

Academic Freedom in Israel: A Comparative Perspective

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Introduction

Neo-Marxist, critical scholarship has acquired a substantial following in the liberal arts (the humanities and social sciences) in Israeli universities. Known as post Zionism, it asserts that Zionism is a colonial-imperialist movement and that its progeny, the State of Israel, is a colonial-apartheid country; in addition, Israel is presented as a Nazi-like state and the Israel Defense Force (IDF) is accused of Nazi-like behavior. As a rule, courses offered by self-described post Zionist faculty have been heavily weighted toward this neo-Marxist, critical paradigm, with little or no effort expended to provide any different perspective.

Combining academic research and political work, post-Zionist academics have engaged in a robust effort to compel Israel to withdraw from the territories; some advocated the return of Palestinian refugees in order to create a bi-national Jewish-Palestinian entity. Israeli scholars have adopted a leadership role in the Boycott, Divestment and Sanctions (BDS) movement, launched international petition drives condemning the IDF for war crimes, and inspired lawsuits against individual commanders.

Government and university authorities have been slow to respond to this threat, due to the prevalent notion that academic freedom protects faculty speech and action, both intramurally and extramurally. Indeed, radical scholars and their liberal defenders in the academy and media have warned that imposing any limits would injure Israel's standing in the academic world and place it at-odds with standards of academic freedom practiced in other democratic countries.

To ascertain the veracity of these claims, this study will compare Israel's level of academic freedom compared with that of other countries. This is the first detailed, systematic and comprehensive analysis of the subject.

Theory and Methodology

For all its popularity, academic freedom is an umbrella term encompassing a multitude of issues, rather than a clearly-defined concept. Its meaning has changed as the university has gradually evolved from being primarily a religious institution to functioning in a modern, largely secular venue, subject to varying levels of public scrutiny. Accepted wisdom dates the beginning of this process to the Renaissance, but its roots were firmly planted during the medieval period, when Christian academic dogma was forced to confront challenges in the realms of authority, language, reason, and truth. These four elements have fueled spirited academic discourse, as educational systems have been transformed from encompassing the theological certitudes of Christianity to navigating the uncharted waters of open inquiry.

In the natural sciences, this debate was settled when clear procedures—such as reproducible empirical experiments—were accepted as proof of the scientific notion of truth. In the liberal arts, however, facts were more difficult to discern, for the discipline reflected murky human conditions and fluid, unsettled social realities. In the absence of an overarching authority, it was not easy to detect what might advance the search for truth. One scholar framed the issue in the following way: “if judgments are relative to particular contexts and there is no context of contexts — no source of authority so compelling that everyone, no matter what his or her history, education,

political situation, etc., defers to it — then there is no way to tell the difference between right and wrong, to prefer one argument to another, to distinguish Shakespeare from graffiti.”[1]

Aware of this conundrum, the liberal arts turned to the law of reason, for it promised to unfetter the discourse from set ideological perspectives and to test fairly any and all ideas. What emerged was the notion that competing claims could be worked-out through a reasoned and fair discussion. In other words, truth would emerge from a discursive-pedagogical process, where measured and objective language played a large role. The exactitude of the scientific field made the identity of the researcher immaterial but, in the liberal arts, objective detachment of scholars was expected, so as to safeguard the discipline from undue personal influence or transient ideological fads.

With a new protocol established, the modern university could claim that the only way to fulfill its mission was to acquire a substantial academic freedom, traditionally distinguished as institutional and individual. The former refers to the freedom of the university to set standards, to appoint faculty, and to admit students. The latter denotes two rights; 1) right of individual faculty members when functioning intramurally (professionally) to teach and perform research without external hindrance; 2) the rights of individual faculty members when speaking extramurally. Such off-campus activism is distinct from the freedom of speech that citizens in a democracy enjoy (known in the United States as “First Amendment Rights”). A mixed intramural-extramural category pertains to right to invite outside presenters and to host panels and conferences on-campus.

To provide maximum comparative context, three themes have been identified in each case-study: (1) the historical and intellectual background of academic freedom; (2) the changes to academic freedom brought by the transition to the management university model; and (3) the discourse regarding how to define boundaries of academic freedom when dealing with Israel and the Middle East. Replacing the relation between race and intelligence – the traditional litmus test of such boundaries - the discourse on Israel in the Middle East has both replicated features of past disputes and created novel challenges.

To generate reproducible conclusions while tackling such an vast, complex and controversial subject, three limitations have been maintained in this study: (1) comparing Israel with three countries—Germany, Great Britain and the United States—that have shaped Israel’s system. Virtually all Israeli universities are public, closely resembling the German and British model. The United States, which has a mixture of public (state) and private institutions, presents a problem in this regard; to the extent possible examples will be drawn from public institutions; (2) focusing on the liberal arts (the humanities and social sciences); (3)—eschewing analysis of such tangential issues as collective bargaining, criticism of university authorities, whistle-blowing, and the ethics of outside consulting.

The structure of the study reflects these methodological considerations. The first three chapters provide a chronological-thematic analysis of the German, British and American university systems. Chapter four offers a detailed chronological-thematic analysis of the Israeli system. The concluding chapter draws on the comparative cases to provide an exact measure of academic freedom at both the institutional and the individual levels that Israel enjoys.

Chapter 1

Germany

The search for truth was pioneered by eighteenth century German universities. The old scholastic system sought “to explain a dogma, to deduce its consequences, and to demonstrate its validity”; the new one encouraged open-ended search for truth (*Leitbild*) within boundaries of logic and reason. The term *Wissenschaft*, which has no close equivalent in English, denotes “knowledge” and “science/humanities,” but it could also connote freedom of scientific pursuit, especially when applied to hard sciences; that which was “academically respectable or convincing” was *Wissenschaftlich*. Practicing *Wissenschaft* invoked two critical academic freedoms, *Lehrfreiheit* and *Lernfreiheit*; the former meant professors could teach topics within their area of competence relatively unencumbered by administrative coercion, while the latter meant students could structure their own study programs and choose their own courses.[2]

Wilhelm von Humboldt, a noted philosopher of education, developed these notions into a model that has sustained the modern, secular university. To honor the scientific endeavor and, then, to arrive at truth, the classroom was to be converted into a marketplace of ideas. For his numerous followers, this was an attractive design; it offered to provide the optimal setting for adjudication by reason, and it promoted the notion of fairness and objectivity. The extensive academic freedoms that Humboldt advocated for both faculty and student appealed to the independent-minded scholars of the time. Creating a marketplace of ideas was considered to be a political bonus outside the academy, particularly to those who advocated democracy, a system that depended on vigorous but tempered civil debate. To safeguard faculty rights and freedoms and to protect it from unpredictable political pressures, tenure was institutional; it turned a professor from an “at-will employee”—an employee whose contract could be easily terminated—to an employee who could only be terminated “for cause” after a review process.

Critics questioned whether these privileges could be abused, notably in the liberal arts that were more susceptible to unproven theories and polemical discourse. But Humboldt and like-minded thinkers argued that professors acting in a “professional manner” would be able to restrain themselves from undermining the objectivity of the classroom. Two additional safeguards protected the classroom as a marketplace of ideas and prevented its politicization. Because students were guaranteed academic freedom, they could pick among professors and serves as “critics and improvers” in the classes of their choice. Professors could engage in extramural speech but as civil servants (*Beamten*), they were expected to be circumspect, creating few incentives to use the classroom as a launching pad for a political agenda.

Humboldt was given a chance to implement and to test these principles at the Berlin University (subsequently named after him) when it opened in 1810; known variously as the German or Humboldtian model, this new philosophy of higher education would eventually spread to Western Europe and to the United States. In Berlin, however, tension between the pedagogical ideal and reality soon surfaced, triggered by Dr. Leo Arons, an activist in the Social Democratic Party. Leading academics viewed his speeches as a breach of protocol not only because they contradicted the behavior expected of *Beamten* but, more importantly, because they thought that his ideology served to bias academic thinking. A scholar was expected to “develop the habit of theoretical indifference with respect to opposing ideas, a readiness to pursue any path”; moreover, it was feared that political activity would produce a “habit that would prove fatal to a theorist, the habit of opportunism.” Thus, although colleagues

privately warned him “to cease from such agitation” lest it tarnish the good reputation of the university, faculty publicly objected to the plan of the Prussian Minister of Education to fire him, an act that would have implied a limit had been placed upon the university’s institutional autonomy. The verdict overruled their objections because, although “university professors were not strictly comparable to other officials” and thus enjoyed “a wider realm of utterance,” they were obliged to adhere to a “special code of decorum.” In other words, professors were advised to position themselves above the political debates of the day. [3]

The trade-off between academic freedom and a commitment to act in a responsible manner was well understood, finding its well into the German constitution of 1948/9. The so-called Frankfurt Constitution or *Paulskirchenverfassung* made *Wissenschaftsfreiheit* (scientific freedom) a fundamental right for faculty. The freedom of the universities was embodied in institutional autonomy.

Testing the Humboldtian Model: The German Academy in Times of Political Upheaval and War

The trauma of World War I and the chaotic politics of the Weimar Republic posed the first test to Humboldt’s apolitical university. Some challenges emerged from a power-struggle between senior faculty and younger cohorts with an intermediate rank of *Privatdozent* (a position that offered no steady income) that was prolonged by the long Habilitation period spent producing a major post-doctorate research project. Senior faculty, known as the “mandarins,” had near-absolute control over the junior faculty, breeding resentment among those with a lower status. Sensing an opening, junior faculty mounted a challenge, prompting senior professors to grumble about the Weimar democracy. With a keen eye on the underlying motives, the great sociologist Max Weber noted in 1918 that their “clamor” against democracy masked their real anxiety: the leveling consequences of democratization. And, deeper still, there was more than a hint of anti-Semitism in this reaction, as Jews were seen as taking a lead in the universities and elsewhere. [4]

Open nostalgia for Imperial Germany translated into a surprisingly vigorous political engagement. While twenty to thirty percent of professors were involved with political parties— mostly conservative or nationalist—some participated in the liberal German Democratic Party. But membership in the National Socialist German Workers’ Party (*National Sozialistische Deutsche Arbeiter Partei*, NSDAP) was rare phenomenon— even among those harboring anti-Semitic feelings—because they did not approve of the “rowdy anti-Semitism” exhibited by the Nazis. Still, their animosity toward the Weimar government played a role in its unraveling. [5]

While professors may have harbored distaste for the Nazi movement, their students enthusiastically embraced it through the National Socialist German Students’ League (*National Sozialistischer Deutscher Studentenbund*, NSDSTB); half of the student-vote in 1933 was cast for the NSDAP. Thereafter, the aggressively nationalistic segment of the student population—working in tandem with Hitler’s Propaganda Ministry—demanded nazification of the universities by changing the curriculum and even pressing for dismissal of some faculty; one student-driven initiative was the cycle of book burnings in 1933, including the huge bonfire outside the gates of Humboldt University. One professor at Heidelberg University lamented: “It is not the rector who is in charge but a wild student leader, in whose antechamber professors wait for more than an hour until they are generously admitted.” [6]

The Reich Ministry of Education, along with the University Commission of the NSDAP and other Nazi-led watchdogs, soon completed this nazification process. Top priority was given, of course, to purging Jewish faculty and “politically undesirable” professors; equally important was making established liberal arts dogma compatible with Nazi ideology, prompting creation of new disciplines considered to be politically relevant such as racial science, racial hygiene, folklore and military history. This, in turn, challenged the international character of science, triggering efforts to purge the scientific discipline as well. Notorious in this regard was rejection of work on relativity and quantum physics in favor of classical physics; supplanting “Jewish” with “German” science. Lionizing this ideologically-motivated “German physics” may have prevented Germany from developing a nuclear capability and contributed the total Nazi collapse, which gave Humboldt’s system of academic freedom a new chance. [7]

The period of democratic re-education imposed by the Allied Powers in 1945 targeted the universities as well as the media. Mindful of the Nazi past, the German Constitution (Basic Laws) granted academic freedom in Article 5(3), albeit with a twist: “Art and science, research and teaching are free. Freedom of teaching shall not absolve a person from loyalty to the Constitution.” The old formula of freedom of *Wissenschaft* (science), *Forschung* (research) and *Lehren* (teaching) was reinstated, adjusted for twentieth century; students could still determine the course of their studies, but introduction of disciplinary curricula diminished their freedom. Faculty members were allowed to determine the content of their lectures and publish their research without prior approval but, as public servants, they still owed a special duty and loyalty to the Constitution. After the egregious politicization of the Nazi era, overt political activism by both faculty and students was frowned upon. Trying to balance academic freedom with civic concerns, the German Constitutional Court was tasked with adjudicating problems concerning higher education. As a result, the Court had a significant role in shaping some of the most important questions in higher education.

Politics and the Academy in the 1970s: Student Unrest and Social Concerns

The student unrest that swept European universities in the late 1960s and 1970s was keenly felt on German campuses. Daily displays of social upheaval triggered public discontent, creating strong pressures on the universities to solve the problem. Student unrest also prompted some states to expand university governance by implementing structural reforms that had been traditionally controlled by administrative bodies and senior professors. Under the new system, known as *Gruppenuniversität*, junior faculty and students—divided into groups—were given more voice in decision-making bodies.

But the students’ turmoil, with its Weimar overtone, impacted state authorities anxious to avoid academic chaos. In 1974, the state of Hesse introduced a far-reaching change to its university law that required weighing the social consequences of research; it stipulated that faculty inform university authorities of any research that could pose a “serious danger to health, life or social peace.” This provision was challenged by university professors who claimed it was so vague and imprecise that it contradicted Article 5 (3) of the Constitution and impeded free research. The Constitutional Court rejected this view, claiming academic freedom of research should not be automatically privileged when many conflicting public values were at-stake. [8]

After the Hesse ruling had placed limits on freedom of research, activist academics also encountered limits on their freedom to use the classroom for ideological purposes in contravention of Article 5 of the Constitution, which stipulated that instructors should neither propagandize nor advocate violent politics. The Constitutional Court upheld this principle when it determined that Marxism could be studied in the abstract—but not as a platform for political action—and when it decided that Article 5's loyalty clause justified denying faculty appointment to an official of the Communist Party. [9]

The Management University: Higher Education as Economic Competition

Starting in the seventies, the increasingly competitive international economic climate forced Germany to rethink the role of the university. In 1976, the Bundestag passed the Federal University Law (*Hochschul Rahmen Gesetz*, HRG) ordering universities to advance science and to train students for professions that require application of scientific knowledge. The subtext of the law unabashedly exclaimed that publicly-funded universities were expected to support the national interest of the country by training an ever-increasing number of students to make Germany competitive. The autonomy of the universities—already under siege because of student protest—was “affected to its very core” by this “crisis of legitimization.” This was subsequently augmented by drastic budgetary cuts due to a weakening economy. Synergistically, the multilevel crisis evolved into a demand for reform under the twin slogans of “efficiency” when training students with an optimal fit for market requirements, and “democratization” through broadened access, systematized service, and standardized curricular offerings. These reforms were intended to “navigate the universities into...a unified administrative system, euphemistically called ‘condominium of state and higher education’.” [10]

Still, by the 1990s, those concerned with global competitiveness were again alarmed, for German universities were losing-out to the Anglo-American model in international competition, as detailed in a document issued by Federal Minister of Education Edelgard Bulmahn entitled “Courage to Change.” Because professors were sometimes abusing their traditional academic freedom—especially with regard to teaching and support services to students—the head of the Center for Development of Higher Education, Detlef Müller-Bölling, advocated strategic planning, introduction of modern management practices, and an increased role for public stakeholders in the university. And because he felt that traditional academic leadership was too outmoded and vested in its own interest to lead Germany into the emerging economic-academic age, he advocated creation of decision-making forums to be recruited from public officials and business executives. Adding urgency to his call was the Bologna Initiative of 1999, which created the European Higher Education Area that sought to standardize higher education and to make it more competitive. One educational analyst opined that financial pressures and global market forces had compelled the reluctant German university system and its European peers to embrace the “entrepreneurial-managerial model” long-established in the United States. Valuation goals such as cost-benefit analysis and performance indicators became the new reality for faculty that had become accustomed to a lofty, *laissez-faire* view of academic freedom. [11]

Academic critics lamented that the Bologna Initiative would lead to a standardized curriculum and further undermine academic freedom, but reliance on public funding rendered the push for efficiency and competitiveness difficult to resist. The new round of reforms resulted in a corresponding shift from self-government by professors

toward administration; universities created Boards of Trustees and the American model of regional accreditation tackled Quality Assurance. Foisting the management model on the universities was not without irony. For the better part of its history, faculty struggled to retain freedom from the state; at the end of the twenty century, however, it had to confront a demanding academic bureaucracy eager to increase institutional efficiency. Moreover, the philosophical argument and frequent battle cry that failure to protect freedom would undermine academic standards could now be measured empirically. Since the Bologna Initiative -based comparative indices showed Germany's improving academic position, aggrieved faculty gained little traction in the public discourse. [12]

As scientific and other market-oriented programs increased in the management university, the liberal arts were rendered particularly vulnerable. Augmenting queries about their relevance in the age of restricted budgets, they risked tarnishing the university's image, as presaged by how Article 5 (3) informed Constitutional Court rulings. Arguably, the most trying issue in the humanities and social science was the trenchant need to address Germany's Nazi past; when historical revisionism crept into academic research, the World War II experience attained high-profile public attention.

