that person.

It is important to realise that behaviour may still be harassment even if that was not the intention. What matters is how the recipient experiences the behaviour.

It is impossible to give a comprehensive list of behaviours which may constitute harassment. The following are examples:

- Offensive...language
- Display of...racist or otherwise offensive...material or the

transmitting of any such messages or images via electronic mail...⁴⁵

This “speech code” sanctions uninvited behavior that causes offense to an individual or group, and specifically proscribes the use of the university email system to circulate offensive material. There is no “academic freedom” justification for expressing views on campus that reasonably cause offense to the recipient.

Indeed, the September 2007 Equality Challenge Unit (ECU) publication, “Promoting good campus relations — an institutional imperative,” penned by representatives of Universities UK, states that the *core values* of higher education are the promotion of equality and diversity among students and staff, and the protection of students and staff from a hostile, degrading, intimidating, or offensive educational and work environment.⁴⁶ Accordingly, the document stresses the need to eradicate anti-Semitism from the UK university campus.⁴⁷

Anti-Zionist Expression as Hate Speech

UK universities’ anti-harassment policies follow the law⁴⁸ in that the question of whether racial harassment has taken place is, in the first instance, a subjective one. What matters is *how the recipient experiences the behavior*. However, also like the legislation, the university must take into account the *reasonableness* of the recipient’s perception in deciding whether to discipline the alleged harasser.

In the case of a Jewish student or staff member complaining of harassment as a result of anti-Zionist expression on campus, the tendency of the university may be to consider her perception as “unreasonable.” This is because anti-Zionist expression is regarded by many, particularly the educational elite in Britain, as legitimate criticism of Israel.

However, if anti-Zionist expression can be categorized as hate speech, as expression that is very different from legitimate criticism of Israel, then the university would be obliged to regard the recipient’s subjective perception of harassment as “reasonable.” It may even be the case that universities across the UK would be prepared to give examples of anti-Zionist expression as “prohibited behaviors” in their anti-harassment policy documents.

Definition of Anti-Zionism

The extent to which anti-Zionism differs from legitimate criticism of Israel is evident from the former’s definition in the 2002 Report of the Berlin Technical University’s Centre for Research on Anti-Semitism, “Manifestations of Anti-Semitism in the European Union.” This was

drafted for the European Monitoring Centre on Racism and Xenophobia (EUMC). The report defines anti-Zionism as “*the portrayal of Israel as a state that is fundamentally negatively distinct from all others, which therefore has no right to exist.*”

Unlike legitimate criticism of Israel that is not anti-Semitic, this definition indicates that anti-Zionism is an anti-Semitic project in two significant respects: its *purpose* and its *methodology*.

Taking the second clause of the definition first, which relates to its *purpose*, anti-Zionism aims for *the elimination of Israel as a Jewish state*. This is anti-Semitic because (1) it denies to Jews the right to self-determination, a right that it freely grants to other peoples of the world, including Palestinians. This is discrimination against Jews as Jews for no other reason than that they are Jews.⁴⁹ (2) It denies to Jews their most cherished symbol of Jewish identity. Jews experience a profoundly innate historical, spiritual, and geographical connection with the Land of Israel.⁵⁰ Israel is thus integral to Jews’ self-understanding. (3) It denies to Diaspora Jews their security. The removal of Israel as a Jewish state would make Jews in the Diaspora vulnerable to outbreaks of anti-Jewish racism.⁵¹ Indeed, Israel acts as a real and psychological refuge for Jews who experience anti-Semitism in the Diaspora. It is widely reported that increases in *aliyah* (emigration to Israel) correspond with increases in attacks on Jews.⁵² (4) The removal of Israel as a Jewish state would necessarily entail the annihilation of the several million Israeli Jews who live there.⁵³ This means that advocating the elimination of Israel as a Jewish state is tantamount to Holocaust promotion.⁵⁴ At the very least, it would cancel the last surviving Jewish political project of the twentieth century without any regard for the needs or wishes of the Israeli Jews who currently live there.⁵⁵

For all these reasons the anti-Zionist agenda to eliminate Israel as a Jewish state is increasingly referred to as the “new anti-Semitism”: whereas the old anti-Semite wanted to rid the world of the Jew — *Judenrein* — the “new” anti-Semite wants to rid the world of the Jewish state — *Judenstaatrein*.⁵⁶ Israel is not seen as simply another country but as an external aspect of the Jewish conspiracy.⁵⁷

The first clause of the definition, *the portrayal of Israel as a state that is fundamentally negatively distinct from all others*, indicates that anti-Zionism is anti-Semitic in its *methodology*. To realize the anti-Zionist goal of ridding the world of the Jewish state, anti-Zionists have to justify its elimination from the world stage. This requires the demonization of Israel in order to delegitimize it. Anti-Zionists do this by employing the same defamatory methods to refer to Israel as those that traditional anti-Semites use to refer to the Jew.⁵⁸

