

# Lessons Learned from the Legal Battle Against Campus Antisemitism

By Alyza D. Lewin

**A**s president of the Louis D. Brandeis Center for Human Rights Under Law, I speak nearly every day to students on campus confronting antisemitism. In my nearly seven years running a legal advocacy organization dedicated to protecting the civil and human rights of the Jewish people, I have observed and learned the following:



**1. What is taking place on campus is not a good-faith political debate.** University administrators and the general public often mistakenly think that what they are witnessing is a debate about Israel's policies. It is not. What is actually taking place at universities (and beyond) is the vilification, marginalization, and shunning of Jews. The demonstrations, encampments, and BDS campaigns put Jews who believe Israel has a right to exist on the wrong side of the social and racial justice equation. For years, these campaigns have equated with evil any Jew who defines their identity as part of a people indigenous to Judea. Former Knesset member Einat Wilf refers to this phenomenon as the "placard strategy." The signs contain a simple message: Star of David = Zionist = evil concept. (You can pick the evil concept: apartheid, ethnic cleansing, colonialism, famine, genocide, etc.) These concepts are not presented in order to discuss or even debate their accuracy. Is it really apartheid? Or a genocide? No, the evil concepts are there for the equation. The Jew, represented by the Star of David, is a "Zionist" and therefore evil.

**2. Administrators and the general public do not understand Jewish identity.** For decades, school administrators have pigeon-holed Judaism as only a faith and Jews solely as members of a religious community. They recognize that Jewish students may need kosher food or a Yom Kippur accommodation, but that is all. These administrators do not understand that Jews are also a people with a shared ancestral and ethnic heritage deeply rooted in the land of Israel. As a result, administrators have a blind spot when it comes to understanding contemporary forms of antisemitism that target Jews on the basis of their shared ancestral and ethnic identity; they fail to recognize when Jewish students are being bullied and pressured to disavow their ancestral heritage in order to fully engage and be accepted on campus.

**3. Today's "scholarship" increasingly erases Jewish history and denies Jewish identity.** According to an ethnic studies narrative becoming entrenched in K-12 lesson plans and increasingly promoted on university campuses, the Jews are not a people indigenous to the land of Israel. This narrative acknowledges that Jews, Christians, and Muslims have lived in Israel over the centuries, but

it claims that these are just faith-based, *religious* identities. The narrative defines the *ethnic* and *cultural identity* of all the people living in the region (throughout history) as Palestinian. Those who promote this narrative differentiate between "Jews" and "Zionists": "Jews" define their Judaism solely as a religion, whereas "Zionists" (who recognize the Jews as a people indigenous to Judea) are accused of "Judaizing" Palestinian history and heritage by claiming it is Jewish. According to this fabricated narrative, the Jews' shared ancestral identity and heritage connected to the land of Israel is completely erased and hijacked. Jewish history is whitewashed and re-framed as Palestinian, and Jewish peoplehood is denied.

**4. Title VI of the Civil Rights Act requires universities to protect Jewish students from antisemitic harassment and discrimination.** According to Title VI of the Civil Rights Act, universities that receive federal funds (nearly all institutions of higher education in the United States) are compelled to protect students from harassment and discrimination that is so severe or persistent that it denies the student an equal educational opportunity. Although Title VI does not include "religion" as a protected category, for the last 20 years the statute has been interpreted by the Department of Education to cover Jews and members of other faith-based communities when they are targeted on the basis of their actual or perceived shared ancestry and ethnicity rather than their religious practice. Universities, therefore, have a legal obligation to protect Jewish students when they are being bullied, shunned, marginalized, excluded, or assaulted on the basis of their shared Jewish ancestry and ethnicity. If universities fail to meet this obligation, they risk losing their federal funding.

What is actually taking place at universities (and beyond) is the vilification, marginalization, and shunning of Jews.

The Department of Education demonstrated this understanding of the law when it announced a 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

*continued on page 22*

## Lessons Learned *continued from page 21*

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. 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.<sup>1</sup>

A further example 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 canceled, 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 Biden administration’s National Strategy to Counter Antisemitism, the opening of the SUNY New Paltz investigation sends a clear message that OCR is taking this form of antisemitism seriously.

Students have recognized that the best antidote to bigotry and discrimination is self-confidence and pride.

**5. Universities are increasingly recognizing that Zionism is an integral component of Jewish identity.** Jews do not only share a common faith; we are also a people with a shared history and heritage rooted in the land of Israel. During our Jewish holidays, we reinforce our shared collective memory. We tell the stories, for example, of our ancestors who were liberated from slavery in Egypt and who wandered in the desert on the way to the Promised Land. King David designated Jerusalem, also known as Zion, as the capital of Israel. His son, King Solomon, built the Jewish Temple on the Temple Mount. Our holidays

<sup>1</sup> This paragraph and the following one are adapted from an article by the author in SAPIR. *Anti-Zionist Harassment is Against the Law Too* (Volume 10/Summer 2023). <https://sapirjournal.org/antisemitism/2023/08/anti-zionist-harassment-is-against-the-law-too/>.

are linked to the agricultural cycle in Israel. For centuries Jews have not only prayed facing Jerusalem; they have prayed to return there. It is impossible to separate our religious, cultural, ethnic, and national identity from the land of Israel. Those who recognize this history and understand that the Jews are a people indigenous to Judea are Zionists. They appreciate that, as an indigenous people, Jews have a right to self-determination in their ancestral homeland. Fortunately, universities are also beginning to understand this truth. Some schools, including NYU, University of Illinois at Urbana Champaign, and Columbia, and the recommendation report prepared by Judge Lippman for the CUNY school system, have recently explicitly acknowledged that, for many Jews, Zionism is a part of Jewish identity and that, therefore, harassment and discrimination targeting “Zionists” violates university policy when the term is being used as a substitute for “Jew.”

**6. Jewish engagement on campus is at an all-time high.** Hillel International and Chabad on Campus report that record numbers of students are engaging in Jewish programming on campus. Students are leaning in and learning more about the beauty and richness of our Jewish history and heritage. That, perhaps, to paraphrase the late Rabbi Lord Jonathan Sacks, is the “blessing within the curse.”<sup>2</sup> Students on campus today are exhibiting courage and confidence and pushing back against those who demand that they hide or shed their pride in the Jewish people, their history and their ancestral homeland as the price for acceptance. These students have recognized that the best antidote to bigotry and discrimination is self-confidence and pride, and that the key to that self-confidence is knowledge and awareness about Jewish history and traditions.

All of us should be inspired by the students’ example. By listening, learning, reading, experiencing, and celebrating the richness of our faith, history, culture, language, traditions, and values, we will make sure that the Jewish people not only survive, but thrive. By embracing, strengthening and taking pride in our Jewish identity, we will ensure that we emerge from this difficult period as a stronger, more united, more resilient, better educated, more empathetic people, with renewed energy and determination to enhance and improve the world in which we live for the benefit of the Jewish people and all humankind. *Am Yisrael Hai*.

---

*Alyza D. Lewin is president of the Louis D. Brandeis Center for Human Rights Under Law (“Brandeis Center”) and a founder and partner of Lewin & Lewin, LLP. The Brandeis Center is not affiliated with the Massachusetts university, the Kentucky law school, or any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice.*

---

<sup>2</sup> Turning Curses into Blessings. *Covenant & Conversation – Shemot*. <https://rabbisacks.org/covenant-conversation/shemot/turning-curses-into-blessings>.