Historical Revisionism and the Limits of Academic Freedom

During the period of democratic re-education, German historians followed accepted Western historiography, which saw the Nazi movement as a natural progression of German nationalism that had been enthusiastically embraced by the German people. An occasional historian would claim that Nazism was a totalitarian movement perpetrated by a small group of criminals that victimized Germans as well, but no German academic historian dared question Hitler's role in starting the war or deny the Holocaust.

In 1960, this view was challenged in a book entitled *Der erzwungene Krieg* ("The Forced War") by a Harvard-trained American scholar, David Hoggan, who had settled in Germany. He claimed an Anglo-Polish conspiracy to attack Germany had forced Hitler into a preemptive war. While not denying the Holocaust outright, Hoggan sought to reduce collective German guilt as others seemingly perpetuated reference to war atrocities that had been revealed only fifteen years prior. Scathing reviews included that of the German historian Hans Rothfels, who denounced it as a substandard pseudo-history masquerading as scholarship; and the American historian Gerhard Weinberg accused him of suppressing contradictory evidence, rearranging chronology, and even manufacturing material to support his theory. Some pointed out that its author had received funding from neo-Nazi circles in Europe and the United States. [13]

With similar publications picking up the pace, the Constitutional Court moved to make Holocaust denial illegal. In the Court's view, asserting the Holocaust had not occurred was not supported by empirical evidence; similarly, claiming the Jews had not been persecuted during the Third Reich was also made illegal. The Court found that such claims were disproved by innumerable witness accounts, documents, court cases, and historical research. The ruling paved the way to include Holocaust denial as a category of hate speech that would not be protected under academic freedom.[14]

But the Court ruling did not address the issue of German culpability in starting the war, thus triggering a new round of debate. Udo Walendy, a trained political scientist devotee of Hoggan, who claimed the Western allies had tricked Hitler into declaring war, took center stage in the new discourse. His 1964 book *The Truth for Germany*:

The Question of Guilt for the Second World War attracted the attention of the Germany's Department for Media Harmful to Young People which decided in 1979 that, due to its flawed version of events surrounding the outbreak of the war, the book was listed as harmful to young readers and thus could not be advertised. Walendy appealed to the Constitutional Court, claiming the Department's action violated his academic freedom guaranteed by Article 5 (3).

A protracted legal battle ensued and, almost a half-decade later, in January 1994, the Court ruled that Walendy's free speech right had been violated by having the book listed as harmful, but not his academic right. Because the German Constitution distinguished "speech" and "artistic expression" from "scholarship," the Court stated that the book was not covered by scientific freedom afforded under Article 5 (3), as it did not constitute a serious attempt to "ascertain the truth." The Court determined that he had settled upon material that supported his preconceptions and prejudices, making no effort to deal with documentary evidence to the contrary - in this case anything that indicated Hitler had planned for the war and bore responsibility for it. Thus, a work should be removed from the realm of science, "not when it merely fails to fulfill its claims of being scientific on specific points or as defined by certain schools of thought, but only when it does so "systematically" with sustained "avoidance of facts, sources, views, and results that cast doubt on the author's opinion." At the same time, the Court concluded "a work cannot be deemed unscientific simply because it exhibits gaps and one-sidedness or fails to sufficiently take into account opposing opinions." Indeed, flawed work was to be accommodated—under science's self-defined standards—even when "the work's scientific nature is disputed amid controversies within the scientific field between varying substantive and methodological views." [15]

By distinguishing mere speech from studied scholarship, the Court signaled it harbored enhanced standards from work that claimed to be academic, albeit refusing to take a stand on substance. This, in turn, triggered yet another intense debate on German culpability, known as *Historikerstreit*, the historians' conflict. Ernest Nolte stoked the fires by equating German concentration camps with the Soviet gulags; his colleague Andreas Hillgruber asserted that Hitler had been compelled to wage a pre-emptive war, lamenting expulsion of Germans from Czechoslovakia and Poland and even comparing their fate to that of the victims of the Holocaust. On the other side of the divide were most distinguished English-speaking and German philosophers and historians, including Jürgen Habermas. The debate ruined Hillgruber's reputation; Nolte's literary prize in 2000 triggered widespread protest from the scholarly community in Germany and beyond, prompting *New York Times* columnist Roger Cohen to call Nolte a "Hitler apologist." [16]

Just as revisionist history of World War II captured the attention of the academic community and the public, the legacy of Nazi Germany began to permeate campus speech.

Campus Speech: The Euthanasia Case

In February 1988, Peter Singer, a controversial academic from Australia known for advocating limited euthanasia, was invited to participate in a conference in West Germany. Capitalizing on the visit, Professor Christoph Anstötz, from University of Dortmund invited Singer to speak on the topic "Do Severely Disabled Infants Have a Right to Life?" Recalling that German academics and intellectuals had developed the rationale for euthanasia used by the Nazi regime, widespread protest erupted and

Singer was “disinvited” from the conference and from Dortmund. Anstotz became a target of a hostile campaign; faculty and students sent a petition to the Minister of Science for the state of North Rhine-Westphalia where Dortmund was located, urging he be fired. Though the tenured professor could not be dismissed, the minister asked Anstotz to explain the invitation, casting a pall over his career. Angry at what he perceived to be a lack of academic freedom in Germany, Singer retorted by accusing critics of “the same kind of fanaticism and lack of respect for rational debate that was a necessary precondition for the Nazi atrocities.” Yet he was realistic enough to realize that his writings would henceforth be excluded from applied ethics courses in German universities. [17]

To judge by the Singer affair, it could have been assumed that traditional anti-Semitism, another legacy of the Nazi era, had vanished from the campus. By the end of the 1990s, many observers of the academic scene were convinced that this was indeed the case. Confounding predictions, however, a new form of anti-Semitism arose, associated with anti-Zionism and anti-Israelism, posing a novel challenge to academic freedom, on-campus and off.

Israel in the Middle East: Anti-Zionism as New Anti-Semitism

The Six-Day War unleashed a torrent of anti-Israeli activity among the radical left, ranging from rhetorical condemnations to participation in Palestinian terrorist operations such as the Entebbe hijacking. The 1982 Israeli operation in Lebanon united the radical and liberal left into a temporary anti-Israeli coalition, but a more solid anti-Israel front emerged following a cascade of disparate events: Germany’s reunification in 1989, the collapse of the Oslo Peace Accords in 2001, the Second Intifada of the early 2000s, and the American invasions of Afghanistan and Iraq that dominated headlines thereafter. The backlash against 9/11 and the War on Terror furthered the alliance of conspiracy theorists from the left and right who, not surprisingly, blamed Israel for the attack and for driving the conflict with Islam. Meanwhile, East German universities, absorbed into the higher education system of the unified German nation, introduced into the academic mainstream many Soviet-style anti-Zionist notions. [18]

Opinion polls captured growing anti-Israeli as well as anti-Semitic sentiment, fed by both the Right and the Left. The Right blamed Israel for Germany’s problems and even drew parallels between German and Israeli behavior. For instance, Bernd Rabehl, a sociologist at the Free University in Berlin, claimed his right-wing National Democratic Party of Germany (NDP) had been established out of a sense of discrimination similar to that which had created the State of Israel. Suspended by the university, he won an appeal but his lectures were banned from exam curricula, and other scholars holding similar opinions were likewise marginalized.[19]

More intractable were anti-Israeli sentiments resulting from a growing collaboration between the radical left and Palestinian and Muslim activists. The Islamic Republic of Iran and its anti-Israel propaganda machine had an extensive on-campus presence—especially in the former East Germany—providing generous funding and content guidance. The Institute for Political and International Studies, a think-tank established by the Iranian Ministry of Foreign Affairs, introduced comparison of the treatment of Palestinians by Jews to that of Jews by Nazis. Tehran likewise worked through a number of front organizations such as the German branch of the Campaign against Sanctions and Military Intervention in Iran (CASMI), a lobbying group run by its

Foreign Ministry. Ostensibly dedicated to fighting Western sanctions imposed to stop Iran's nuclear program, it focused on alleged mistreatment of the Palestinians.

Developing this equivalence theme, radical left German academics offered a range of analogies themed on the "nazification of Israel." Udo Steinbach, director of the Institute of Middle Eastern Studies in Hamburg, compared Palestinian resistance to the Warsaw Ghetto uprising; others took to referring to Palestinians as "victims of the victims." Another popular use of Holocaust-invoking imagery was characterizing Palestinians refugee camps as "concentration camps." Norman Paech, a professor of public law at the School for Economics and Politics in Hamburg, claimed Israel was waging a "war of extermination" in Lebanon, a term associated overtly with the extermination of European Jews. [20]

German Jews and Israeli scholars contributed to equating Israel and Nazi Germany. Hajo Meyer, a Holocaust survivor, compared Israeli occupation with that of the Nazis and accused the Jews of invoking the Holocaust for political gains. Moshe Zuckermann, a Tel Aviv University historian fluent in German, appeared frequently before academic audiences to denounce Israel's alleged use of the Holocaust to get rid of the Palestinians, a notion that he put forth in his book *Antisemit!* Zuckermann was also linked to the radical *Salaam, Shalom: Palestine-Israel Working Group* where he charged Israel with extreme abuse of Palestinians; this stand landed his articles on the German CASMII website. His colleague from the Hebrew University, Professor Moshe Zimmermann, another fluent German-speaker with a following on German campuses, voiced even more explicit parallels between Nazi Germany and Israel, referring to the children of settlers as *Hitlerjugend* and implying they were actually "Nazi Jews." Critics noted that Israeli scholars, who pushed the comparison between Israel and the Nazis, infused the "nazification" theme with legitimacy. And pro-Palestinian German academics routinely used and promoted the work of radical Israeli scholars to deflect criticism. For instance, Ludwig Watzal, one-time professor at Bonn University, wrote a highly positive review of Neve Gordon's book to make his own point that the Israeli occupation regime was not dissimilar to that of the Germans.[21]

Unlike the relatively well-researched traditional anti-Semitism, the virulent critique of Zionism and Israel puzzled observers. In 2002, virulent anti-Zionism was deemed a new form of anti-Semitism in "Manifestations of Anti-Semitism in the European Union," composed by the Berlin Technical University Research Center on Anti-Semitism on behalf of the European Monitoring Center on Racism and Xenophobia (EUMC). In 2004, a Berlin conference pushed for more formalized treatment of this phenomenon and, in 2005, EUMC published an authoritative definition that recognized anti-Zionism as a manifestation of anti-Semitism. The "Working Definition of Anti-Semitism" was adopted by OSCE's Office for Democratic Institutions and Human Rights (ODIHR), which distributed it as a guide to law enforcement agencies in the EU.

The Working Definition listed eleven examples, of which five pertained to anti-Zionism and anti-Israelism: (1) "denying the Jewish people the right to self-determination by claiming that the State of Israel is a racist endeavor; (2) applying double-standards by requiring [of Israel] a behavior not expected or demanded by any other democratic nation; (3) using the symbols and images associated with classic anti-Semitism to characterize Israel or Israelis; (4) drawing comparisons of contemporary Israeli policy to that of Nazis, dubbed 'nazification of Israel'; (5) holding Jews collectively responsible for the actions of Israel."

One expert observed, “Nazifying Israel makes it possible to kill three birds with one stone.” It helped to delegitimize Israel by associating with the premier evil of modern times; it degraded the Jewish people by equating them with the Nazis and, by creating moral equivalence, it absolved Germans and Europeans of remorse over their history of anti-Semitism and promulgating the Holocaust. The European Union Agency for Fundamental Rights (FRA) that replaced EUMC has continued to use the “Working Definition” in its official reports. [22]

Lesley Klaff, a British legal expert on free speech and anti-Semitism, explained that the Working Definition facilitated efforts to distinguish anti-Zionism and legitimate criticism of Israel: “The latter does not deny the 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 blood libel imagery or other classic tropes of anti-Semitism to refer to Israel, and it does not use double standards when criticizing Israel.” In her opinion, anti-Zionism “is seeking to bring about Israel’s reputational injury through group defamations in order to justify its elimination as a Jewish state” [23]

Since its adoption, the Working Definition has helped settle high-profile disputes on what constitutes anti-Semitic speech, such as the defamation suit brought by Hajo Mayer against publicist Henry Broder. In 2007, Broder, who had called Mayer’s work comparing Israel to Nazi Germany a prime species of the new anti-Semitism, won on appeal, making the case that “nazification of Israel” is anti-Semitic speech and, more importantly, that both Jews and Gentiles could be held responsible for propagating it.

Combined with the historical memory of the Nazi regime and the Holocaust, the Working Definition further defined what was academically permissible in the realm of radical critique of Israel. Yves Pallade, director of the Foreign Affairs Network of B’nai B’rith Europe, suggested that these measures made it difficult for boycotts and other extreme anti-Israel politics to gain traction in Germany. Pallade, who also worked for the Berlin office of the American Jewish Committee, cautioned that continuous vigilance was needed when tracking and combating the academic varieties of new anti-Semitism. [24]

Energetic involvement of the EUMC and Jewish organizations aside, the broader context in which the debate of Israel in the Middle East has played out must also be acknowledged. The management university model and the duties of state employees undoubtedly kept faculty from pushing the limits of academic freedom, both intramurally and extramurally.

Chapter 2

Great Britain

The number of entities comprising the British higher education system has grown over the past millennium, commensurate with an evolving philosophy. Between the twelfth and sixteenth centuries, Oxford, Cambridge, St. Andrew, and the universities of Glasgow, Edinburgh and Aberdeen were established; after a hiatus of three centuries, three more universities were chartered in the nineteenth century, followed by newer “red brick” universities of the twentieth century.

Originally, academic freedom simply denoted time for reflection unencumbered by material worries, underwritten by stipends to promising graduate students at Oxford and Cambridge until they could gain employment. When the vestiges of denominationalism disappeared, British universities—like their German

counterparts—transitioned from the scholastic model to one that was more in-tune with the spirit of scientific pursuit. Academic freedom patterned on the Humboldtian model became the norm, yielding a classroom that served as a marketplace of ideas. It was widely understood that “unless research can be freely conducted as open-ended inquiry, without fear or favor, it cannot serve its proper purpose.” [25]

This arrangement was sustained by the uniquely British class-based “old boy network.” Faculty and their former students—who advanced to leading positions in public life—created a collegial system in which influence was exercised behind closed doors, absent the need for formal legislation. The old universities were recognized as being of “public interest” in the Roman sense; they had been tasked with educating students to serve as professionals and public leaders responsible for the national well-being.

Similarly, extramural academic freedom was legally ill-defined. Eric Barendt, a leading British legal expert, recognized the absence of any constitutional guarantees of academic or scientific freedom. Thus, although individual faculty could not argue their treatment deviated from a particular legal tenet, they were expected to practice “reasonableness,” that is, self-censorship on matters that could embarrass their employers.[26]

Military censorship introduced before World War I changed this informal, *laissez-faire* culture of academic-state relations. The Official Secrets Act of 1911 and the Defense of the Realm Act of 1914 suppressed speech—academic and general—considered harmful to national security (as opposed to censorship on moral grounds). At minimum, censorship was intended to prevent the enemy from acquiring useful information, but a broader provision would block anything disseminated by the enemy that could be prejudicial to the state’s morale and interests.

On May 15, 1915, almost a year after the outbreak of World War I, two Parliamentary Papers provided greater guidance. One entailed the straightforward need to protect military secrets, and created an environment that led to the dismissal from Cambridge of anti-war activist Bertrand Russell, for expressing sentiments judged to be prejudicial to army recruitment efforts. The other tackled the complex, uncertain boundary between freedom of expression and the potential for German propaganda to subvert, also targeting “pacifist propaganda”; this led directly to a ban on publishing the works of Houston Stewart Chamberlain, the British “apostle” of Germany. Chamberlain, married to the daughter of Richard Wagner and member of a proto-fascist movement in Germany, wrote books that vociferously denounced his homeland, claiming Britain was a warmongering sham of a nation while Germany was a nation of peace. They were adjudged to have the potential to affect public morale adversely; the Defense of the Realm Act also forced universities to expunge his work from libraries and classrooms. [27]

Chamberlain could be silenced during World War I, but Joseph Goebbels’ Nazi propaganda was more difficult to block prior to World War II; the small but influential Fascist movement in Great Britain served as a natural vessel for its dissemination. As Nazi Germany moved toward the war, British Fascists stepped-up efforts at appeasement so much that the British Film Board censored movies that warned of the Nazi danger. Appeasement was also quite popular in the academy, notably at Oxford and Cambridge where several dons predicted Hitler was sufficiently reasonable to refrain from pursuing war. The historian A. J. P. Taylor, who moved in 1938 to Magdalene College, Oxford, created a public uproar when he attacked the

Munich Agreement and professors who supported it, during an apolitical commemorative dinner. His behavior was considered sufficiently scandalous to merit a negative reaction from Oxford University leaders; his high-profile writings during World War II remained Germanophobic. [28]

Although Taylor's 1945 book, *The Course of German History*, castigated Hitler and the Nazi Party for launching World War II and killing millions in the process, his 1961 book, *The Origins of the Second World War*, argued that Hitler was not the demonic figure of popular imagination, but a normal German leader. He added that other Western leaders were also to blame for the war, and this reversal—which echoed writings of David Hoggan and Udo Walendy—triggered a storm of harsh criticism; it was certainly not helpful that he engaged in a bitter feud with Hugh Trevor-Roper, another esteemed historian, who had attained a prestigious position in his stead. History Department professors grumbled about his penchant for publicity that sullied the academic profession and created an intolerable strain on personal relations; too much unwanted attention was being attracted to the university by this colorful personality with a highly popular journalistic career on the side. In 1964, illustrating the impact of such background considerations as these to dictate the permissible boundaries of intramural and extramural academic freedom, Oxford University refused to renew his contract, forcing him to accept a series of much less prestigious appointments. [29]

British Universities in the Aftermath of World War II: Academic Freedom in the Age of Expansion

Facing post-war devastation, the Labor government started to remake the higher education system to serve national needs. The Barlow Report of 1946 recommended that the University Grants Committee (UGC), responsible for disbursing funds for higher education since 1919, assume a direct role in planning to ensure universities participated in national reconstruction efforts. The Education Act of 1962 provided for maintenance grants to all non-mature students, in addition to government-financed tuition. The UGC was modernized and, in 1964, its functions were transferred to the newly-created Department of Education and Science. By increasing financial support, the government felt universities would be able to educate more than 4 percent of eighteen-year-olds, a number that had held steady for the most of the century.