Moreover, anti-Zionist hostility to Israel relies heavily on the anti-Semitic tropes of “conspiracy,” “Jewish criminality,” “Zionism as

Nazism,” and “Zionism as racism,” and it practices the anti-Semitic tradition of using Jewish admission of wickedness to incriminate other Jews.⁵⁹ Anti-Zionists are accordingly the “new” anti-Semites.⁶⁰ They use the same stratagems and tropes as the old anti-Semites.⁶¹ Their call to boycott Israel both resonates with the history of anti-Semitism, whose project was to repudiate and exclude Jews, and draws on the language of anti-Semitic polemic.⁶²

Also unlike legitimate criticism of Israel, anti-Zionism is an anti-Semitic project because it *singles out Israel for elimination and demonization from among all the nations of the world*. It also apologizes for, excuses, and in some instances condones terrorism against Israeli civilians: “Israel is the only state in the world whose legitimacy is widely denied and whose destruction is publicly advocated and threatened; Israelis are the only citizens of a state whose indiscriminate murder is widely considered justifiable.”⁶³ It is thought that anti-Semites target Israel because it is perceived — albeit at a subconscious level — as the “Jewish collectivity”⁶⁴ or as the “Uber-Jew”⁶⁵ or as the “Jew among nations.”⁶⁶ For this reason, the irrational hatred for the Jewish individual is transferred to the Jewish state.⁶⁷ Certainly, hatred of Israel is more acceptable in today’s society than hatred of the Jew.

Anti-Zionists say that they have nothing against Jews, only Israel. They seek to separate the two and to make them distinct entities. For example, Omar Barghouti said in response to an accusation that the boycott of Israel is anti-Semitic:

I think that accusation is itself anti-Semitic. Why? Because it assumes that Israel and the Jews are one and the same thing. It assumes that all Jews are monolithic and they are all Zionists and all support Israel and worse — that any attack on Israel is by necessity an attack on Jews, so they bear collective responsibility for Israel’s actions. That definition of monolithic Jews bearing collective responsibility is the dictionary definition of anti-Semitism.⁶⁸

This is either a naïve claim or a disingenuous one. It is apparent that, quite apart from Jews’ own historical and spiritual identification with the Land of Israel,⁶⁹ non-Jews also identify Jews with Israel, and Israel with Jews. It has been found that anti-Israeli sentiment “consistently predicts the probability that an individual is anti-Semitic, with the likelihood of measured anti-Semitism increasing with the extent of anti-Israel sentiment observed.”⁷⁰ “The prevalence of those harbouring (self-reported) anti-Semitic views consistently increases with the respondents’ degree of anti-Israel sentiment, even after controlling for other factors.”⁷¹

The power of the identification of Israel and Jew is evident in the words of a senior diplomat with Britain's Foreign Office who, upon watching a news report about Operation Cast Lead, involuntarily and publicly exclaimed, "f---- Israelis, f---- Jews."⁷² The power of the identification is so strong that each incident in the Israeli-Palestinian conflict results in a wave of anti-Semitic incidents in the Diaspora.⁷³ In Britain, the Gaza War sparked the worst wave of Jew-hatred ever recorded by the Community Security Trust (CST), with more anti-Semitic incidents in the first six months of 2009 than in any previous year.⁷⁴ It is clear that anti-Zionism both fuels, and is fueled by, anti-Semitism.

Definition of Hate Speech

Hate speech may be defined as "*speech which generates 'fear' on the part of an individual or group of physical harm (immediately or in the future), or which constitutes an attack on personality, including core commitments and identity.*"⁷⁵

According to this definition, anti-Zionist expression constitutes "hate speech."⁷⁶ Levels of Jewish anxiety about anti-Semitism rise exponentially in response to illegitimate attacks on Israel. Such anxiety is justified: the "Nazification" of Israel, a trope that is increasingly common in today's iconography of anti-Zionism, is considered to be the greatest component of incitement and racial aggravation against Jews.⁷⁷

However, even without the fear of physical harm, anti-Zionist expression still constitutes hate speech because of the definition's reference in the alternative to "an attack on...core commitments and identity." Anti-Zionism *by definition* stands against Zionism. To stand against Zionism is to stand against a core Jewish belief.⁷⁸ The return to Zion has been the driving force behind Jewish hopes and aspirations ever since the Roman expulsion in 70 CE.⁷⁹ For 95 percent of Anglo Jewry, the Jewish state has become inseparable from their "Jewishness."⁸⁰ As author and *Independent* columnist Howard Jacobson said, "When Jews see an attack on Israel they see an attack 'on a version of themselves.'"⁸¹

Indeed, the demonization of Israel causes Jews to feel emotional pain. This is especially true when Israel is "Nazified." The Nazi topos not only delegitimizes Israel by associating the Jewish state with sublime evil, it also attacks and humiliates Jews by equating them with the perpetrators of the genocide that almost wiped them out.⁸² Accordingly, the Report of the European Institute for the Study of Anti-Semitism labels the Nazi card a "speech act because it inflicts a psychological pain that is without equal on the emotional charge of the Jewish people."⁸³ It

is an insult that says to Jews: “let me associate you with what you hold to be most obnoxious, most polluted. Within your own world, today, what is it that you most loathe? The Nazis who murdered your parents, your siblings, and your children? — Well, *you* are Nazis.”⁸⁴