Also targeted were the ongoing elitist and informal arrangements that had guided the universities and the state, for the Labor government was keen on proving the egalitarian mettle of its expansion program. Of assistance was Lord Robbins, whose report on higher education called for striking a balance between institutional autonomy and the public good; it reaffirmed the government's pledge to honor institutional and individual academic freedom, however, expressing confidence that informal contacts and persuasions would solve possible conflicts. [30]

A solid tenure system—first offered to Oxford and Cambridge dons and gradually expanded elsewhere, also to include readers and lecturers—had provided virtually ironclad protections to faculty. As in Germany, academic staff could only be dismissed “for good cause,” narrowly interpreted to include criminal conduct, gross immorality or serious dereliction of duty. Anything else—poor-quality teaching, failure to publish, or even closing of a department or program—did not warrant “good cause” status. With few exceptions, extramural speech was never a major issue, as the older faculty cohorts practiced self-restraint to prevent exposing their employers to

bad publicity. The first real test in this domain coincided with student unrest in the 1960s and early 1970s, prompted by younger, activist-oriented faculty.

Student Unrest: Testing the Limits of Extramural Speech of Professors

The student turmoil that engulfed Germany hit Great Britain, where much of the violent protest centered on the London School of Economics (LSE). In the summer of 1968, the administration installed gates inside buildings to control access and to prevent disruption of classes. In January 1969, the student unions voted to dismantle the gates; protestors used crowbars and sledgehammers to remove some gates, prompting the authorities to close down the school for more than a month. The students were supported by two faculty-members, who were dismissed; one, Robin Blackburn, appealed to an Appellate Tribunal chaired by Desmond Ackner, later a Law Lord, on the grounds that he had exercised his academic freedom of speech; this case was high-profile because it had the potential to clarify the limits of extramural speech. The Ackner Tribunal ruled that, like any ordinary citizen, Blackburn had no right to incite violence; as for his intramural freedom, the Tribunal felt he was trying to change administration policy by advocating violence. Thus, in both speech domains, speech inciting violence was unacceptable. [31]

In 1970, fearing encroachment on the tradition of expansive academic freedom, LSE faculty helped to organize the Council for Academic Freedoms and Democracy (CAFD). CAFD did not defend Blackburn *per se*, but it alluded to politicization of the younger faculty cohorts. Its manifesto stated that academic positions should be based exclusively on professional competence: “It was illegitimate for an appointment committee to take a candidate’s political opinions or conduct” into account. Indeed, CAFD suggested that even racist or fascist views should not disqualify a candidate and, once appointed, a professor should not be fired because of politicizing his course or including topics that were not relevant to class material.

A year later, in 1971, CAFD handled the highly-publicized case of David Craig, from the English Department at Lancaster University. Craig was one of the department’s young radicals who felt the academy was traditional and stifling; for example, he set out to liberate his Modern Literature classes from “hidebound orthodoxy” by routinely introducing contemporary political topics and by harshly attacking officials, including the department head. The authorities examined a hundred exams of students and found “an undue number of biased opinions of a leftist nature.” Craig was saved from dismissal and demoted to a Lectureship without Departmental Duties, but non-tenured colleagues who had emulated him were fired. [32]

CAFD also tried to intervene on behalf of Richard Atkinson, a candidate for the position of lecturer in the Department of Sociology at Birmingham University. After the departmental committee had approved him, he was turned-down by the University Appointment Committee. Because he had been involved in the LSE violence, university authorities were unwilling to risk possible problems from known-radicals. This instance of vigorous resistance by a university from admitting politicized liberal arts faculty is among numerous cases chronicled in CAFD’s archives at the University of Hull. [33]

While the CAFD-led struggle for broader political rights preoccupied the academic community, the financial crisis of the late 1970s was poised to shake the foundation of the university system and the traditional understanding of academic freedom.

The Economic Crisis of the Late 1970s and the Rise of the Management University

By the second half of the 1970s, Labor was struggling to retain power amidst a virtual economic collapse. In 1977, parallel to the decline of the entire public sector public funding for higher education dried-up, forcing the government to abandon its quinquennial grant system. The new one-year grant policy was justified on the grounds that universities could not be protected from a general economic decline or insulated from across-the-board budget-cuts. After Margaret Thatcher's 1979 victory, a growing consensus concluded the university system should be radically reformed to make it more fiscally viable and competitive; Thatcher's philosophy mandated that universities adopt the management model of the private sector.

In 1985, the Committee of Vice Chancellors and Principals (CVCP) asked Sir Alex Jarratt to chair a committee on academic governance, spotlighting the Senates, where faculty dominated the decision-making process. The Jarratt Report concluded that Senate-based governance was inefficient and recommended an enhanced role for Vice Chancellors as chief executive officers as well as managerial training for senior academics. To improve governance, the Report suggested transfer of many functions from Senates to Councils (Boards of Governors) on which laypersons enjoyed a majority. The Report further stated, "Universities are first and foremost corporate enterprises to which subsidiary units and individual academics are accountable." Well aware that accountability went hand-in-hand with purse strings, the Report recommended an inquiry into the functioning of the UGC, where academics had a majority on the board and where, under its block-grant system, each university received a set share regardless of performance. [34]

Thus, also in 1985, a separate committee report under Lord Croham questioned awarding automatic block-grants and recommended reconstituting the UGC as a University Grant Council, with equal representation of academics and non-academics. This report disclaimed potential involvement by the government in the new organization, but it recommended that the Council should be allowed to attach conditions and earmarks to grants to reflect national priorities. The Croham Report emphasized that university autonomy and individual faculty freedoms are important principles, but that economic circumstances made it imperative for the academy and the government to coordinate their efforts to promote national interests.

The 1988 Education Reform Act (ERA) transcended the Jarratt and Croham recommendations. The UGC was replaced with the University Funding Council (subsequently three Funding Councils for England, Scotland and Wales) numbering fifteen members each, of whom six to nine were expected to be academics. Reflecting the ongoing intent to improve governance, the Minister of Education and Science was urged to appoint members of the business community and industry to the Councils. Moreover, the ERA gave the Minister extensive rights to guide disbursement of grants to particular institutions to promote national economic goals. Thus, both in letter and spirit, the ERA ended the tradition of broad institutional autonomy and, by implication, individual freedom. To assuage faculty anxieties, the ERA offered written protection of academic freedom, guaranteeing "freedom within the law to test and question received wisdom and to put forward new ideas and controversial and unpopular opinions without placing themselves in jeopardy of losing their job." The Act was vague regarding whether only intramural expressions were covered, but some analysts concluded that the "controversial and unpopular opinions" reference extended protections to extramural speech as well. In any event, both freedoms were said to be permissible only "within the law," giving scholars no particular right to violate criminal law in the course of their academic work. [35]

Any perception that academic freedom had acquired irrefutable legislative protection was dashed because the Act abolished tenure for all those hired on or after November 20, 1987, the day that the bill was published. Faculty anxiety, used to historical practices that made it virtually impossible to fire faculty, was palpable. Lord Jenkins of Hillhead, the Chancellor of Oxford University, warned during a debate in the House of Lords about the stifling of freedom once tenure was removed, and it was at his insistence that the clause protecting freedom had been incorporated in the Act. Other ERA provisions required university commissioners to draft a Model Statute that spelled-out university discipline, terms of addressing grievances, and procedures for dismissal. In 1992, when an additional reform turned the polytechnics into universities, their Articles of Governance included the same provisions as mandated by the ERA Model Statute.

Adding to a sense of insecurity, British universities—as was the case in Germany—were exhorted to become more competitive through more efficient management. To recall, the Jarratt Report urged the addition of persons acquainted with business and industry to governing bodies hitherto comprised of scholars. The Bologna Accord gave Britain an incentive to adopt the business model as it competed with Germany for top-destination for foreign students in Europe. With the exception of Oxford and Cambridge, which were allowed to retain the old system, self-governance by academics became increasingly passé. Academics comprised only a minority on the executive councils in the pre-1992 universities (old universities), elected by Senates or Academic Boards; the rest were lay members serving as public stakeholders. The post-1992 universities (new universities)—structured as higher education corporations—were governed by Boards of Governors where non-academics constituted a majority. Giving lay members a majority on the decision-making university bodies unambiguously signaled that governance was a high governmental priority.

To improve accountability, the ERA mandated strict compliance with standards of teaching and research using twin evaluation procedures. The Research Assessment Exercise (RAE) required faculty to report research activity. Thus, in departure from the previous era pressuring scholars to publish. The Quality Assurance Agency (QAA) evaluated the quality of teaching and ensured that students—hitherto harboring minimal clout—would have greater say in academic life. In this sense, students were increasingly considered “customers” deserving all the attention of faculty, the purveyors of the “academic product.” To ensure the standards were enforced, RAE and QAA results were used to allocate resources to individual universities.

During the 1990s, a series of government inquiries erased residual doubt that the post-reform climate was now inhospitable to the type of expansive academic freedom reflected in the 1963 Robbins Committee. The 1997 National Committee of Inquiry into Higher Education chaired by Sir Ronald Dearing stated that the academic freedom of faculty should be weighed against the social and economic responsibilities placed on the universities; academics were portrayed as stewards of public funding and duty-bound to account to the public—the stakeholders of the universities—for how money was spent. The Dearing Report reduced further the number of faculty on Councils and, to increase efficiency, recommended that Council membership should not exceed twenty five. The push for more efficient governance was relentless; in 2003, the Lambert Review of Business-University Collaboration recommended further changes in the structure of university governance to increase public confidence

in its management; one expert observed that, with the exception of Oxford and Cambridge, this report recognized that governance by councils in which academics were a minority “has long been accepted as a general principle for universities.” [36]

Pressure to improve the management model extended beyond the Conservative Party, as the successor Labor government eventually discovered. In 2007, the Labor cabinet created the Department for Innovations, Universities and Skills under John Denham, a strong advocate of faculty governance. Two years later, however, in an apparent sign of displeasure with Denham, the department was scrapped and its functions were merged with the Department of Business, Enterprise and Regulatory Reforms (BERR). Its head, Lord Peter Mandelson, announced that universities, along with other economic players, were expected to help the country pull out of the recession; because the financial outlook had not improved, the 2010 budget instituted further cuts in higher education. Throughout, the government ignored perennial academic warnings that the management model was hostile to academic freedom and creativity. From its height in 1970, funding for higher education was slashed by more than fifty percent by the end of 2010, despite a considerable increase in student population. [37]

Meanwhile, the Conservative government—at the behest of its junior coalition partner, the Liberal Democrats—pressed all elite universities to admit more students from non-privileged backgrounds. Professor Les Ebdon, the director of the Office of Fair Access (OFFA) and a leading advocate of affirmative action, wanted poor students to be admitted at the same rate as were privileged ones. To break resistance to his plan, Ebdon threatened to use the “nuclear option,” fining noncompliant universities and capping the fees they could charge. Despite bitter complaints about the loss of institutional autonomy by the universities, the government remained resolute, sending still another powerful signal that the higher education system needed to be responsive to national goals as defined by the political powers-that-be. [38]

Having experienced radical reconfiguration that had undermined the historical autonomy of the university, academics soon discovered their individual freedom had also been impacted.

Academic Freedoms in the Post-ERA Period

The first sign that individual freedom would suffer as a result of the reforms was total marginalization of the CAFD and its replacement, in 1994, by the Council for Academic Freedoms and Standards (CAFAS). The new group restated its predecessor’s customary denunciation of the neoliberal, commercially-driven management university model, but its case-file indicated that most of the new grievances were related to job protection. To recall, ERA-related provisions had made it far easier to remove faculty for a broad array of reasons and CAFAS had been mobilized to protect them. Indeed, Gillian Evans, one of the CAFAS co-founders, had waged an extended battle with Cambridge University for its failure to promote her to a personal readership. Evans went on to write a book about the post-ERA university, entitled *Calling Academics to Account*, leaving little doubt that academic staff had to account to the public stakeholders in ways that would have been unimaginable by members of the Robbins Committee less than three decades earlier. With concerns for job security high, only four cases arose during this period that could be perceived as testing the boundaries of intramural and extramural rights.[39]

Christopher Brand, a lecturer in the Department of Psychology at Edinburgh University, suggested that differences in average cognitive test scores are shaped by race and gender in his 1996 book *The g Factor: General Intelligence and Its*

Implications. The Anti-Nazi League of Edinburgh protested this “race realism,” causing his classes to close and his publisher John Wiley & Sons to withdraw the book; he compounded his problems by sending an e-mail in support of Nobel Prize winner Daniel Carlton Gajdusek, who had been accused of pedophilia. Claiming that he had brought disrepute on his university, in 1997, he was fired from his almost thirty-year tenured position. Brand appealed to the Employment Tribunal and received a settlement from the university, but this case attained notoriety, triggering a full-scale debate. The respectable evolutionary biologist Marek Kohn argued that Brand’s intramural and extramural rights had been violated; contrariwise, other professors asserted that academic freedom implied an expectation of academic responsibility. Barendt concluded Brand should have made more of an effort to get along with his colleagues and university authorities and had acted imprudently when sending the e-mail to Gajdusek despite having been advised against doing so. [40]

Frank Ellis, a lecturer of Russian and Slavonic Studies at Leeds University, also tested the boundaries of academic freedom with extremely hard-line views on race. In a 2006 interview with a student newspaper, he stated the average IQ in sub-Saharan Africa was far lower than that required by the U.S. military from its recruits; he claimed there was “unbelievable corruption and stupidity, superstition and savagery, and sexual incontinence” in sub-Saharan Africa. The interview triggered student protests and demands that he be fired. As a first step, Leeds University suspended him because it wanted to stand as a “civilized community” where students could be free from racial harassment, while his declaration had jeopardized the university’s statutory obligation to promote good relations among different ethnic and racial groups. Precluding a legal battle, Ellis accepted early retirement and compensation for his legal costs. Though the Ellis case raised important questions about extramural freedom of speech, CAFAS and the University and College Union (UCU)—the main academic trade union—agreed with the university’s decision to force Ellis into retirement. As Roger Kline, Head of the Equality and Employment Rights of the UCU wrote, “To portray academic freedom as license to peddle any abuse from a position of authority would undermine academic freedom.” [41]

David Coleman, a professor of demography at Oxford University, was a co-founder of Immigrant Watch, a think-tank advocating the reduction of immigration to Great Britain, and a member of the Galtung Institute, hailing to the Eugenics Society. In 2007, he addressed a meeting of Immigrant Watch, triggering demands by the Oxford Student Actions for Refugees that he be fired. Coleman responded by calling the effort to silence him “a shameful attempt of the most intolerant and authoritarian kind.” The university authorities supported Coleman but urged him not to talk in public. In an interview with Barendt, Coleman commented that “the university wanted to stay out of trouble.” [42]

Christopher Knight, a professor of anthropology at East London University and a Marxist activist, gave media interviews advocating violence against police officers protecting the G20 meeting in London on April 2, 2009. He was ordered to stay away from an Alternative G20 conference that he had organized on campus on April 1. The disciplinary panel charged him with “gross professional misconduct...insubordination, [and] bringing the university into disrepute.” He was suspended on March 26, 2009 and, despite a petition-drive by The Chris Knight Reinstatement Solidarity Group that had garnered 600 signatures he was dismissed four months later. [43]

These cases touched upon differing aspects of intramural and extramural freedom, but the responses were strikingly similar; concerns about bringing the university into disrepute were cited as playing some role in every censure or dismissal. Thus, faculty was expected to behave in a way that would not hurt the institutional standing of their employer, a phenomenon with which German academics had been long been accustomed. Terrance Karran, a researcher in the Lincoln University Center for Educational Research and Development, confirmed that the management model eroded both intuitional and personal freedom and that Great Britain enjoyed a lower level of academic freedom compared with other European countries, including Finland and Lithuania. Ironically, Karran's study did not corroborate frequent warnings that undermining academic freedom would compromise academic excellence, as none of the countries that scored high on his index were competitive. Even CAFAS became resigned to the permanence of "greater managerial professionalism within the emerging global knowledge economy." [44]

In reaction, somewhat belatedly, the Council for the Defense of British Universities (CDBU) was created in November 2012 after the "hand of government became heavier [as]... funding agencies, quality agencies... have been introduced to monitor all aspects of universities activities," according to one founding member; he lamented that the Universities Minister reports to the Business Ministry, not to his counterpart in the Ministry of Education. He further complained that, since the Jarrett Report of 1985, successive British governments had treated higher learning as an enterprise; that academics were charged with "delivering" education and thus "subject to key performance indicators"; that "students became consumers" after fees were introduced; and that "senate and councils were purged of troublesome academics" while "university councils were transformed to resemble boards of directors, mostly populated by people from a business background" following introduction of the management model. To defuse the tension, the Minister for Universities and Science, David Willets, welcomed the CDBU; he also claimed the education reforms "save public money while protecting universities' income." He supplemented this defense by adding that British universities were the best in the world, well-equipped to partake in the process of globalization of higher education.

Much as the fallout from the management university model preoccupied CAFAS, it was the issue of terrorism—particularly Islamist terrorism—that posed new and more novel challenges to academic freedom.

The War on Terror and Academic Freedom: The View from the Campus

Because of its long struggle in Northern Ireland, Britain was hardly a newcomer to terrorism. In 2000, the Parliament promulgated a new Terror Act (TA) which codified measures enacted during the 1970s and 1980s. Section 1 defined terrorism broadly to include use or threat of violence designed to advance political, ideological or religious causes. Section 57 made it an offense to possess an article in a situation that may raise a reasonable suspicion that its purpose is to instigate or commit an act of terrorism. Section 58 (1) made it an offense for a person to possess articles and other documents that could be useful to committing an act of terrorism.

The events of 9/11 diverted the focus toward Islamist terrorism, but passage of a more comprehensive Terror Act was prompted by the London public transportation bombings in 2006, "the British 9/11." The 2006 Act made it an offense to encourage terrorism through statements that could be understood as either direct or indirect incitements to an act of terror. This confronted the diffuse nature of terror as low-

intensity conflict, defying the relatively clear-cut boundaries of conventional war; it reflected awareness that the first line of defense was to prevent radical Islamist socialization that was being bolstered by speakers that included imams with local or national followings. All that transpired as the British-born Muslim student population was brought augmented by foreign Muslims bringing their own brand of radicalism to the campuses and opening multiple recruitment channels.

Already uneasy about the 2000 Act, the Association of University Teachers (AUT), voiced concerns that the 2006 Act could chill academic expression. Buttressing the AUT, Baroness [Shirley] Williams of Crosby, a left-wing Labor politician and academic, introduced amendments during debate in the House of Lords that afforded extra protection to faculty researching terrorism.

In May 2008, however, the blurred lines between legislation and the academy were placed into sharp relief at the University of Nottingham when two academics—Hisham Yezza, a staff member, and Rizwaan Sabir, a graduate student—were briefly arrested for downloading an al-Qaeda training manual. Dr. Rod Thornton, Sabir's supervisor, later protested the decision of the Department of Politics and International Relations to create a "module review committee" tasked with scrutinizing reading lists to ensure the bibliography excluded potentially illegal material. In 2011, after Thornton wrote a long essay on the mistreatment of the "Nottingham Two," some of his colleagues complained about its defamatory language and University authorities suspended him for the "breakdown in working relations" caused by the paper. Critics denounced Nottingham University—and the local police—for taking an unduly harsh stand and claimed that such arguably heavy-handed actions threatened academic freedom everywhere. [45]

This backlash aside, more of a challenge was deciding who could speak on campus and why; 9/11 politicized the traditional policy of both faculty and student groups to invite speakers to campus events. The British National Party (BNP), a radical splinter of the National Front that opposed immigration—having adopted a hardline approach to Islam—advocated limiting the civil rights of Muslims residing in the United Kingdom and restricting Muslim immigration to Britain. Politicians from across the political spectrum have condemned the party, whose members have been banned from holding positions with the police and prison service. Preventing on-campus BNP activities became the cause célèbre of the faculty labor union, the University and College Union (UCU), and the Student Assembly against Racism. BNP speakers were denied the right to speak, allegedly because they violated the "no hate" speech policy of the "No Platform" policy of student unions and debating societies. In 2005, the *Leeds Student* was roundly criticized for publishing an interview with Nick Griffin, the BNP leader; in that same year, the St. Andrews University debating society "disinvited" Griffin and, two years later, Bath University cited security concerns to justify canceling his appearance. BNP officials charged that their on-campus treatment violated the principle of free debate and was driven by left-wing political correctness.

Barring right-wing activists proved easier than dealing with Islamist radicals. Islamic societies operating under an umbrella group, the Federation of Students of Islamic Societies (FOSIS), founded in 1962 by a Muslim Brotherhood member Said Ramadan, sponsored campus speakers. The pace of radical Islamist activity on campus accelerated after 9/11, with many of the speakers turning their lectures into venues for radical mobilization of the kind discussed in the 2006 TA. They customarily advocated armed jihad and support for the Taliban, urged British

Muslims to avoid social integration, made anti-Semitic comments, and called for the destruction of Israel. Islamic Societies distributed material alleging Israeli “war crimes” published by Friends of Al-Aqsa, a lobbying group established in 1997 to “defend the human rights of Palestinians and protect the sacred Al-Aqsa Sanctuary in Jerusalem.” [46]

Among the invitees were representatives of Hamas and *Hizb ut-Tahrir*, a group that was banned by the National Union of Students (NUS) due to its intent to reestablish the Caliphate. With its large Muslim population, University College of London led in the number of Islamist guest speakers. One was Daud Abdullah, deputy secretary-general of the Muslim Council of Britain (MCB), who rejected Israeli-Palestinian peace and urged the continuation of violent jihad against Israel. Another was Moazzem Begg, a former prisoner at Guantanamo Bay who directed Cage Prisoners; he was a major supporter of Anwar al-Alawaki, the American preacher who went on to command al-Qaeda in Yemen, and Azzam al-Tamimi, a Hamas supporter who glorified suicide bombings against Israel. The School of Oriental and Asian Studies (SOAS), boasted some Islamist heavyweights, including al-Alawaki before his departure to Yemen and al-Tammimi. Ibrahim al-Moussaoui, described as a spokesperson for Hezbollah, featured in the roster of speakers before being barred from entering the UK. Kamal Helbawy, a Muslim Brotherhood official invited to speak at an SOAS course on political Islam, urged killing Israeli civilians, including children because they would grow up to be soldiers. [47]

Lesbian, gay, bisexual, transgender, queer (LGBTQ) groups complained that Islamists—influenced by a radical interpretation of Islam—used violent language to denounce homosexuality and to harass LGBTQ students. This contention was supported by the *Quilliam* Foundation (later renamed *Quilliam*), a think-tank created by three former members of *Hizb ut-Tahrir*. Its report, “Radicalization on British University Campuses,” suggested that British institutions had become an “incubator for extremist, intolerant, and potentially violent forms of political Islam”; it listed cases of harassment and intimidation against homosexuals, Jews, women and even moderate Muslim students. Peter Tatchell, a LGBTQ activist, linked the targets by observing, “Radicalization often begins with promotion of misogynistic, queer-baiting and anti-Jewish prejudice.” [48]

Promoting radical speakers was only one facet of the activities of Islamic Societies; the other was to block lectures deemed offensive to Muslims. On March 14, 2007, Dr. Matthias Kuntzel, a German scholar, was to deliver a lecture at the invitation of the German Department entitled “Hitler’s Legacy: Islamic Anti-Semitism in the Middle East.” The university’s Islamic Society complained about the “offensive title” but, even after it was changed, the university canceled his lecture due to security concerns. Kuntzel, who had presented this lecture on other campuses, described the action as a “kind of censorship”; the German Department accused the university in “selling out academic freedoms.” [49]

The War on Terror and Academic Freedom: The View from Campus Watchers

Harassment aside, radical Islamist events were potentially detrimental to national security as articulated by the 2006 TA. In 2005 Professor Anthony Glees, from the Center for Intelligence and Security Studies at Bucknell University issued a report warning of a “culture of extremism and terrorism” on the campuses. Glees who studied convicted Muslim terrorists linked their radicalization to campus. A 2010 study by the Center of Social Cohesion (CSC) revealed a troubling correlation

between campus radicalization and terror activity; more than thirty percent of terrorists were college students, some had post-graduate degrees, and at least four of them were senior members of Islamic Societies. One, Omar Faruok Abdulmuttalab, the “underwear bomber,” studied at University College London, where he was said to have become radicalized. Another, Roshonara Chouhdry, who was an honors student at King’s College, in 2010, tried to murder an MP who had voted for the war in Iraq; among her possessions, police found a list of other MPs who supported the war. Her professors were astonished that Chouhdry, a moderate Muslim and a model student, had become so deeply radicalized within a period of months. [50]

Radical Islam on UK Campuses, another report of CSC, warned that Muslim students on campuses were susceptible to radicalization. In its survey, killing in the name of religion was felt to be justified by 32 percent of students and 60 percent of students active in Islamic Societies, while only 2 percent of non-Muslim students supported this contention; 33 percent of Muslim students supported creation of a worldwide Caliphate based on Sharia law and 40 percent supported introducing Sharia into British law, while 58 percent of student activists supported introducing Sharia into British law. [51]

Quilliam and the CSC blamed a permissive university atmosphere and left-wing professors for tolerating “Islamist agitation.” But Universities UK, an organization representing vice-chancellors of British universities denied that universities were complacent and called the report “largely anecdotal.” Diana Warwick, chief executive of Universities U.K., rejected the CSC findings, declaring the survey did not represent Muslim students on campus; he and other officials rushed to assure the public that universities were doing their best to promote cohesion and integration. Invoking the ideal of academic freedom Warwick claimed that campuses present the best forum for presenting unpopular opinions. [52]

Such sensibilities did not prevail when weighed against public pressure to fight terrorism after the London bombings. In 2007, the Labor government was forced to launch Prevent, a program intended to stop people from becoming terrorists or supporting terrorism. Reflecting a liberal understanding of terrorism, however, much of it was focused on outreach to Islamist activists and, to satisfy liberal sensitivities of the academy, it also targeted right-wing groups. With its diffuse and ill-defined goals, Prevent had little impact on the campus. In January 2010, it sent a letter to all universities and explained that 39 campuses were at special risk of violent extremism. Quoting MI-5 data, Lord Mandelson offered at-risk universities £390,000 to deal with the problem. Repeating his 2005 charge, Anthony Glees argued that the academic community was intent on ignoring the problem due to political correctness and reluctance to annoy the growing Muslim community.[53]

The Conservative government of David Cameron increased pressure on the universities to adjust academic freedom to accommodate post-9/11 security concerns. On December 15, 2010, Cameron admitted, “We have not done enough to deal with the promotion of extremist Islamists in our country,” and affirmed, “To de-radicalise our universities we have to take a range of further steps.” In 2011, Lord Alex Carlile of Berriew found the Prevent program to be flawed because, despite the existence of Prevent, many students had become radicalized through membership in Islamic societies or by lectures by radical Islamist speakers. Lord Carlile, who was appointed to overhaul the program, concluded that confused integration and terrorism prevention and that government had funded extremist organizations that it should have confronted. He advised that universities block radical speakers from appearing on

campus and report “aberrant behavior” of students. His analysis was incorporated into a reformed Prevent program that would be “addressing all forms of terrorism, including the extreme right wing,” but would be focusing on Islamist terrorism because it poses the “greatest risk to our national security.” The Home Office that oversaw Prevent promised that “it will work with sectors and institutions where there are risks of radicalization that we need to address.” [54]

The new developments triggered a high-stakes blame-game. With the memory of Abdullmutaleb and Chouhdry as a backdrop, the Carlile Report and the new Prevent strategy added to the brewing struggle over how to monitor Islamists on campus. An internal investigation by UCL authorities concluded that the “underwear bomber” had been indeed radicalized during his studies, but fingered the Internet. Universities U.K. rejected the government’s demands, with vice-chancellors insisting universities should “engage, not marginalize extreme views on campus”; they conceded “aberrant behavior” should be reported to the police, but they emphatically denied that it is the function of the university to engage in censorship and surveillance of students. Its statement ended with an observation that “by being places where ideas and beliefs can be tested without fear of control,” universities serve as safeguard against ideologies that threaten Britain’s open society. The UCU adopted a similar position, essentially defending the right of Muslim students to listen to speakers of their choice. CAFAS was not officially involved in the debate, but its sympathies reflected the vice-chancellors’ view. [55]

But Lord Carlile was emphatic that Islamism posed an unprecedented security risk, mandating revision of the long-cherished principle of academic freedom. In his words, “Although academic independence is extraordinarily important, [it] does not mean that you owe no duty of care. Universities owe a duty of care to all their students. That includes the non-radicalized students who are intimidated by radicalizers and the radicalized, because they may be very misguided.” He unabashedly accused the universities of self-serving hypocrisy and conjuring double-standards when defining categories of extremism, decrying their toleration of radical Islamism, due to its political correctness, even as they kept right-wing, fascist and racist expressions on a very short leash. [56]

Lord Carlile received crucial support from organizations and individuals. For example, Academics for Academic Freedoms (AFAF), described the universities’ behavior as the “silent decline into PC hell,” referring to alleged attempts to ban comments construed as critical of minorities, women and Muslims. Its head, Dennis Hayes, had founded AFAF in the wake of the Ellis affair in 2006 to advocate against what he considered to be leftist control and political correctness; he became controversial and undercut the AFAF’s impact, however, due to his libertarian politics and links to anti-environmental groups. Raheem Kassam, the head of Student Rights, established in 2009 as a program of the neoconservative Henry Jackson Society, linked radicalization to faculty attitudes, notably their reluctance to support a government that had launched a War on Terror; he felt academics tended to sympathize with the alleged frustration of Muslim students: “Sympathy with the grievances of British Muslims often leads to indulgence or fingers in the ears.” And Kassam has been especially critical of Universities UK for leaving the campuses open to extremists. [57]

Kassam’s posture was mirrored by Glee, one of the first to sound an alarm, who repeated his criticism of university authorities for giving cover to radical Islamist activities; he also held faculty responsible for radicalization adding, “In educational

settings people should not be allowed to promote extremist messages.” Overall, he was critical of publicly-funded research that blamed radicalization as being “of our making rather than of our enemies.” Lucy James, who worked for the CSC noted that Islamism needed to be taken as seriously as right-wing extremism, “so it is right to be aware that extreme forms of Islamism may potentially provide a launch pad for Islamist-inspired terrorism.” [58]

Though the debate on whether radical Islamists should benefit from freedom of speech on campus focused on security concerns, it overlapped with the highly-controversial issue of Israel in the Middle East.

Campus Speech: Anti-Zionism as the New Anti-Semitism

The British academy had a long-standing pro-Palestinian tradition, making discourse on Israel tendentious. The Middle East centers of British universities reflected an anti-Israel bias, not the least because of large donations from Arab sources. These considerable financial contributions were detailed in a report by the CSC, *Degree of Influence*, which also claimed that these donations had skewed research on the Middle East. For instance, many pro-Palestinian scholars took a lead in creating the British Committee for Universities in Palestine (BRICUP), and Tim Niblog, professor of Middle East studies at Exeter University, boasted of founding the first Center for Palestinian Studies in Europe. As occurred with the study on radicalization, this report was harshly criticized by Diana Warwick on behalf of the Universities U.K. Individual scholars asserted that either the methodology of the study was weak or the authors were politically-motivated. Alleged shortcomings aside, left unchallenged was the claim that pro-Palestinian faculty was in the forefront of denouncing Israel’s treatment of Palestinians. [59]

Lesley Klaff, a legal expert, has observed that on-campus speakers and campus events—such as Israel Apartheid Week—used expansive “anti-Zionist iconography” and anti-Semitic and anti-Zionist tropes: “Palestinian genocide,” “slaughter of Palestinians,” “ethnic cleansing,” “theft of Palestinian water,” and “Zionism equals Nazism.” Consistently, prominent radical Islamists visiting British campuses denounced Israel in the harshest terms, as detailed in transcripts of their speeches released by the CSC. Haitham al-Haddad urged Israeli Jews to return to the countries of their origin. Riyadh ul-Haq called for liberation of the Al-Aqsa mosque in Jerusalem by the “blood of the martyrs” and claimed Jews, wherever they are, of “monopolized everything...God, money, interest, usury...tyranny and oppression.” Daud Abdullah rejected the peace process and called for uncompromising jihad against Israel. Azzam al-Tammimi made anti-Semitic comments and supported terror attacks on Israel because Israel “must come to an end.” Kamal Helbawy argued that all Israeli civilians—including children—are future soldiers, justifying their being attacked. Ismail Patel claimed Palestine could only exist at the expense of Israel and praised Hamas as a noble organization. [60]

Thus, although the War on Terror pressured universities to curtail radical Islamist speech on campus, it failed to affect anti-Zionist expressions, which were considered academically-protected free speech. Among those who opposed curtailing anti-Zionist expression were BRICUP faculty, who themselves organized anti-Israeli events. For instance, in 2007, Martha Mundy, LSE professor of anthropology and a BRICUP activist, invited Abdul Bari Atwan, editor-in-chief of the London-based *Al-Quds Al-Arabi*, to deliver a lecture, during which he claimed the Israel lobby controlled

American and British foreign policy; Atwan had previously expressed hope that Iranian missiles would strike Israel.