Anti-Zionist expression further constitutes hate speech in accordance with the definition because it amounts to an attack on Jewish personality. It relies heavily, if not exclusively, on the anti-Semitic tropes of “conspiracy,” “blood libel,” “Jewish criminality,” “Zionism/Nazism,” “Zionism/racism,” and “Jewish self-incrimination.” It is a discourse that libels the Jewish collective and, by association, all Jews. Jews who are themselves anti-Zionist are equally susceptible to its anti-Semitic tropes and turns of phrase.⁸⁵

Definition of Campus Hate Speech

For these reasons, anti-Zionist expression amounts to hate speech against Jews. But for those who disagree with this conclusion on the ground that there is currently no legislation in the UK that proscribes it, there are specific definitions of *campus* hate speech that recognize the particular context within the university in which the speech occurs. These are broad enough to include anti-Zionist expression.

A good guide to the meaning of campus hate speech is to be found in America, where the issue of regulating it has drawn much academic attention over many years.⁸⁶ According to Shiell, the American campus “hate speech debate” has been “more about offensive” speech than “any truthful hate speech.”⁸⁷ He suggests that it includes “propaganda,” “biased speech,” “racist speech,” “sexist speech,” “discriminatory speech,” and “misethnic speech.”⁸⁸ The American critical race theorists and law professors, Richard Delgado and Jean Stefancic, suggest that campus “hate speech” covers discriminatory expression, overt and subtle, direct or indirect, single or repeated, backed by authority and power or not, targeted at an individual, small group, or a whole class of people, spoken or manifested in a symbol or conduct.⁸⁹ German law professor Claudia Haupt suggests that speech is classed as “hate speech” when it is “offensive speech” that targets a group that has historically been discriminated against.⁹⁰

These explanations qualify anti-Zionist expression within the university environment as campus hate speech.

Authoritative Recognition of Anti-Zionism as Anti-Semitism

However, there is an even stronger authority for UK universities to recognize anti-Zionist expression on campus as hate speech. In 2005, the European Monitoring Centre on Racism and Xenophobia (EUMC)⁹¹

published an authoritative definition of anti-Semitism that recognizes *anti-Zionism as a manifestation of anti-Semitism*. This “Working Definition of Anti-Semitism” was drafted as a guide for criminal-justice agencies throughout Europe. It is also used by the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR).

The Working Definition⁹² gives the following examples of anti-Semitism in relation to Israel:

Denying the Jewish people their right to self-determination, e.g., by claiming that the State of Israel is a racist endeavour.

Applying double standards by requiring [of Israel] a behaviour not expected or demanded of any other democratic nation.

Using the symbols and images associated with classic anti-Semitism (e.g. claims of Jews killing Jesus or blood libel) to characterise Israel or Israelis.

Drawing comparisons of contemporary Israeli policy to that of Nazis.

Holding Jews collectively responsible for actions of the State of Israel.

However, criticism of Israel similar to that levelled against any other country cannot be regarded as anti-Semitic.

The Working Definition makes it even easier to distinguish between anti-Zionist expression and legitimate criticism of Israel. The latter does not deny Jews the right to self-determination; it does not claim that “Zionism is racism”; it does not refer to Israel as an “apartheid state” or use Nazi terminology to refer to Israel or Israelis; it does not use the blood-libel imagery or other classic tropes of anti-Semitism to refer to Israel; and it does not employ double standards when criticizing Israel. Anti-Zionism is alone in seeking to bring about Israel’s reputational injury through group defamation in order to justify its elimination as a Jewish state.

For those who still find it difficult to distinguish between anti-Zionist expression and legitimate criticism of Israel, Natan Sharansky, former Israeli minister of Diaspora affairs, proposed the “3-D test” for determining when criticism of Israel crosses the line into anti-Semitic hate speech.⁹³ “D” stands for demonization, delegitimization, and double standards.⁹⁴ These are the three facets of anti-Zionism and they constitute the “new anti-Semitism.”⁹⁵ In short, anti-Zionism is anti-Semitic;⁹⁶ criticism of Israel is not.

In addition, there is now a broad global consensus for the view that anti-Zionism is the “new” anti-Semitism. In February 2009, the London Conference on Combating Anti-Semitism, jointly hosted by the Inter-parliamentary Coalition for Combating Anti-Semitism and

the UK Foreign and Commonwealth Office, brought together 125 parliamentarians from forty countries around the world to address the general rise in anti-Semitism. It produced a landmark document called “The London Declaration on Combating Anti-Semitism.”⁹⁷

The London Declaration declares that to “target the State of Israel as a Jewish collectivity” is anti-Semitic. It adopts the EUMC Working Definition of Anti-Semitism and resolves to expand its use in order to inform policy at the national and international levels.