Until the mid-2000s, university authorities tended to defend anti-Zionist and anti-Israeli speech on the grounds that the campus was a marketplace of ideas. Critics such as AFAF's Dennis Hayes described this attitude as exemplifying left-wing "political correctness" hypocrisy, for "it was supporting the rights of Muslim extremists to voice their opinions on campus" while it prevented representatives from the right-wing BNP from speaking on campus and pushed the boycott of Israeli universities. John Fitzpatrick, professor at Kent University, added that UCU members showed no understanding of the meaning of academic freedom "unless they were prepared to defend the rights of the BNP and Hizb ut-Tahrir alike." [61]

But these and other complaints gained little traction until the All-Party Inquiry into Anti-Semitism Initiative of 2006 directed the government to review the issue of anti-Semitism on campus. On March 29, 2007, the government responded by agreeing with three main points of the parliamentary inquiry: (1) —although racism was on the decline, anti-Semitism was accepted by some parts of society; (2)—"current rhetoric about Israel and Zionism (from the far right, far left and Islamist extremists alike) employed anti-Semitic motives that were consistent with ancient forms of hatreds toward the Jews"; and (3)—"the rising tide of anti-Semitic rhetoric and anti-Semitism on campuses" was worrisome. The government vowed to protect the Jewish community by strengthening already existing laws and by adopting the EUMC Working Definition of Anti-Semitism by the Government and law enforcement agencies. [62]

In 2009, Johan Mann, chair of the Parliament committee and the Inter-Parliamentary Coalition for Combating Anti-Semitism (ICCA), in conjunction with the UK Foreign and Commonwealth Office, organized a large conference in London to discuss the increase in anti-Semitism; it was attended by one hundred members of Parliaments around the world and scores of experts from nearly forty countries. Participants noted that the new and virulent strain of anti-Zionism as anti-Semitism was spread through the Internet and anti-Israeli spectacles like the U.N Durban I Conference. Mann stressed that addressing anti-Semitism should be a matter of great urgency, for it also was a "touchstone for other ills within the wider society." The London Declaration called on legislators to "expose, challenge and isolate political actors who engage in hate against Jews and target the State of Israel as a Jewish collectivity." Gordon Brown, then Prime Minister, became the first head-of-state to sign the declaration. [63]

London Declaration was a major step toward declaring anti-Zionism to be the new anti-Semitism, but the voluntary nature of the "Working Definition" guidelines precluded their ability to affect anti-Zionist campus speech. A legal remedy was felt to be necessary by some Jewish leaders who recognized the complex boundaries among academic freedom, anti-Semitism and the status of Jews. The distinguished scholar and jurist Anthony Julius, who defended Deborah Lipstadt against Holocaust-denier David Irving, addressed some of these themes in *The Trials of the Diaspora: A History of Anti-Semitism in England*. Lesley Klaff extolled the 2010 Equality Act for having consolidated previous policies on discrimination, harassment and hate speech; she claimed that voluntary guidelines notwithstanding, only legal intervention would be powerful enough to change the campus culture that tolerated extreme anti-Israel expressions as protected speech. Klaff also noted that legal intervention would broaden the range of hate speech falling under legal jurisdiction to include events like

erecting apartheid walls, staging Palestinian “occupation events,” and twinning British universities with Islamist universities in the Middle East. Specifically, some legal experts suggested that Section 26 of the Equality Act and the common law claim of “breach of duty of care” would empower Jewish students and faculty to sue, claiming they face a hostile and intimidating environment. [64]

Recognizing anti-Zionism as new anti-Semitism helped to clarify the relation between academic freedom and the movement to boycott Israel pioneered by the pro-Palestinian faculty. Concomitantly, the boycott drive offered a highly unusual twist on the traditional understanding of individual rights of faculty.

Boycotting Israel: Squaring the Circle of Academic Free Speech

For academics supporting the Palestinian cause, 9/11 constituted a serious setback. Not only did the War of Terror threaten to eclipse the Palestinian cause, but they could reasonably expect that Israel would profit from the new anti-terrorist alliance. To upend this scenario, pro-Palestinian faculties mobilized to action. Irene Bruegel, professor at South Bank University, and Richard Kuper, who had co-founded Jews for Justice for the Palestinians (JfJfP) in 2002, teamed-up with another Jewish couple, Steven and Hillary Rose from Open University and Bradford University respectively; Steven Rose had been a founding member of the British Committee for the Universities of Palestine (BRICUP). On April 6, 2002 the Roses published an open letter in the *Guardian* calling for a moratorium on all cultural and research links with Israel. By July, the letter had garnered 700 signatures, including ten from Israeli academics. One signatory, Mona Baker, professor of translation studies at the University of Manchester, removed two Israeli scholars from the board of a journal that she co-edited, explaining that the treatment of the Palestinians “justifies relatively extreme measures such as academic and cultural boycotts.” In a subsequent article to the *Guardian*, the Roses defended the boycott, stating that the tactic had worked very well against South Africa. [65]

The British campaign was boosted when Omar Barghouti and a group of Palestinian academics in Ramallah launched Palestinians for an Academic and Cultural Boycott of Israel (PACBI) in 2004; it issued guidelines for boycotting Israeli universities that were allegedly complicit in the occupation. Some Israeli scholars also advocated for a boycott, including Anat Matar, a long-time pro-Palestinian activist from Tel Aviv University. Ilan Pappé, a professor at Haifa University, urged BRICUP activists to protest his alleged mistreatment by the university; having relocated to England to head the newly-created Center for Palestine Studies at Exeter, he created considerable momentum for the boycott movement. Sue Blackwell, professor of English at Birmingham University and a BRICUP leader, took up Pappé’s cause and, on April 22, 2005, persuaded the executive committee of the Union of Academic Teachers (UAT) to boycott three Israeli universities: Hebrew University because it had confiscated land from a Palestinian family to expand its campus, Bar-Ilan University because it was linked to Ariel College situated in the occupied territories. and Haifa University because it had mistreated Pappé. After a huge outcry and a mobilization of anti-boycott faculty, UAT cancelled the decision on May 26.

In May 2006, BRICUP petitioned the National Association of Teachers in Further and Higher Education (NATFHE) to pass a motion to boycott Israeli academics because they had not expressed vocal opposition to the occupation. The motion noted the continuing apartheid policies of the Israeli government and emphasized the duty of individual faculty to fight it. The decision was condemned by British and international

scholars, including eight Nobel laureates, and by the British government; it was subsequently rejected by UAT into which NATFHE was merging.

But the University and College Union (UCU) that resulted from the merger did not settle the debate. To the contrary, Tom Hickey, a senior BRICUP activist who served on the executive council of the new organization, emerged as a leading boycott advocate. On May 30, 2007, the UCU congress voted to support a petition to boycott Israel sent by Palestinian trade unions; the motion condemned the complicity of Israeli academics in the occupation, stating that passivity and neutrality were not acceptable under such circumstances. Responding to the move, Engage, an anti-boycott group created by left-wing Jewish academics, accused Hickey and other BRICUP activists in UCU of anti-Semitism. David Hirsh, a co-founder of Engage, disclosed that one of the anti-Israel posts on the UCU activists' e-mail list was actually an article by David Duke, the American white supremacist. Accused of breaching confidentially, Hirsch was expelled from the list, but a large number of UCU members resigned in protest, charging institutional anti-Semitism. BRICUP and UCU activists responded by pointing-out the support of many Jewish and even Israeli academics. As in Germany, the UCU had used Israeli scholars as part of the "Jewish contingent" to legitimize their cause. [66]

More to the point, the boycott decision attracted national and international attention to both sides of the issue. Socialist and labor unions eager to support the anti-Israel cause have sent considerable donations to the UCU and, according to some analysts, some of the money came from Arab sources. But boycott opponents mounted a counteroffensive of their own. A letter was sent to the UCU that threatened a counter-boycott of any event that would bar Israeli academics; signatories included 2,000 American scholars, including nine Nobel laureates. Alan Dershowitz organized a large legal team on both sides of the Atlantic that was poised to fight the union in court and he promised to isolate the British academy if necessary. [67]

Though an immediate showdown had been averted, BRICUP activists in the UCU showed little inclination to desist; instead, they initiated campus tours of programs and radical pro-Palestinian speakers. In December 2009, UCU-BRICUP organized a tour of several campuses entitled "Israel, the Palestinians and Apartheid: The Case for Sanctions and Boycott." Speakers included Ibrahim Mousawi, a Hezbollah spokesman who was later banned from entering Britain. In December 2010, UCU invited Bongani Masuku, international secretary of Congress of South African Trade Unions (COSATU), to discuss boycotts, divestment and sanctions; UCU ignored the fact that Masuku had been found guilty of using inflammatory and inciting language toward the Jewish community in South Africa. [68]

In May 2009, the annual UCU Congress passed a resolution to boycott Israeli academics and academic institutions; it was immediately invalidated on the advice of UCU attorneys who warned the action would trigger a legal challenge against the union. The meeting also heard from many former members who had resigned in protest over perceptions of institutional anti-Semitism, but the Congress refused to table a resolution on the subject. [69]

Despite legal advice, Tom Hickey introduced a resolution at the 2010 Congress in support of the boycott and severing all links with the Histadrut, Israel's trade union. The Congress' affirmative vote provoked more charges of institutional anti-Semitism, triggering a retaliatory action during the 2011 Congress; in addition to a new boycott resolution, it voted to dissociate itself from the EUMC's working definition of anti-

Semitism that had been adopted by the European Union Agency for Fundamental Rights. Participants in the debate argued the definition has stifled criticism of Israel. The decision called “to dissociate the union from the so-called EUMC working definition of anti-Semitism,” and expressed “concern at its use to ban speakers and to prevent free speech on campus.” [70]

Sally Hunt, the General Secretary of the UCU, denied that the decision was anti-Semitic. However, on June 31, 2011, Communities and Local Government Minister Eric Pickles wrote to the Equalities and Human Rights Commission (EHRC) requesting that the UCU be investigated. In September, a Jewish member of UCU, Ronnie Fraser sued the union for breach of the Equality Act of 2010; citing language from sections 26 and 57(3) of the Act, Fraser’s attorney Anthony Julius, notified Hunt that the union had harassed his client by “engaging in unwanted behavior” relating to his Jewish identity (defined as a “relevant protected characteristic”), “violated his dignity” and created an “offensive environment.” The Employment Tribunal ruled in March 2013 that the UCU’s resolution did not amount to an act of anti-Semitism. [71]

Still, the UCU faced other obstacles when implementing the resolution. Experts on academic freedom noted that the union’s dictate would violate the very premise of the ERA legislation, let alone Articles 27 and 29 of the 1997 UNESCO recommendation on academic freedom which decried political interference in the teaching and research of faculty. [72]

Equally significant was the reaction of David Willets, Minister for Universities and Science, who assured the Jewish community that the small number of “hotheads” would not stand in the way of British-Israeli scientific cooperation. Willets who led a scientific and business delegation on what was described as a “fantastic” trip to Israel, stated that the level of academic collaboration between the two countries was an indication that the boycott initiative has failed. Willets also promised to crack-down on anti-Jewish and anti-Israeli incidents on campus, calling them “inexcusable.” Viewed in the context of the management university, Willets’ comment left no doubt that the government was determined to prevent damage to national scientific and economic goals. Unofficially, it was known that the government was anxious to avoid disruption promised by the anti-boycott movement. [73]

Analysis of events in Great Britain supports the view that interconnecting factors have shaped the history of academic freedom at the institutional and individual levels. Two factors, in particular, stand out: the Thatcher reform and the ensuing pressure to institute the management model, and the War on Terror that impacted the boundaries of permissible campus speech. The contemporary litmus test of academic freedom—Israel in the Middle East—has been significantly affected by these broader developments.

Chapter 3

The United States

The American and Israeli higher education systems are not easily compared, creating complexities that have eluded many observers and rendering attempts to apply guidelines from the American model difficult or misleading. Two somewhat clashing definitions of academic freedom have existed in the U.S. The first drafted by faculty organizations and the second created by constitutional case law. In the latter instance, because First Amendment rights operate under the so-called “state action” doctrine, the definitions have applied differently to public and to private institutions.

The cultural antecedents of the American university were grounded in the academic experiences of Great Britain and Germany. In the early decades of the 19th century denominational colleges were the prevalent academic model; they were tasked with “allying Christian piety and humanistic study against skeptical rationalism of the Enlightenment.” Academic freedom was a non-issue in these authoritarian structures that adhered to rigid standards of “professorial propriety” and where students were subject to a traditional pedagogy of “stamping in” knowledge. In non-denominational universities, faculty was commonly hired by having an unofficial quota for each denomination (Protestants, Catholics and even an occasional Jew). The system was remarkably apolitical; despite bitter and emotional debates on slavery, ante-bellum state universities remained fairly neutral. Things changed little after the Civil War, as powerful Boards of Trustees—drawn from political and business community leaders—kept a tight rein on permissible freedoms. [74]

The industrial revolution at the end of the 19th century spurred efforts to convert the higher education system into a scientific enterprise. The Humboldtian model was a natural fit, highly-praised by the many Americans who travelled to Germany to pursue advanced degrees. It promised both to introduce scientific rigor within the classroom and to invoke emphasis on freedom of inquiry and speech, thereby creating a potent tool for those who wished to fight the all-powerful boards. Fired-up by their *Lehrfreiheit* laced experience in Germany, returning scholars became advocates for institutional autonomy and individual freedom. [75]

Two marketplace imperatives enhanced their efficacy; the expanding university system created a shortage of well-qualified scholars, making more acceptable their demands for remuneration and job security and faculty were deemed to be better qualified to implement merit-hiring than were external bodies such as lay boards. The call for self-governance by faculty came from leading scholars of the early 20th century such as John Dewey and Arthur Lovejoy. When Stanford University fired a liberal economics professor because his research displeased the widow of the school’s founder, the outcry prompted some faculty to act. The resulting movement led to the creation of the Association of American University Professors (AAUP) in January 1915, boasting 650 charter members, many of whom were leading authorities in their fields. [76]

Pioneering Academic Freedoms: The Association of American University Professors

AAUP’s platform “Declaration of Principles on Academic Freedoms and Academic Tenure” revealed that—unlike Germans—American faculty focused on job security and the power struggle with college administrations and the boards. As they entered this battleground, however, faculty could rely neither on protection being provided by the law or by the states; courts were reluctant to intervene in academic matters, and state legislatures were not likely to extend protections to the academy because they, like the boards, were suspicious of the rights of faculty. Transforming necessity into virtue, educational theorists conjured a novel defense of academic freedom, arguing that both private and public universities “belong to the people as a whole.” Indeed, “the responsibly of the university teacher is primarily to the public itself, and to the judgment of his own profession.” In what was to become a defining characteristic of American higher education, however, the professoriate declared itself to be the representative of public interest in the Rousseauian sense of the general public will. They found that “true will...of the public to lie not in the public’s own transient

notions but rather in more transcendent entity of will,” best defined as the *mystique* of the free will.[77]

Because the AAUP still embraced the signature of the Humboldtian notion that the classroom was the marketplace of ideas, it promoted adherence to the norms of objectivity, neutrality and competence in research and teaching. Dewey and other AAUP pioneers also relied upon the then-fashionable spirit of empiricism and pragmatism to restrain professors from “idle” speculations and to direct them into fact-based specialized knowledge. In a related matter, the AAUP demanded that faculty refrain from speaking on matters about which they lacked expertise and eschew any politicizing of the classroom. This was part of a professional self-regulation regimen, justified by the AAUP by noting that professors were experts and, unlike laymen, could be trusted to behave in a professional manner. In exchange for providing expertise, they would be empowered to reject external interference; this served the professoriate remarkably well for, until the last few decades, they had evaded the kind of public regulations that other professionals could not stave-off.[78]

Outside the classroom though, faculty was given much more leeway than their German and English counterparts. The American tradition of free speech and civic engagement fueled the AAUP demand that faculty be allowed a liberal dose of extramural expression. The AAUP’s Committee A on Academic Freedom and Tenure ruled it “was not desirable that scholars should be bound by norms of neutrality”; they should not be barred from “lending their support” to political movements. Indicative of the internal split in the organization was the Committee’s concomitant admonition that faculty harbored an “obligation of discretion.” Such potential-contradiction reflected a split-membership; some wanted true extramural freedom of speech and action, while others adhered to the Humboldtian principle of low-profile neutrality. [79]

As carefully as the AAUP tried to tread, academics could not escape political controversy. Once social sciences replaced philosophy as the main mode of social and moral commentary, social science faculty challenged the stringent intramural/extramural division. Speaking out on labor relations, poverty and even race afforded academics a larger public platform, while the press cemented their status as “experts”; some professors even felt compelled to speak out against the “evils of capitalism,” establishing a collision course with conservative boards. This was described by the socialist philosopher Thorstein Veblen in his 1918 book *Higher Learning in America*, as a clash between the “culture of science” and the “culture of business”; the former representing a “profitless quest for knowledge” while the latter “foisted on American universities their crude, utilitarian look...and their parasitical predatory practices.”[80]

The First World War posed another challenge to the AAUP in ways that resembled British censorship laws, the public demanded that faculty contribute to the war effort by refraining from speech and action that could be construed as injurious to social cohesion and morality. While individual academics and some universities agreed to forgo their right to freedom of expression, the faculty as a whole balked at the efforts to impose a loyalty standard. Indeed, the effort to fight the doctrine of loyalty mobilized the faculty to fight for even greater levels of academic freedom.