It further resolves that: “Education authorities should ensure that freedom of speech is upheld within the law and *to protect students and staff from illegal anti-Semitic discourse and a hostile environment in whatever form it takes including calls for boycotts*” (emphasis added).

Arguments for Regulating Anti-Zionist Expression on UK Campuses

Hostile-Environment Harassment

The London Declaration’s specific reference to the need for educational authorities to protect students and staff from “a hostile environment in whatever form it takes including calls for boycotts” amounts to an explicit acknowledgment that calling for a boycott of Israel on campus creates a hostile environment for Jewish staff and students, and an implicit acknowledgment that calling for a boycott of Israel is anti-Semitic, in effect if not in intent. Moreover, this specific reference is made despite the prior express statement that educational authorities need to ensure that “free speech” is upheld within the law. This suggests that there is no “free speech” justification for the creation of a hostile environment in the workplace (staff) or in education (students).

Indeed, in the United States where “hostile-environment harassment” doctrine has developed from the equality rights enshrined in the Civil Rights Acts,⁹⁸ it has triumphed over free-speech arguments. This is because the principle of ensuring equal opportunity and a fair chance to succeed for minorities in the workplace and in education is considered to be more important than the right to free speech. Accordingly, even vocal critics of campus hate-speech codes on First Amendment grounds acknowledge the importance of avoiding hostile environments for minority groups in the university setting.⁹⁹

In the UK, the need to prevent a hostile environment for racial and ethnic minorities in employment and education has similarly been recognized by Parliament in s. 26 Equality Act 2010. This section places limitations on free speech in order to ensure a hostile-free environment in which racial and ethnic minorities can realize their full employment

and educational potential. In April 2011 the act will impose on all public bodies, including universities, an affirmative “equality duty” to maintain a hostile-free environment.

Under UK law, hostile-environment harassment is a form of direct discrimination. The relevant section¹⁰⁰ provides that:

- (1) A person subjects another to harassment in any circumstances [in employment and education] where, on the grounds of race, ethnic, or national origins, he engages in unwanted conduct which has the purpose or effect of –
 - (a) Violating that other person’s dignity, or
 - (b) Creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

- (2) Conduct shall be regarded as having the effect specified in paragraph (a) or (b) of subsection (1) only if, having regards to all the circumstances, including in particular the perception of that other person, it should reasonably be considered as having that effect.

There have been very few hostile-environment harassment claims in the UK since 2003, and certainly none with respect to anti-Zionist expression in the university setting. The closest approximation occurred when the lawyer Anthony Julius threatened Sally Hunt, the general secretary of the UCU, with a hostile-environment harassment claim on behalf of the Jewish members of the UCU if she did not drop the call to boycott Israel.¹⁰¹

However, despite the dearth of legal authority, it appears that s. 26 Equality Act would require UK universities to prohibit anti-Zionist expression on campus on the ground that it constitutes hostile-environment harassment for Jewish staff and students. This is especially so in light of the 2005 EUMC Working Definition, as adopted by the London Declaration 2009, that defines anti-Zionism as a manifestation of anti-Semitism.

Anti-Zionist expression on campus satisfies the requirements of s. 26 Equality Act as follows:

“*Unwanted conduct*” relates to expression in *any form* that is *uninvited*. This covers the entire range of on-campus anti-Zionist expression from offensive emails, blog entries, and lecture tours to the erection of “apartheid” walls, the display of Palestinian flags, and the holding of “Free Gaza” Student Occupations.

“*On the grounds of race, ethnic or national origins*” suggests a discriminatory motive, but it is thought to mean the broader “related to.” This is because the harassment provision’s parent European Race Directive employs the term “related to” and it was reasoned in *R (Equal*

*Opportunities Commission) v. SS for Trade and Industry*¹⁰² that there is need only for the unwanted conduct to have a “connection or association” with a protected ground (such as “ethnic origins”) for the discrimination element to be satisfied. English academic Lizzie Barnes states that “it is arguably right to treat the merest connection between harassment and some aspects of identity as sufficient to turn harassing conduct into a discriminatory act” because of the larger context of subordination or mistreatment invoked in the individual interaction.¹⁰³ The connection between Israel and Jewish identity, and the pain experienced by the Jewish academic community during periods of on-campus anti-Zionist rhetoric with its deployment of anti-Semitic tropes and strategies, is sufficient to “associate” anti-Zionist expression with Jews for the purposes of the statutory section.

Subsection (2) lays down both a subjective and an objective test for ascertaining whether a “hostile environment” has been created: the recipient of the conduct must have subjectively *perceived* her environment as hostile *and* the tribunal must agree that her perception is *reasonable under the circumstances*. This requires the tribunal to consider the *context* of the unwanted conduct.

In the case of anti-Zionist expression on campus, the *context* inquiry would require the tribunal to consider the academic-freedom justification because it would undoubtedly be raised as a defense by the university. It is interesting that s. 26 Equality Act 2010, unlike its predecessor s. 3A Race Relations Act (Amendment) Regulations 2003, *specifically* provides in subsection (2) that where a claim is brought in the academic setting, the tribunal is required to balance the competing considerations of the defendant’s “freedom of expression” and “academic freedom” against the recipient’s “right not to be offended” when considering the “reasonableness” of her subjective perception of hostile environment. This suggests that Parliament anticipates hostile-environment harassment claims in the university setting.

It is almost certain that the tribunal would consider the Jewish perception of hostile-environment harassment to be a reasonable one. The academic-freedom and free-speech justifications cannot prevail over the recipient’s “equality rights” as long as (1) anti-Zionist expression can be shown to be inherently anti-Semitic in terms of its purpose and stratagems; (2) there is official European and British recognition that anti-Zionism is the “new” anti-Semitism in the form of the EUMC Working Definition and the London Declaration; and (3) there are Equality and Diversity and Anti-Harassment policies designed to protect the interests of minority staff and students and to promote a culture in which everyone feels valued.

Furthermore, the academic-freedom justification can be demonstrated to be without merit by presenting testimony as to how the anti-

Zionists operate on campus *in practice*. The blatant refusal of the speakers on the recent campus tour, “Israel, the Palestinians and Apartheid: The Case for Sanctions and Boycott,” to take questions from Jewish students indicates that they were not there to debate the issues or — to use the marketplace metaphor — to “contribute to the marketplace of ideas,” but rather to indoctrinate young minds with hatred against Israel, and to recruit impressionable youngsters to their boycott, divestment, and sanctions “cause.”

Finally, no tribunal would consider the Jewish subjective perception of hostile-environment harassment to be objectively unreasonable where the recipient can present transcripts of speeches that justify Palestinian terrorism against Israeli civilians¹⁰⁴ and employ the so-called “Nazification” of Israel,¹⁰⁵ soon to be classed as a crime of incitement in the UK.

In anticipation of a successful hostile-environment harassment claim by Jewish staff and students, UK universities would be well advised to ban anti-Zionist expression on their campuses. The affirmative “equality duty” to be imposed by the Equality Act in April 2011 will make the universities’ equal treatment of Jewish students and staff a legal obligation. To allow them to be subjected to a hostile environment will not be defensible.

The Harms of Hate Speech

1. Duty of Care

Quite apart from any legal duty imposed by statute, UK universities are also under a common-law duty to prohibit anti-Zionist expression on campus on the ground that it causes tangible harm to Jewish students and staff.

Although there is no literature on the harm to minority staff, much has been written about the harms that hate speech causes to minority students, including humiliation and “psychic assault.”¹⁰⁶ Failure to prevent such harm is inconsistent with the university’s special responsibility to foster student growth and wellbeing and amounts to a breach of its legal duty of care.

Critical race theorist Mari Matsuda identifies the harms of hate speech as “psychological symptoms and emotional distress ranging from fear in the gut, rapid pulse rate and difficulty in breathing, nightmares, posttraumatic stress disorder, hypertension, psychosis, and suicide.”¹⁰⁷

Critical race theorists Delgado and Stefancic conclude that the harms of racist hate speech are multifaceted, severe, and pervasive.¹⁰⁸ They distinguish between physical harms, both short-term and long-term, and psychological harms. The short-term physical harms they identify are rapid breathing, headaches, raised blood pressure, dizziness, rapid pulse

rate, risk-taking behavior, and suicide. The long-term physical harms they identify are depression, hypertension, hypertensive disease, and stroke. The psychological harms they identify are damaged self-image, lowered aspirations, fear, nightmares, withdrawal, anger, lowered self-esteem, and life dissatisfaction.¹⁰⁹

Hate-speech harms, whether identified as physical or psychological, result in clear tangible losses for the minority student such as poor attendance, lower grades, and decreased career options and job opportunities.¹¹⁰ The latter are classed as “economic losses.”¹¹¹

Not only do Jewish students in the UK frequently report feelings of anger, isolation, discomfort, humiliation, depression, and fear for their physical safety as a direct result of anti-Zionist activity on campus,¹¹² but the harms listed in s. 26 Equality Act 2010 are tangible harms. This means that whenever there are grounds to bring a hostile-environment harassment claim against the university, there will also be grounds to bring a negligence claim alleging breach of duty of care. Such a claim may be brought by a Jewish staff member as well as by a Jewish student, because the university’s duty of care also extends to its employees.

2. Equality and Diversity and Anti-Harassment Policies

Hate-speech harms are wholly at variance with the Equality and Diversity policies of UK universities. These aim to promote equality of educational opportunity for minorities. This is a legal requirement.¹¹³ Yet Jewish students frequently report that their attendance at scheduled lectures is compromised because of the distress and fear caused by anti-Zionist activity on campus. This means that their legal entitlement to equal opportunity in education is compromised.