To the extent to which WWI tested academic freedom, university staff emerged strengthened and hardened. So much to that, in 1938, the University of Minnesota reinstated a political scientist it had fired two decades earlier; the Board of Regents

wrote that “times of crisis are characterized by a loss of social perspective and a strain on the values that prevail when conditions are more nearly normal.” The Regents noted that, in any future crisis, there would be a “need for adherence to accepted values and traditions and procedures, especially by institutions of higher education.” More to the point, academics learned how to deflect public opinion altogether; turning the loyalty paradigm on its head, they declared most forcefully that, as representatives of true “public will,” they should not be held to standards emanating from transient, crisis situations. [81]

In 1940, to adjust for these new developments and to consolidate its gains, the AAUP issued a new “Statement on Academic Freedoms and Tenure”; it averred that “teachers are entitled to full freedoms in research and in publication of the result,” and that “teachers are entitled to freedoms in their classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to the subject.” Extramural speech was afforded protection in the following way; “when they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations...[T]hey should at all times be accurate, should exercise appropriate restraint...and should make every effort to indicate that they are not speaking for the institution.” The AAUP emphasized that tenure was necessary to ensure individual academic freedom, triumphantly concluding: “The decision of American Association of University Professors to hold fast to its fundamental principles was justified. The determination to save rather to jettison what had been won...was based on the experience of the First World War”.[82]

Such self-congratulation was fully justified; the 1940 Statement was acclaimed as a reference by both public and private universities and individual faculty. It was dubbed “the standard of academic freedoms in the United States” by Mathew Finkin and Robert Post, having “created a culture of respect for the freedoms, at least in the academic community” according to Eric Barendt. William W. Van Alstyne, a former president and legal counsel to AAUP, considered the Statement to be “soft law,” although courts did not directly enforce it. The president of Princeton University pointedly declared that, since 1940, “At no time did the Board of Trustees threaten to interfere with academic freedoms.” [83]

Academic Freedoms in the McCarthy Era: The New Meaning of Intramural and Extramural Speech

Compared with his prodigious efforts to ferret-out alleged Communists and Communist sympathizers in Hollywood, the State Department and the military, Senator Joseph McCarthy had only a limited interest in scholars. Academic McCarthyism,” however, arguably presaged his most enduring legacy. To understand this paradox, it is worth recalling that both the 1915 and the 1940 AAUP documents had posited the existence of a strict division between the intramural and extramural speech. Efforts to blur this barrier had not yet become commonplace because a premium had been placed upon objective, apolitical, scientific-like research in the liberal arts by those advocating the positivist-behavioral approach that was becoming increasingly popular in the 1950s.

Owen Lattimore , an avowed communist sympathizer and a China expert at Johns Hopkins University who consulted the White House and State Department during WWII, had undermined this premise. Best known for his glowing reports of Stalin’s labor camps in Siberia, he also had edited *Pacific Affairs*, a magazine of the leftist

Institute of Pacific Relations. In 1950 McCarthy challenged Lattimore's tactic of shrouding overt activism in academic cloth, going so far as to call the professor a Soviet spy. Although the FBI could not substantiate this charge, intense scrutiny of his writings exposed him as Moscow's agent-of-influence and tarnished his career at Johns Hopkins; in 1963, he relocated to Leeds University in England.

The academy was repulsed by McCarthy's attack on Lattimore. Even those who were unhappy with the Soviet Union and communism resisted measures that McCarthy had inspired, including the loyalty oaths that public universities were forced to administer to their employees. The AAUP acted to protect faculty by censuring institutions that followed loyalty dictates or that wrongfully dismissed faculty. As a result of the former policy, local branches of the AAUP resisted pressure to "disinvite" speakers with connections to communism. As a result of the latter dictum, in 1963, the AAUP censured Grove City College for having fired Larry Gara for alleged "incompetence"; the AAUP's investigators found no evidence of incompetence and suggested that Gara, a pacifist who had spent time in jail for refusing military service, had become involved in an ideological dispute with a colleague with ties to the John Birch Society. AAUPs' censure has served to deter other colleges from pursuing comparable practices. [84]

McCarthy's efforts to purge alleged communists inspired two court cases bearing on the right of academic freedom of expression. In 1951, New Hampshire passed the Subversives Activities Act, making persons deemed subversive to be illegible for state employment. In 1954, Paul Sweezy, a leading Marxist economist and an occasional guest lecturer at the University of Hampshire, was fired after the State Attorney General had investigated the content of his lectures. He sued and, in 1957, the Supreme Court ruled that the Attorney General had "invaded in the area of academic freedom and political expression." Chief Justice Warren's majority opinion buttressed the special First Amendment protection of academic freedoms; he referenced the university's role in education in a democracy, and he suggested that free exchange is necessary in science, where the quest for discovery cannot be conducted in an atmosphere of suspicion and mistrust. Justice Felix Frankfurter concurred, advocating institutional autonomy be afforded to universities; in this way, they would be empowered to promote the common good by promulgating these four freedoms: "determine for itself on academic grounds who may teach, what may be taught, how it may be taught, and who may be admitted to study." [85]

A dispute between professors and the University of Buffalo, which had joined the public State University of New York network in 1962, generated another influential ruling. The New York State's Education Law (Section 3022) required all employees to sign a certificate disavowing membership in the Communist Party. When Harry Keishiyen and his colleagues refused, their contracts were not renewed. They sued and, in 1967, the Court ruled their constitutional rights had been violated. Justice William Brennan inflated this case into the gold standard of academic freedoms by invoking Humboldt; he portrayed the classroom as a "marketplace of ideas" wherein truth would be derived from a "multiple of tongues" rather than "any kind of authoritative selection." Justice Brennan further noted that democracy requires citizens and leaders be exposed to a robust exchange of ideas, raising the specter of a "pale of orthodoxy" being cast over higher education. [86]

Supreme Court affirmation of First Amendment protections for those espousing academic freedom rendered unconstitutional government efforts to control either the content of faculty speech or the "politics" of those who may teach at a public college.

Although the Soviet archives and the Venona cables subsequently proved that Moscow had engaged in substantial spying in the United States, McCarthy's disgrace was total. More to the point, public backlash against McCarthy's excesses was skillfully appropriated by the professoriate. Academics increasingly used the label "McCarthyism" against all and sundry criticism, even if it did not comport with its standard definition: the practice of making unsubstantiated allegations to restrict dissent or political criticism, reckless accusation and witch hunts.

Charges of McCarthyism became most handy in the wake of the war in Vietnam and the politicization of liberal arts.

The Post Vietnam War Period and the Politicization of the Academy: The Neo-Marxist, Critical Scholarship Paradigm

The cultural revolution of the sixties and the anti-Vietnam movement profoundly impacted humanities and, particularly, social sciences. Riding the wave of an unprecedented expansion of higher education that saw the number of faculty double between 1960 and 1975 many New Left activists embraced academic careers in liberal arts. They joined a veteran faculty which, according to surveys extending back to the early 1940s, was much more liberal than the general population. Leftist trends in Ivy League and other elite schools—where they were most trenchant—gradually diffused into lower-ranking schools. In the Humboldtian marketplace of ideas, conservative faculty should have provided necessary balance; instead, conservative forces remained in retreat, as they had been for the better part of the century, a trend that the anti-McCarthy backlash and the Vietnam War served only to exacerbate.

Faced by no countervailing force, New Left academics became card-carrying members of the New Class, a term coined by Seymour M. Lipset, a leading social scientist, to depict a "socially liberal or radical, highly critical intelligentsia." Numerous surveys of liberal arts faculty conducted in the 1970s and 1980s bore out this fact; professors were most apt to champion progressive, egalitarian causes and vote for Democratic and socialist candidates. Many of their younger cohorts were deeply hostile to capitalism and the United States, its standard-bearer. Capitalism was criticized on multiple levels; domestically, it was perceived as a creator of injustice, inequality and human misery, internationally a promoter of colonialism and imperialism. American Political Science Associations and American Sociologist Associations boasted a large number of radical scholars, followed closely by the American Historical Association. Social psychology was not free of anti-conservative bias either; a prominent political psychologist even claimed "conservative beliefs are found most frequently among the uniformed, the poorly-educated and, so far as we can determine, less intelligent." This defaming denunciation of conservatism appeared in the premier political science journal *Political Science Review*. [87]

Within less than a decade, younger academic cohorts challenged the traditional positivist standard that had aspired to pursue truth in social sciences dispassionately. The new paradigm was derived from a number of somewhat-clashing approaches, spanning Marxist, neo-Marxist and critical traditions. Frankfurt School scholars Herbert Marcuse, Theodor Adorno, Max Horkheimer, and Walter Benjamin who had relocated to the New School of Research in New York espoused a softer, more subjective reading of Marxist determinism, emulating Georg Lucas and Antonio Gramsci. Gramsci posited that capitalist regimes used "hegemonic ideology" to control peoples' consciousness, a notion that was later developed by, among others, Michele Foucault, Jacque Derrida, and Jacque Lacan. In their view, because texts

concealed power relations in a given society, it was necessary that they be deconstructed to unleash suppressed voices of the powerless. Jurgen Habermas, a student of Adorno and a rising neo-Marxist star in Germany, helped bridge the gap between the Frankfurt School and the French critical scholars by abandoning the classic attention to the material base of capitalism to focus solely on communication in post-capitalist society which, in his view, rewarded linguistic competence associated with class and power.

Often viewed as a type of postmodernism, this paradigm posited that what passed as knowledge was an “elite narrative” requiring deconstruction to detect narratives hidden by the powers-that-be. It was claimed “the world is permeated by hidden, impersonal structures that oppress the powerless. Rationality, objectivity, standards of excellence and merit are slogans to convince the downtrodden that subordination is justice.” [88]

Taking positivists aback, postmodernists embraced the idea that objective knowledge and objective representation of reality is impossible—even undesirable—because it reflected the “dominant narrative.” They likewise dismissed the Humboldtian notion of free discourse and the marketplace of ideas. In a 1965 essay, “Repressive Tolerance,” Marcuse asserted that American discourse—despite seeming to exude benign tolerance toward all opinions—masked machinations of the power-elite designed to keep the lower classes ignorant and to ensure they would continue to “parrot” the narrative of their masters. To even the playing field, Marcuse suggested the narratives of certain groups should be banned from the marketplace of ideas, namely, those who allegedly promoted discrimination against minority groups, aggressive policies, racism, and chauvinistic nationalism. By urging suppression of these voices, Marcuse became the architect of contemporary “political correctness.” Even more offensive to positivists was the Gramscian imperative of using the classroom to showcase the political agenda of instructors. They decried the fact that neo-Marxist, critical scholars asserted “educational institutions should be converted into agencies for reconstructing and transforming the dominant *status quo* culture.”[89]

While liberal arts departments across the country struggled to accommodate the new paradigm, its impact on academic freedom and, ultimately, the standing of the academy were poorly understood at first. The unique privileges granted to university faculty, as opposed to other public and private employees, were premised on the notion that universities have a unique responsibility not only to disseminate knowledge but also to improve on it. It was on this basis that Van Alstyne reminded faculty about the correlative duties that accompanied such a valued privilege. The correlative duty of the search for “truth”—championed in particular by positivist critics—demanded supplanting manipulative persuasion with “thoroughness and accuracy in the gathering of relevant evidence, careful and impartial consideration of the weight of the evidence, analytical reasoning, and balance and fairness in argument and controversy.” Van Alstyne warned about the dangers of “the ubiquitousness of indiscriminate claims to academic freedom, in respect to a professional political activity” may backfire. [90]

Critics charged that replacing truth with disparate narratives and ostracizing certain voices to level the discursive field – a tactic suggested by Marcuse -- precluded drawing distinctions “based on competence... rationality, objectivity, accuracy and standards of intellectual quality and merit.” Worse, in their view, the postmodernists regarded such criteria as slogans that “mask oppression designed to convince the

oppressed that subordination is justice.” Many positivists were worried that, by making correlative duties redundant, the neo-Marxist, critical paradigm undermined the hard-won privilege to academic rights. The eminent sociologist Edward Shils noted that the absence of criteria for validity or trustfulness yielded inability to conclude that any one statement “can ever be truer than any other statements,” thereby rendering “useless” any effort “to assess the validity of the achievements of scholars and scientists...What is there for academic freedoms to protect except the security of tenure and the prerogative of frivolity?” Remarkably, some critical scholars acknowledged that, when their peers “abandon a belief in objectivity we must redefine the principles of academic freedoms.” No less an authority on academic activism than Noam Chomsky pointed out that classical liberalism “created the commitment to a free marketplace of ideas.” Abandoning this principle “would destroy the university as a serious institution; it would destroy the value of a free society.”[91]

Some educators resorted to warning publicly that the new paradigm was eroding the standing of higher education. In a 1991 commencement speech, the former president of Yale University suggested “the essential values that ought to govern the university are not being vigorously articulated and defended, and the result is a growing public sense that universities have lost their way. The skepticism and the suspicion with which universities are now greeted and treated even by friends of learning exceed anything that I can recall.” In a May 1994 commencement speech, the eminent historian Arthur S. Schlesinger condemned “the agitation for censorship” that, ironically, was led by the left...and that, even more ironically, emanated from the universities, “where freedom of expression was previously sacred.” Summing up such misgivings, a critic suggested, “If there is no knowledge, and no way to distinguish fact from perception or reason from rhetoric, then professional academic freedoms have no principled defense. For centuries, scholars...have worked hard to persuade that knowledge will grow, and [that] the public good will be served, by granting academic independence to individual professors and to universities. But the politicization of the university by a subset of faculty that “assaults the premises on which academic freedoms rest” will drain the reservoir of confidence, good will, trust and tolerance on which academic independence of the university and its teachers depend.”[92]

Initially, the AAUP shared these concerns. As early as in 1973, a joint commission of American Colleges and AAUP concluded, “The vast and rapid growth of the profession in recent years has surely weakened the forces of professional tradition...Most ominously, the assaults on academic freedom from within the institution, by or with the tolerance of members of faculties themselves, have gone unpunished.” By the end of the 1980s, however, radical scholarship had become so entrenched that the AAUP—a much-changed institution from its heyday in the 1940s—was forced to accept the inevitable. When complaints about “political correctness” increased, the AAUP issued its Statement on Political Correctness; it defended postmodern trends in liberal arts and blamed the attacks on conservatives who were alleged to be determined to roll-back gains achieved by minority groups. [93]

Just as the new generation in AAUP decided to dispense with the cautious balancing of academic freedoms and correlative duties, it was hit by a powerful backlash that captured the public imagination.

The Intellectual Neoconservative Critique: Illiberal Education

To the extent to which the neo-Marxist, critical scholarship represented a European import superimposed on the upheavals of the 1960s, its neoconservative antithesis was a uniquely American movement. Launched by formerly-liberal intellectuals, it found a powerful base in Irving Kristol's *Public Interest* and Norman Podhoretz's *Commentary*.

Neoconservatives provided a comprehensive critique of the perceived excesses of liberalism-turned-radicalism in all aspects of American life. But criticism of the academy attracted the most attention, particularly because the Reagan administration supported it through the National Endowment for Humanities (NEH). In 1982, William J. Bennett, the Reagan-appointed head of the NEH, issued a report "The Shattered Humanities"; his successor, Lynne V. Cheney, followed-up with a string of scathing publications. A plethora of books—*Tenured Radicals*, *Kindly Inquisitors* and *Prof Scam*. Some became best-sellers, including Alan Bloom's *The Closing of the American Mind* and Dinesh D'Sousa's *Illiberal Education*. Helping the movement was considerable space afforded by periodicals such as *Commentary*, *The New Republic* and *The Wall Street Journal*. By the beginning of the 1990s, the term "political correctness" had entered the public lexicon as a pejorative and the *Chronicle of Higher Education*—often considered the unofficial mouthpiece of the AAUP—found itself on the defensive.

With public opinion now aroused, it took only a few high-profile cases to make the neoconservative point that liberal arts had become a shelter for some extremely radical professors with dubious academic credentials. Leonard Jeffries, chair of African-American studies at City University of New York, who had created controversy with his "melanin theory," served as Exhibit A for the neoconservative backlash. Jeffries asserted that whites were "ice people" (violent and cruel) whereas blacks were "sun people" (warm, compassionate and peaceful). In 1991, he publicly claimed that "rich Jews" financed the slave trade and controlled the film industry where they created crude stereotypes of blacks. When the university removed Jeffries from the position of chairman, he sued and triggered a long court battle; yet, he stayed in the department, prompting further public controversy. As the *New York Times* noted, the "nation's proud free speech tradition and hard-won academic freedoms" protected the likes of Jeffries; concomitantly, the paper questioned the college's decision to employ a "conspicuous bigot whose speech exhibits such a want of intellectual content and sound scholarship." [94]

In yet another blow to the radicalized academy, Neil Hamilton, a law professor, wrote a book based on his personal experience of being a target of critical scholars in the department. Hamilton, who was subject to a number of investigations for alleged infractions of politically correct speech, accused activist faculty of using McCarthyist tactics to intimidate and silence opponents. He further charged that, although a small minority, they had benefited from the reluctance of others to speak out. In his view, the "silent majority" were either too intimidated or too embarrassed to criticize their colleagues, lest they be perceived as "intolerant." Hamilton suggested that non-activist faculty were blind to the McCarthy-inspired tactics of the left, because the professoriate was conditioned to see threats to academic freedom as emanating exclusively from the right. Either way, by failing to speak out, the silent majority created the appearance of a consensus in the internal academic discourse. [95]

Another critique was offered in 1999 by civil rights attorney Harvey S. Silverglade and Alan Charles Kors, a University of Pennsylvania professor who was irked by encounters with excessive on-campus political correctness. In *The Shadow University*:

The Betrayal of Liberty on American Campuses, they concluded that “the shadow university”—their term for the postmodern liberal arts sensibilities—suppressed true freedom of speech through indoctrination, intimidation, and intrusive partisanship. And they blamed the Clinton administration, “eager to buy peace and avoid scandal,” for condoning such practices. Finally, in a lengthy chapter entitled “Assault on Faculty Speech,” they identified court cases that supported their contention that faculty “straying” beyond politically correct speech were reined-in by university authorities. That is why they concluded “sunlight is the best disinfectant,” suggesting that legal challenges provided the most effective way to curb leftist dominance on campus and to restore liberal arts to its original mission of a marketplace of ideas.