Equality and Diversity and Anti-Harassment policies also aim to promote the principle of equal respect. Tolerance of hate speech on campus contradicts this important principle. Altman points out that hate speech is “a certain kind of wrong, namely a violation of equal respect.”¹¹⁴ Hate speech has a “subordinating nature” because it treats its victims “in a way that takes their interests to be intrinsically less important, their lives inherently less valuable, than the interests and lives of those who belong to some reference group.”¹¹⁵

Conclusion

Anti-Zionist expression satisfies the definition and meaning of “hate speech.” It is also authoritatively recognized as the “new” anti-Semitism. Nevertheless it is still a protected form of speech in the United Kingdom. This is because of the moral, political, and social value traditionally afforded to the principle of free speech.

However, different “speech laws” operate in the university setting. This is in recognition of the particular context within which speech occurs in the university. Students are young, away from home, and vulnerable, and *minority students even more so*, because of the characteristics associated with their minority status and because they are, by definition, relatively few in number and low in resources. This is why Parliament has legislated to require UK universities to promote equality, to ensure equality of opportunity, and to protect minorities from discrimination, including harassment.¹¹⁶ These “equality” ideals are said to have become part of the university culture. Consequently, there can be no “academic freedom” to use the university campus for expression that offends, particularly when that expression is completely unconnected with the academic pursuit of knowledge in the classroom.

UK universities need to address the fact that anti-Zionist expression on campus causes offense and other tangible harms to Jewish students and staff. They need to prevent that offense from occurring in order to maintain a harassment-free learning and working environment for the Jewish academic community. This is essential if they are to comply with their own equality policies and the law. They can satisfy their equality and legal duty by adopting the EUMC Working Definition of Anti-Semitism and declaring that anti-Zionist expression on campus is henceforth proscribed as hate speech.

Notes

1. The term expression is interchangeable with the term speech and includes “conduct,” “oral and written words,” and “symbols,” *Harris v. International Paper* 765 Supp. 1509 (1991). For the definition of anti-Zionism, see below.
2. *The Guardian*, 6 April 2002, 15.
3. For the SOAS speeches, see www.inminds.co.uk/case4boycott4dec.09.php.
4. “Terror Group Using UK as European Base,” *Jewish Chronicle*, 26 February 2010, 1–2.
5. “Groups Denounce Anti-Jewish Speech at UC-Irvine,” JTA, 26 May 2010.
6. Yves Pallade, “‘New’ Anti-Semitism in Contemporary German Academia,” *Jewish Political Studies Review*, vol. 21, nos. 1–2 (Spring 2009).
7. “Norway University to Vote Next Month on Boycott of Israel,” Haaretz.com, 30 October 2009.
8. David Hirsh, “The Legacy of Hope: Anti-Semitism, the Holocaust and Resistance, Yesterday and Today,” lecture presented at the UCU seminar, Brighton, 18 January 2010, engageonline.wordpress.com/2010/01/18/david-hirshs-talk-at-ucu.
9. For the statement of Prof. Steven Rose of BRICUP during a proboycott

- lecture at SOAS on 4 December 2009, see www.inminds.co.uk/case4boycott.4dec09.php.
10. "Russell Group Statement on Proposals for an Academic Boycott of Israel," Russell Group: News, 6 November 2009.
 11. Douglas Murray, "The Big Taboo: Campus Extremism," *Jewish Chronicle*, 19 February 2010; Jack Goldstein, "We Must Tackle Student Unions' Silence on Hate," *Jewish Chronicle*, 26 February 2010.
 12. See n. 3.
 13. "Masuku Guilty of Hate Speech," NEWS 24.com, 4 December 2009.
 14. See n. 3.
 15. "BOYCOTT THE BOYCOTTERS: UK Regulators to Look at War on Want," *Jerusalem Post*, 14 April 2010, www.jpost.com/International/Article.aspx?id-173088.
 16. See n. 3.
 17. Ibid.
 18. Email dated 14 December 2009 from Jewish students in attendance at the Leeds University lecture on 8 December 2009.
 19. Ibid.
 20. Interview with Jewish student Amy Gower, Leeds University, 8 December 2009.
 21. For a full discussion of the university's duty in this respect, see Mari Matsuda, "Public Response to Racist Speech: Considering the Victim's Story," 87 *Michigan Law Review* 2320 (1989). In the UK, this duty is legally recognized in the common-law "duty of care."
 22. The Equality Act 2010 (replacing the Race Relations Act 1976, as amended, and the Equality Act 2006).
 23. For further information, see www.equalities.gov.uk.
 24. The race-relations legislation defines Jews as a racial group because they can be defined by reference to their ethnic origin, *Mandla v Dowell Lee* [1982] 3 All E R 1108; [1983] QB 1.
 25. Art. 10(2) ECHR.
 26. This is known as "Holocaust inversion" and amounts to "Holocaust trivialization," which is a form of Holocaust denial; see Michael Whine, "Expanding Holocaust Denial and Legislation against It," *Comms Law* 86 (2008), 13(3), 86–95; Manfred Gerstenfeld, *The Abuse of Holocaust Memory: Distortions and Responses* (Jerusalem: Jerusalem Center for Public Affairs/Anti-Defamation League, 2009), ch. 7.
 27. "Calling Jews 'Nazis' May Be Criminalized," *Jewish Chronicle*, 17 July 2009, 4.
 28. Thomas Scanlon, "A Theory of Freedom of Expression," *Philosophy & Public Affairs*, vol. 1, no. 2 (1972): 204–26.
 29. Alexander Meiklejohn, *Free Speech and Its Relation to Self-Government* (New York: Harper & Brothers, 1948).
 30. *Per* Justice Oliver Wendell Holmes in *Abrams v. United States*, 250 U.S. 616, 630 (1919) (dissenting).
 31. Gerald Gunthur, "Good Speech, Bad Speech — No," in Jeffrey R. Di Leo, *Morality Matters: Race, Class and Gender in Applied Ethics* (New York: McGraw-Hill, 2002), 7.

32. Timothy C. Shiell, *Campus Hate Speech on Trial* (Laurence: University Press of Kansas, 2009).
33. See www.guardian.co.uk/Jan/kingscollegelondon-gaze; "Campus like a War Zone," *Jewish Chronicle*, 6 November 2009, 12.
34. "ON CAMPUS," *Jewish Chronicle*, 6 November 2009, 12.
35. "ON CAMPUS," *Jewish Chronicle*, 4 December 2009, 15.
36. "Envoy Attack Sparks Fear for Israeli's Safety," *Jewish Chronicle*, 7 May 2010, 4.
37. "Deputy Israeli's Visit to Manchester University," www.youtube.com/watch?v=53w-ccqHcZk.
38. "Envoy Attack."
39. *Ibid.*
40. Goldstein, "We Must Tackle Student Unions' Silence," 11.
41. It has special legal status: s. 43 Education Act 1986; s. 202 Education Reform Act 1988.
42. The Equal Pay Act 1970; the Sex Discrimination Act 1975, as amended; the Race Relations Act 1976, as amended; the Disability Discrimination Act 1995; the Employment Equality (Religion or Belief) Regulations 2003; the Equality Act 2006; the Equality Act (Sexual Orientation) Regulations 2007; and various European Council Directives.
43. http://staff.shu.ac.uk/university_secretariat/raceequality-policy.asp; http://staff.shu.ac.uk/university_secretariat/religiousequality-policy.asp.
44. *Ibid.*
45. http://staff.shu.ac.uk/university_secretariat/antiharassment.asp.
46. www.ecu.ac.uk/publications/promoting-good-campus-relations-update.
47. *Ibid.*
48. s. 26 Equality Act 2010; Race Relations Act (Amendment) Regulations 2003, s. 3A, prior to October 2010.
49. For authorities on this point, see Manfred Gerstenfeld, "The Deep Roots of Anti-Semitism in European Society," *Jewish Political Studies Review*, vol. 17, nos. 1–2 (Spring 2005).
50. David Graham and Jonathan Boyd, "Committed, Concerned and Conciliatory: The Attitudes of Jews in Britain towards Israel," JPR/Institute for Jewish Policy Research, 15 July 2010.
51. "Hate Incidents Reach Record Level on Eve of Anti-Semitism Conference," *Jewish Chronicle*, 13 February 2009, 7.
52. "Gaza War Sparks Worst Hate Wave Ever Recorded," *Jewish Chronicle*, 24 July 2009, 1–2.
53. Manfred Gerstenfeld, "Justifying the Holocaust and Promoting a Second One," *Post-Holocaust and Anti-Semitism*, 88, 15 October 2009.
54. *Ibid.*
55. Anthony Julius, *Trials of the Diaspora: A History of Anti-Semitism in England* (Oxford: Oxford University Press, 2010), 457.
56. Paul A. Shapiro, "What's in the Air?," keynote speech to the OSCE Regional Conference, Bucharest, 17–18 September 2008.
57. Julius, *Trials*, 483.
58. Manfred Gerstenfeld, "Anti-Israelism and Anti-Semitism: Common