While all of these books impacted public discourse, critics of campus radicalism understood that confronting university authorities and the powerful AAUP could not succeed without a network of organizations exposing what was deemed to be academic malfeasance. [96]

The Counter-Network: The “Campus Watch” of Neoconservative Scholars

Campus Coalition for Democracy, renamed National Association of Scholars (NAS) in 1987, provided a pioneer think-tank for the neoconservative movement from an office in Princeton, New Jersey. It was led by Herbert London and Steven Balch, early critics of political correctness, affirmative action, and “excessive multiculturalism.” Serving on the NAS advisory board were Jeanne Kirkpatrick, a political science professor and US ambassador to the United Nations, and Chester Finn, who advised the Reagan administration on higher education. The new organization led successful lobbying efforts to obtain federal funding for traditional American history and Western civilization courses. NAS’s Center of the Study of the Curriculum ascertained whether instruction was intellectually well-rounded and rigorous and its Argus Project called upon student volunteers to bring “publicity to university programs, policies or events at odds with the responsible exercise of academic freedoms.”[97]

In 1994, 400 literary establishment leaders organized the Association of Literary Scholars and Critics—later the Association for Literary Scholars, Writers and Critics (ALSWC)—to supplant excess reliance on postmodern theories in academic literature programs with alternatives to these readings.

In 1995, Senator Joe Lieberman and Lynne Cheney—assisted by the NAS—established the American Council of Trustees and Alumni (ACTA) to reform higher education by safeguarding free exchange of ideas on campus and by increasing Western-oriented liberal education. ACTA published the *Intelligent Donor Guide to College Giving* and a quarterly newsletter *Inside Academe* to inform boards, alumni, and donors about their universities pursuant to its motto, “It is your money; you get to decide how to use it.”

In the aftermath of the huge response to their book, Kors and Silverglade organized the Foundation for Individual Rights in Education (FIRE) in 1999. FIRE specialized in legal defense of professors and students who ran afoul of speech codes and multicultural requirements. Its projects included Speech Code Litigations Project and Free Speech on Campus Project.

To back up claims of leftist bias, in 2005, the Connecticut Center for Survey Research and Analysis—commissioned by ACTA—found that students at top colleges and universities, as ranked by *U.S. News and World Report*, were subjected to ideological indoctrination in the classroom; nearly half of the respondents reported that professors

present their personal political views and one-third felt that they needed to refer to these views to receive a good grade. Seventy-four percent indicated that professors offered positive comments about liberals, and forty-seven percent related that their instructors made negative comments about conservatives. This revelation of political uniformity of the professorate in liberal arts prompted ACTA to lobby Congress and state assemblies to pass legislation mandating efforts to achieve greater balance in classroom lectures and campus events. [98]

David Horowitz, a former radical activist turned neoconservative public intellectual and high-profile educational critic, decided to focus on students. In 2001, he created the Students for Academic Freedom (SAF), “a clearinghouse and communication center for a national coalition of student organizations whose goal is to end the political abuses of the university and to restore integrity to the academic mission as a disinterested pursuit of knowledge.” It asserted that a cadre of tenured radicals had eroded the 1915 and 1940 AAUP principles of academic freedom, and it reminded students that they have an academic right to enjoy a balanced education. SAF further contended that promotion of academic diversity would help the university to achieve its primary goal: “The pursuit of truth, the discovery of new knowledge through scholarship and research, and reasoned study of intellectual and cultural traditions.” SAF’s Academic Bill of Rights (ABOR) drew on the language of the aforementioned AAUP Statements to generate eight principles, among them the following: in the humanities and social sciences, students should be exposed to a variety of sources and views; students and faculty should not be favored or disfavored because of their political views; curricula and reading lists in humanities and social sciences should reflect the unsettled nature of human knowledge by providing a diversity of views and methods; and teachers should not use the classroom for political, ideological or anti-religious indoctrination. [99]

In 2004, the AAUP Committee on Academic Freedom fired back at SAF and its reports on professors who imposed their views in the classroom; it compared ABOR to the earlier efforts by John Birch Society, Accuracy in Academia, and Campus Watch with a twist; “What is different is that this organization purports to rely on AAUP principles in condemning the introduction of “controversial matter having no relation to the subject”.” The statement concluded that the “project is inimical to it and indeed to the very idea of liberal education.”[100]

AAUP was one of the many organizations that subjected Horowitz to withering criticism. Yet even those who viewed the conservative and neoconservative network with disdain had to admit, however, that it reshaped the debate on academic freedom.

The Public University as a Corporate University: Public Higher Education in the Age of Economic Scarcity

Despite the overall success of progressive educators, it was the drive to create a version of the European management university—known in the United States as the corporate university—that undercut the left-wing dominance of public universities. This structure is predicated on federalism, in that individual states and the District of Columbia have established a network of public universities and colleges. Some states support more than one public system; for instance, coexisting in California are two structures, University of California with 10-campus and State University of California with 23-campus. The level of governmental subsidy to public universities has varied from state to state, from college to college, and from year to year.

Regardless, state universities have offered a lower-cost option to the rather pricey private education. In return for lending public support, state governments had demanded supervision and oversight of their school systems. Governing boards have generally been comprised of gubernatorial appointments of politicians and business people. And state legislatures have used their budget power intermittently to demand accountability to elected officials and taxpayers.

The public university has benefited from the pronounced expansion of higher education in the 1960s and 1970s, when investment in the system was considered to satisfy national interests inclusive of concerns military -- winning the Cold War -- and economic -- maximizing productivity. But attacks on capitalism, big business and the “industrial-military complex”—the “unholy trinity” of the neo-Marxist, critical scholarship—alarmed business leaders. In 1971, Lewis Powell, a prominent business lawyer who later served on the Supreme Court, attributed the anti-capitalist mood in the academy to the teachings of Herbert Marcuse and other radical professors. He found it ironic that Marcuse was teaching at the University of California, San Diego; he wrote that “the campus from which much of this criticism emanates” was supported by taxes generated largely from businesses so reviled by the neo-Marxists. Powell admitted that few academics were radical, but asserted that the remaining faculty members were either not articulate enough or aggressive enough to compete with their “crusading colleagues.” As a result, he concluded, “Balance is conspicuously absent from many campuses.”[101]

In Powell’s opinion, the radical anti-business attack was amplified by elite media that gave the academic critics unprecedented coverage. He further noted that many board members came from the business community and yet failed to act against the radical trend. Powell expressed amazement at this state of affairs: “One of the bewildering paradoxes of our time is the extent to which the [capitalist] system tolerates, if not participates in, its own destruction.” To redress what he perceived to be a lack of balance, Powell urged the business community to fund a multitude of independent institutes and think tanks, this to employ social science scholars blocked from joining the academy because of their views. He also exhorted the boards of governors to exercise a more vigorous oversight of the state university systems on behalf of the taxpayers.

Within a relatively short period of time, Powell’s manifesto spurred creation of conservative and neoconservative think tanks, including the American Enterprise Institute where Dinesh D’Souza was based. Powell’s advice to increase the role of public stakeholders in the state systems was actualized when Ronald Reagan took over the White House in 1981. Seen by many as a referendum on the liberal economic and foreign policy of Jimmy Carter, the election gave the new administration a mandate to privatize the public sector and de-federalize the health and welfare system. Forced to shoulder new fiscal burdens, states were simultaneously confronted with widespread tax revolt, making tax hikes virtually impossible. Facing a shrinking revenue-base and increased spending, state legislatures cut support for higher education. Despite a steady rise in tuition, public universities could not meet budgetary commitments, forcing governors and their appointees on the boards to push colleges to become more self-reliant. [102]

As was occurring in Germany and Britain, the new order of the day became the need to improve governance, efficiency, and accountability. As early as in 1984, the Association for the Study of Higher Education, recognizing that universities—especially public ones—faced pressure from state legislators and donors, listed

regulations and requirements intended to enhance faculty efficiency. Faculty members who worked extramurally during the academic year were dubbed “double dippers” and limits on consulting were imposed. Political activism and other non-business related activity was more difficult to monitor, but universities made reviews of faculty performance more routine. Tenure, a key achievement of the AAUP, continued to be perceived as a lifelong guarantee, to be lifted only under extraordinary circumstances such as “substantial and manifest neglect duty...demonstrated incompetence or dishonesty in teaching or research...and personal conduct which substantially impairs the individual’s fulfillment of institutional responsibility.” Yet, it was noted that fulfillment of teaching duties was not indicative of performance, because tenure was known to protect incompetent faculty. Thus, new measures were needed that might limit the personal autonomy enjoyed by academic staff; this is why post-tenure review became more prevalent, ostensibly to provide input on performance and to “supply documentation for removal for incompetence.” Despite stiff opposition from the AAUP, post-tenure evaluation became a fixture in the public corporate university. Known sometimes as “interruptible tenure “ it is a “system that purports to confer tenure and then, at intervals of five or possibly ten years, conducts a review of the tenured professor’s performance”. [103]

Public universities seeking to control their faculty could invoke case law supporting the view that, as employees in the public sector, professors were duty-bound to contribute to the proper functioning of their workplace. In *Stastny v. Board of Trustees of Central Washington University*, Washington State Appellate Court ruled in 1981 that “Academic freedoms are not a permit for activity at variance with job-related procedures and requirements, nor does it encompass activities which are internally destructive to the proper function of university or disruptive to the educational process.” Prior to that, in *Clark v. Holmes*, the 7th Circuit Court ruled that academic freedom is not a license for unrestrained speech, even when First Amendment rights are taken into account because “The State has interest as an employer in regulating the speech of its employees that differs significantly from those it possesses in connection with regulations of the speech of the citizenry in general. The problem in any case is to arrive at a balance between the interest of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public service it performs through its employees.” Both cases clarified that academic free speech did not grant faculty the right to interfere with the proper functioning of their workplace, or indeed, to undermine the higher education process. [104]

By the late 1990s, the search to replace state funding intensified. Top schools like Berkeley could use their considerable scientific know-how to forge links with industry. Though some faculty protested creation of a “university-industrial complex,” economic hardship trumped such 1960-style sensibilities. At a conference devoted to new trends in the academy in 2000, Berkeley president Robert Berdhal defended what he termed the “privatization of the public university,” urging academic leaders to invoke extramural sources to avoid financial ruin. [105]

But second- and third-tier universities fared less well, rendering them ill-prepared to face the financial meltdown of 2008 and the deep recession that followed. Cash-strapped state governments slashed contributions and, in some cases, failed to transfer already budgeted payments. Bain and Sterling, a private equity firm that analyzed 1,700 public and private non-profit colleges in 2012, found that one-third were on an “unsustainable path” and a further 28 percent were headed in the same direction. The

study recommended that boards of both public and private universities assert more financial control, cut excess-spending, and introduce more commercial rigor. Although some viewed this report to be “alarmist,” the accompanying editorial was supportive. [106]

Faculty did not have to wait for Bain-Sterling to recognize that expansive academic freedom buttressed by tenure was a thing of the past. Tight budgets prompted tenure-tracks to recede in America—affecting disproportionately the liberal arts, where most the saving could be realized—as contingency employment (adjunct and contract faculty) grew; those in a tenure-track stream dropped from three-quarters of all faculty in 1970 to one-third in 2007. A former Secretary General of AAUP described the highly competitive process by which department hire the latter; in her view, probationary faculty are put through a harrowing experience of unrelenting publishing in high prestige journals and presses in order to qualify for tenure.

Predictably, faculty in public universities has experienced much higher level of stress compared to their colleagues in private institutions. A 2011 study found that 86.1 percent of the former experienced stress over budget cuts as opposed to 47.2 percent of the latter. Sixty two percent of public university faculty reported stressful teaching loads, compared to 50.5 percent in private universities. Adjuncts registered the highest level of stress, both in public and private institutions. [107]

The new economic climate generated considerable risk aversion among public universities. As a result, complaints about the corporate model filled the pages of academic journals and a number of especially-created websites. In a book prefaced by Cary Nelson, the AAUP president, Marc Bousquet expanded on Nelson’s contention that the super-exploited “lumpen professoriate” —a reference to adjunct faculty--carry out the majority of teaching duties. The trend was most prevalent in liberal arts; overall, Bousquet found that tenure-track positions were at all-time low and teaching loads high, especially in state universities. Writing in the AAUP’s *Journal of Academic Freedom*, one scholar lamented that, “For the better part of 30 years, and at a quickening pace over the past decade, this ideal [academic freedom] has been under attack....State legislatures, governing boards and academic departments—typically in cooperation with powerful accreditation agencies—have begun to dictate academic freedoms...in the name of efficiency. They have placed an ever-increasing set of demands on progress, dictating content, requiring experience and ‘measurable’ outcomes that simply leave no time or space for academic freedoms.”[108]

Ellen Schrecker, a historian and editor of the AAUP journal *Academe*, castigated the corporation (management) model and warned that it would end the academy “as we know it.”She stressed that universities and colleges “are also confronting demands for so-called reforms that would substitute economic considerations of productivity and cost-effectiveness for the traditional educational values of enlightenment and individual growth.” Schrecker predicted that state universities, in particular, would eliminate tenure and tenured-track positions, leaving contract hires without the customary protection of academic freedom. [109]

The coveted tenure positions had serious hidden costs, however, because public universities relying on adjuncts forced tenure-track faculty to assume multiple administrative tasks superimposed upon an increased teaching load. Indeed, at the time when demographic changes produced a student body ill-prepared for academic life and in need of remedial work, some professors argued that imposition of greater instructional responsibilities impinged on individual academic freedom. In a case

involving Central State University of Ohio, a *per curiam* ruling by the Supreme Court upheld the right of the Ohio legislature to require the university to develop teaching loads for faculty that would be exempt from collective bargaining; professors had no right under the Equal Protection Clause of the Fourteenth Amendment to object to the state's demand that they handle an increased workload. The Ohio case was an early indication of a growing reluctance of the courts to protect academic freedoms when interpreting the Constitution, a stand that made the operational environment of AAUP more difficult. Even though faculty tried to compensate by expanding the extra-constitutional reach of the academy, the explosive growth of contingency faculty meant that fewer and fewer qualified for protection. [110]

Another encroachment on the professors' home-turf stemmed from the claim that they be perceived as the university's intellectual property and, thus, could be blocked from generating negative publicity with "out of bounds" speech or action, lest they would repel the public and donors. Thus, state universities adopted an ethics code to ensure that the "behavior of individual faculty members is not detrimental to the well-being of the institution, the academic profession, or the respect with which faculty is viewed." [111]

Tolerance for academic speech that could be potentially embarrassing to a public university eroded during the decade between the Jeffries case and late-September 2001, when Ward Churchill wrote an essay "Some People Push Back: On the Justice of Roosting Chickens" justifying the 9/11 attack. This professor of ethnic studies at the University of Colorado argued that American foreign policy triggered the attack and blamed the "technocratic corps at the very heart of American empire... who worked in the service of evil," adding that people who perished in the Towers were "Little Eichmans." After the essay was publicized in January 2005 on the Fox Channel program *The O'Reilly Factor*, the angry reaction from donors and state officials pressured the University to apologize to the American people for Churchill's "repugnant" statement. In early February, 2005, the Board of Regents directed the university's standing committee on Research Misconduct to investigate; it determined that Churchill was protected by the university free-speech-code, but he was subsequently fired for research misconduct on grounds of plagiarism, fabrication, falsification of evidence to support his claim that the United States government had been complicit in the genocide of Native Americans, and of "fraudulently" assuming a Native American identity. Churchill sued the University for Unlawful Employment Termination but, in July 2009, an appeals court did not reinstate him.