- Characteristics and Motifs,” *Jewish Political Studies Review*, vol. 19, nos. 1–2 (Spring 2007).
59. Julius, *Trials*, chs. 7, 8.
 60. Bernard Harrison, *The Resurgence of Anti-Semitism: Jews, Israel, and Liberal Opinion* (Lanham, MD: Rowman & Littlefield, 2006).
 61. Julius, *Trials*, ch. 7.
 62. *Ibid.*, 477.
 63. *Ibid.*, 583.
 64. “Working Definition of Anti-Semitism,” European Monitoring Centre on Racism and Xenophobia, Vienna, 16 March 2005, [http://eumc.europa.eu/eumc/material/pub/AS/AS-Working Definition-draft.pdf](http://eumc.europa.eu/eumc/material/pub/AS/AS-Working%20Definition-draft.pdf).
 65. Clemens Heni, “Anti-Semitism and Germany: Anti-Jewish Images from 1602 to 9/11,” *Wissenschaft and Publizistik als Kritik*, 27 June 2009.
 66. Alan Dershowitz, *The Case for Israel* (New York: Wiley, 2003).
 67. Gerstenfeld, “Deep Roots of Anti-Semitism.”
 68. See n. 3.
 69. See Jonathan Freedland, “Is Anti-Zionism Anti-Semitism?,” in Paul Ignanski and Barry Kosmin, eds., *A New Anti-Semitism?: Debating Judeophobia in 21st-Century Britain* (London: Profile Books in association with the Institute for Jewish Policy Research, 2003).
 70. Gerstenfeld, “Anti-Israelism,” 10–11.
 71. Julius, *Trials*, 475.
 72. “Civil Servant Wins Race Case,” *Jewish Chronicle*, 26 March 2010, 6.
 73. www.humanrightsfirst.org/discrimination/.../antisemitism_report.pdf; <http://scm.oas.org/pdfs/2008/CP21372t.pdf>.
 74. “Gaza War.”
 75. Shiell, *Campus Hate Speech*.
 76. The definition is a composite of the rulings in First Amendment cases in the United States, *ibid.*
 77. Report of the European Institute for the Study of Contemporary Anti-Semitism, “Understanding the ‘Nazi Card’: Intervening against Anti-Semitic Discourse,” cited in Winston Pickett, “Playing the ‘Nazi Card’ over Israel Goes Deeper than Mere Insult,” *Jewish Chronicle*, 17 July 2009, 30.
 78. Judea Pearl, “Is Anti-Zionism Hate?,” Losangelestimes.com/newsopinion/Sunday/commentary/la-oe-pearl115-2362924.story, 15 March 2009.
 79. *Ibid.*
 80. Graham and Boyd, “Committed.”
 81. Quoted in Freedland, “Is Anti-Zionism Anti-Semitism?,” 122.
 82. Pickett, “Playing the ‘Nazi Card.’”
 83. *Ibid.*
 84. Julius, *Trials*, 511.
 85. *Ibid.*, 554.
 86. Shiell, *Campus Hate Speech*.
 87. *Ibid.*, 162.
 88. *Ibid.*
 89. Richard Delgado and Jean Stefancic, *Understanding Words That Wound* (Boulder, CO: Westview, 2004).

90. Claudia Haupt, "Regulating Hate Speech — Damned if You Do and Damned if You Don't: Lessons Learned from Comparing the German and U.S. Approaches," 23 *Boston University International Law Journal* 299, 300 (Fall 2005).
91. This was reconstituted in March 2007 as the European Agency for Fundamental Rights (FRA), http://fra.europa.eu/fraWebsite/home/home_en.htm.
92. "Working Definition of Anti-Semitism."
93. Natan Sharansky, "Anti-Semitism in 3-D: Differentiating Legitimate Criticism of Israel from the So-Called 'New' Anti-Semitism," www.hagalil.com/antisemitismus/europa/sharansky-1.htm.
94. Ibid.
95. Ibid. See also Irwin Cotler, "Identifying the New Anti-Semitism," Jewish People Policy Planning Institute, November 2002.
96. Anti-Semitic anti-Zionism may also be referred to as the "new anti-Zionism" to designate it as post-1948 anti-Zionism. See Julius, *Trials*, 474; Anthony Julius, "The anti-Zionist position post-1948 is deeply problematical," *Start the Week*, BBC Radio 4, 1 March 2010, 09:00.
97. www.communities.gov.uk/documents/corporate/pdf/1151284.pdf.
98. Title VII Civil Rights Act 1964 & 1990 (workplace), Title IX Civil Rights Act 1964 (education).
99. Nadine Strossen, "Regulating Racist Speech on Campus: A Modest Proposal?," *Duke Law Journal* 484 (1990).
100. S. 26 Equality Act, replacing the hostile-environment provision in s. 3A Race Relations Act (Amendment) Regulations 2003 from October 2010.
101. Letter from Anthony Julius to Sally Hunt, general secretary of the UCU, June 2008.
102. [2007] EWHC 483 (admin); [2007] ICR 1234.
103. L. Barnes, "Constitutional and Conceptual Complexities in UK Implementation of the EU Harassment Provisions," *I.L.J.* 2007, 446, 461.
104. Bongani Masuku, SOAS lecture, see n. 3.
105. Omar Barghouti, Tom Hickey, Steven Rose, Ronnie Kasrils, Bongani Masuku, see n. 3.
106. Matsuda, "Public Response."
107. Ibid., 2326.
108. Delgado and Stefancic, *Understanding Words*.
109. Ibid.
110. Ibid.
111. Ibid.
112. "Students Fear for Safety as Rallies Grow," *Jewish Chronicle*, 23 January 2009, 12.
113. See n. 48.
114. Andrew Altman, "Liberalism and Campus Hate Speech: A Philosophical Examination," 103 *Ethics* 302 (1993).
115. Ibid., 310.
116. Equality Act 2010.