ACTA seized upon the Churchill affair to paint a broader picture of academic activism, as Churchill became a "veritable poster boy for extremism on American campuses." Building upon its 2005 student-survey, ACTA concluded that "In published course descriptions and online course materials, professors are openly and unapologetically declaring that they use their positions to push political agendas in the name of teaching students to think critically... In classroom after classroom, on campus after campus, courses too often look more like lessons in political advocacy and sensitivity training than objective and balanced presentations of scholarly research." [112]

In a rejoinder to ACTA, the Colorado Conference of the AAUP concluded that the University's persecution of Ward Churchill represented "a betrayal of society on numerous levels." It faulted politicians and the Board of Regents, "a group of elected officials" who responded to the call of their constituents to fire Churchill. It also chastised faculty for not standing up for Churchill and preferring silence; it

condemned this compliance with the administration, regardless of whether it was due to pressure to conform or to the desire not to jeopardize donations. [113]

Some leftist scholars then claimed that “right-wingers” like David Horowitz had capitalized upon the opportunity to assault the academy; they lamented that, in the past, “brave academics” would have “stood up to meet their attackers.” One even dubbed the post-9/11 attacks on academics “new McCarthyism,” robustly defending Churchill and harshly condemning university authorities. [114]

But neoconservative critics harbored little sympathy for Schrecker, Nelson, or others who yearned for the “golden age” of academic freedom. They faulted academic self-governance for creating a convoluted, dysfunctional, bloated institutional system that lacked accountability. One proclaimed, “American higher education today looks somewhat like the Catholic Church in the late Middle Ages: an enormous enterprise...staffed by multiple hierarchies whose principles of organization were opaque to outsiders, following its own arcane laws and mores, seemingly invulnerable to criticism.”[115]

Individual faculty was subject to intense critique which relied on rational choice theory. Originating in economics--where it was used to model economic behavior of individuals and firms--rational choice made its way into political science, sociology, and criminology, among others. Rational choice theorists were able to prove that lofty references to academic freedom masked interests of academics eager to protect their turf from public oversight. Indeed, Martin Trow, a leading higher education theorist at Berkeley, charged his peers with deceptive argumentation and welcomed the transfer of power to the administration in the University of California system. In a follow up on his essay, Trow discussed the consequences of expansive freedom given the high percentage of leftist academics in the social sciences throughout the system. Such radical activist faculty undermine the traditional mission of higher education to provide objectively derived truth. He wrote “If the university gives to this politically unrepresentative body of academics the right to teach their political views without the necessity to present alternative perspectives...then people outside the university might be inclined to suspect that in some academic subjects and departments, there may be more indoctrination and conversion than teaching going on.” Trow warned that the cost of such practices may be slow in coming but it would eventually lead to the erosion of public trust in higher education and more direct government involvement. [116]

NAS, ACTA and SAF elaborated upon Trow’s critique and provided a list of professors who, in their opinion crossed the line into indoctrination and propaganda. Feeling the pressure, in 2011 AAUS issued a draft policy on what became dubbed “controversial professors.” On the whole, the statement reiterated its previous policies, but there was implied effort to address the concerns raised; it responded to charges of indoctrination in the classroom by suggesting that only the “use of dishonest tactics to deceive students” should be opposed but not expressions of political opinion. In discussing whether professors are straying from the appropriate material,” it suggested that only academics can make the call. NAS president Peter Wood responded by agreeing with some of the AAUP policies, but harshly criticized others. Wood argued that the report tended to delegitimize outside criticism as “pressure” and questioned whether the AAUP has set too high a bar for anyone to raise criticism of what goes on in the classroom.” Wood accused the AAUP of trying to “create a firewall around faculty” and for tolerating a double standard by not protecting conservative professors. [117]

In 2012, both NAS and ACTA used the occasion to call for reform of a system that accommodated—if not engendered—such a misguided multicultural, politicized environment. NAS criticized political activism of faculty on the campus, claiming it caused both a financial drag on a system that was already fiscally strained and an unnecessary distraction from satisfying the core mission of providing a balanced education. Regarding the former, it decried use of the university for partisan political activity because state monies are misused when appropriated funds are diverted by state employees to purposes not intended by the legislature: “classroom time at a public university presupposes the expenditure of a good deal of public money...[W]hen even five minutes of class time is used to promote instructor’s policies [or] beliefs, public property has essentially been converted to a private use.” Regarding the latter, it was averred that an individual instructor’s private politics should not be promoted in a class setting because a political education was viewed as anathema to scholarly pursuit: “politically desirable results [are valued] more than the process by which conclusions are reached.”[118]

ACTA encouraged governing boards to drop the assumption that “academics is an area that is off limits, that academic matters are solely the province of the faculty, and that for the board to intervene in this sacrosanct area is somehow a violation of “academic freedom”.” The study called on boards to initiate a process of evaluation of academic programs “against solid criteria and through an academically defensible process.” A key suggestion was to introduce evaluations of the effectiveness of faculty. [119]

Just as occurred in Germany and Great Britain, the transition in the United States to a corporate (management) model drew extra scrutiny to intramural and extramural freedom that, in turn, impacted the discourse on Israel in the Middle East. To quote one observer, “Since Vietnam...Israel has become a litmus test...of what can be debated—and even who will be allowed to speak—on university campuses.”[120]

Israel in the Middle East: The MESA View

Middle East studies—the domain of traditional historians, behaviorally-oriented sociologists, and political scientists—was a latecomer to neo-Marxist, critical scholarship. This changed in 1979, when Edward Said, a professor of literature at Columbia University, published *Orientalism*, a book destined to achieve iconic status in academic literature. In the preface, Said thanked Michele Foucault and neo-Marxist economists for inspiring him to view Israel in the Middle East through a colonial perspective. In Said’s opinion, Israel was a colonial implant that expelled the indigenous Palestinians from their ancestral land. To perpetuate the system of oppression and disposition, Israel was accused of running an apartheid state comparable to the racist regime in South Africa.

Although mainstream political science did not share this assessment, Said’s numerous disciples in the Middle East Studies Association (MESA) disseminated his approach. This was not surprising, as the demographics of Middle East scholars had changed dramatically during the previous years. According to one survey, in the 1990s, a majority of MESA professors had Middle East backgrounds and, more to the point, heeded the Gramscian call to merge academics with politics, something that Said himself excelled in. Saudi Arabia and other Arab countries contributed to the Middle East centers and programs around the country, with Ivy League and elite universities receiving a large share of the donations. Next in line to receive gifts were Middle East

centers in large state schools, including a donation to the University of Arizona to which the MESA offices had relocated. [121]

The politicization of the discipline took two major forms. The first built upon the disproportionate concentration on the Israeli-Palestinian conflict, for up to seventy percent of courses offered were in some way related to the conflict and, as a rule, adopted the neo-Marxist, critical perspective. The second pertained to shaping the discourse on the nature of Islam in the wake of the Iranian revolution in 1979. Despite the fact that American encounters with Islamist terrorism dated back to the 1983 suicide bombing of the Marine barracks in Beirut by Hezbollah—a creation of Iran’s Revolutionary Guards—few Middle East experts emphasized the danger of Islamism. In 1990, Bernard Lewis warned in *Atlantic Monthly* about a coming clash with Islamism; in 1993, Samuel Huntington elaborated upon this theme in a *Foreign Affairs* article “Clash of Civilizations.” Daniel Pipes, the head of the Middle East Forum, included a number of articles on Islamist terror in his newly-created *Middle East Quarterly*; Steven Emerson, the head of a project investigating Islamism in the United States, also raised this concern.

But MESA leaders strongly objected to linking any sector of Islam to terrorism. John Esposito, a professor at Georgetown University and head of the Saudi-supported Center for Christian-Muslim Understanding, responded by publishing articles that described such assertions as “myth.” The highly-influential Esposito was responsible for the notion that Osama bin Laden was a bogeyman created by hard-liners in Washington. Many MESA and International Relations (IR) professors not only agreed with Esposito but also blamed Pipes and his Middle East Forum for fomenting the “myth” of Islamist terrorism. Stephen Walt, a leading IR expert at Harvard University, backed up Esposito by implying that the Jewish lobby was also behind the badmouthing of bin Laden. Most important, Esposito’s thinking guided Paul R. Pillar, the deputy chief of the CIA’s Counter-Terrorism Center. Months before 9/11, Pillar published a book that elaborated upon Esposito’s assertion that Americans should not focus too obsessively on bin Laden; Pillar, who later became the Chief Intelligence Officer for Near East and South East Asia, suggested the Jewish lobby, acting on Israel’s behalf, had exaggerated the threats of Islamism.[122]

But 9/11 undermined MESA’s conceptual *raison d’être* and also unnerved the AAUP. In October 2001, Congress hastily passed the U.S. Patriot Act, which expanded the definition of terrorism and mandated ways to prevent it. Its impact on academic freedom was predictably profound. As a result, on the first anniversary of the attack, the AAUP created a “Special Committee on Academic Freedoms and National Security in a Time of Crisis.” The Committee acknowledged that, in a crisis, to prevent affording “aid and comfort” to the enemy, government has the right to maintain secrecy regarding military and enemy-related information. But the Committee hastened to warn that “excessive zeal” could drive the authorities to extend such measures beyond reasonable limits; it was particularly concerned with suppression of dissident opinion on campus and the broader public arena, an action that “threatened to chill the robustness of debate upon which democracy depends.”[123]

As the AAUP’s apprehension over 9/11 fallout materialized, its critics used the occasion to lambaste radical faculty. Shortly after the attack, ACTA published “Defending Civilization: How Our Universities Are Failing America,” accusing colleges and universities of being the weak link in America’s response. The document listed 117 incidents of on-campus anti-Americanism and named more than

40 professors who suggested that terror was either payback for alleged American offenses against Islam or the consequences of “disparities and injustices” in American society that lead to hatred and violence. AAUP circles responded by calling the report a “black-list” but, in the atmosphere of heightened security, the ACTA position acquired considerable public traction. [124]

As if to underscore this point, on September 26, 2001, *The O’Reilly Factor* publicized the case of Sami Al Arian, a tenured professor at the University of Southern Florida (USF). In 1991 Al Arian had founded the World and Islam Studies Enterprise (WISE), which then worked with the newly-created Middle East Studies program at the university. At that time, Steven Emerson claimed that Al Arian was the head of Palestinian Islamic Jihad in the United States; included in his 1996 documentary *Jihad in America* was a clip of Al Arian vowing “death to Israel.” The FBI investigated Al Arian on the suspicion that WISE acted as a front for the terror group, but neither the government nor the university took action against him. Only after the public uproar created by O’Reilly triggered pressure from Florida state officials and donors did the University place Al Arian on administrative leave and retain legal counsel to enable it to fire him.

Al Arian appealed to the AAUP which, by mid-February 2003, issued a report stating that the administration of USF “acted in disregard of academic due process” concerning Al Arian. The AAUP threatened to censure USF for its actions but, on February 20, Al Arian was arrested and charged with being a key official in Palestinian Islamic Jihad. A few days later, USF fired Al Arian on the ground that “on numerous occasions he used the “university name, reputation, resources and personnel” for non-educational purposes. In a stab at the AAUP, the USF added that Al Arian “cannot hide behind academic freedoms.” After a lengthy legal battle and imprisonment, Al Arian was deported, thereby ending his dispute with the university. [125]

USF’s haste in getting rid of Al Arian after tolerating his activities for more than a decade reflected the changed climate in public universities. Not surprisingly, both MESA and the AAUP voiced their repeated concerns. MESA leaders, in particular, felt that 9/11 was hurting the standing of the discipline. Joel Beinin, a prominent MESA leader, complained that the attack ushered in a new era of McCarthyism in Middle East studies. To defend the field from alleged McCarthyism, MESA created its own committee on academic freedom and intensified collaboration with the AAUS. [126]

Whether in response to MESA or to independent organizational interests, the AAUP broadened its own involvement in the issue of Israel in the Middle East. To recall, by the mid-2000s, British faculty had initiated a number of boycott drives against Israel, a policy that was very popular with many MESA members. Jumping into the fray, AAUP announced a conference on the boycott issue to be held in Bellagio, Italy in February 2006, courtesy of the Ford Foundation. Within the packet of distributed pre-conference material was an article from an anti-Semitic website and eight of the twenty-two invited speakers were boycott supporters, including Omar Barghouti. The makeup of the panel triggered strong criticism of the AAUP. After Jewish figures and some New York politicians complained, the Ford Foundation withdrew its support from the conference. [127]

The aborted Bellagio meeting drew renewed scrutiny to the Ford Foundation, which had a history of favoring pro-Palestinian causes. Pro-Israeli advocates were upset by

Ford's generous support of the New Israel Fund which, in turn, supported an array of NGOs harshly critical of Israel. Ford was a major funder of groups behind the 2001 Durban Conference and other virulent criticism of Israel. Under pressure from Congress over the Durban debacle, the Foundation apologized and promised to cut-off funding to groups promoting "violence, terrorism, bigotry or the destruction of any state." At the time, presidents of top universities criticized this decision, claiming alleged censures of the Foundation would cast a pall over academic freedom. But Ford's barely-masked association with groups favoring BDS continued to make headlines and, in 2011, it promised to withdraw from Israel-oriented projects.[128]

The post 9/11 scrutiny impacted other aspects of Israel in the Middle East discourse. In 2008, Bard College professor Joel Kovel alleged in his book *Overcoming Zionism* that Israel was a racist, apartheid-like state which should be replaced with a secular state of Jews and Palestinians. Kovel, who went as far as to describe the creation of the state as an "abomination," was fired by Bard College. Criticism was directed also toward his publisher, the London-based Pluto Press—a radical press that produced many books sharply critical of Israel and sympathetic to the Palestinians—and its American distributor, University of Michigan Press. Two pro-Israel groups, StandWithUs and American Movement for Israel, called for the termination of the distribution contract because some of Pluto's publications were anti-Semitic. After having initially refused, Michigan University Press relented after the university's Board of Regents demanded the relationship be severed; the Press issued a statement claiming that Pluto lacked a proper peer review procedure to ensure its books harbor a scholarly quality. [129]

Arguably, the most significant setback suffered by MESA occurred a month after the 9/11 attacks, when Martin Kramer, then *Middle East Quarterly* editor, published *Ivory Towers on Sand: The Failure of Middle Eastern Studies in America*. This much-discussed book offered a wholesale indictment of Said and his followers, whom Kramer blamed for legitimizing a highly unrealistic view of the Middle East to fit their critical paradigm. Kramer charged Esposito, John Volt, Richard Bulliet and other MESA scholars with whitewashing Islamism, misrepresenting it as a peaceful movement, and assuring Congress and the public that Islamist countries were in the process of evolving into democracies. To prove his point, Kramer furnished a long list of quotations, including congressional testimony during which Volt praised Hassan al Turabi, the Sudanese Islamist who had sponsored Osama bin Laden, for creating a "Sudanese democracy." [130]

Proving the MESA paradigm wrong was only part of the book's goal. The other was to urge that Middle East studies not be treated as a "hobby" of professors bent on experimenting with faddish "critical" paradigms. Kramer noted that the federal government supported Middle East studies through a Title VI program of the Higher Education Act, a legacy of the 1970s when area studies were set up to serve America's national security interest. He contended that, according to the 1993 Government Performance and Results Act, the program had to be rigorously evaluated. He urged Congress to take a deeper interest in Title VI, "especially as it pertains to Middle East studies."

Kramer argued that Middle East studies had become monopolized by politicized faculty indulging in propaganda instead of serious scholarship; the charge acquired more traction when, in 2002, Daniel Pipes launched Campus Watch (CW) described as a project of "review and critique of Middle East studies." CW promised to investigate analytical failures, mixing of politics and academics, intolerance of

alternative views, apologetics, and abuse of power over students. CW reviewed classes conducted by Joseph Massad, a professor of Middle East studies at Columbia University. He was also a target of a documentary produced by a pro-Israel advocacy group, *Columbia Unbecoming*, but a subsequent investigation cleared him of charges of anti-Semitism. Among faculty accused of using the classroom to propagate anti-Zionist and anti-Semitic teachings were Juan Cole, a professor at the University of Michigan, Rashid Khalidi, the Edward Said Professor of Middle East Studies at Columbia University, and Hamid Dabashi from Columbia.

Building upon this criticism, local lobbying efforts successfully reversed a decision of Yale University to offer a position to Juan Cole. Said's son, Wadie, saw his chance to obtain a position at the Law School at Wayne State University evaporate. Rumors that Rashid Khalidi may be appointed to a newly-endowed chair at Princeton University created a considerable stir, with board members and alumnae complaining that Khalidi made no distinction between scholarship and political advocacy. AAUP president Roger Bowen took a strong stand against these developments, stating: "Non-academics and external advocacy groups should not be permitted to intrude in hiring and tenure cases in the academy...Academic freedom also requires recognition that scholars alone have the right to pass judgment on the quality of a professor's credentials. No scholar should have to be subjected to political litmus tests conjured up by partisan groups." [131]

Bowen's opinion notwithstanding, the AAUP and MESA suffered a serious setback when, in 2003, a House subcommittee on Select Education held hearings on Title VI backing up Kramer. Stanley Kurtz, a fellow at the Hoover Institute and another critic of MESA, told lawmakers that Title VI area studies programs "tend to purvey extreme and one-sided criticism of American foreign policy," adding that the centers supported by Title VI were "ideologically biased." Kurtz, who researched Title VI programs, concluded that in many cases the taxpayer supported the "political agitation of university professors." He also marshaled evidence to support the contention that Saudi donors have exercised considerable influence over federally-subsidized Middle East centers. Nearly five years later, in August 2008, Congress reformed Title VI, prompting Kurtz to note that this may be the first time that Congress had gone on record affirming the value of intellectual diversity. In his view, the very purpose of academic freedom is to promote an active "marketplace of ideas on campus." There is little doubt that the same issues would be reviewed when Congress prepared to reauthorize Title VI in 2012. [132]

If the reform of Title VI made it easier to put the spotlight on Middle East studies, it could do little to tackle the issue of anti-Israeli events on campus. Just as in Britain, Muslim Students Associations (MSA) and a plethora of Palestinian and radical leftist groups used campus facilities to stage events ranging from Israel Apartheid Week to BDS drives. In addition to privileging their own speakers, pro-Palestinian activists developed the so-called "speaker veto" tactic by heckling Israeli officials and lecturers sympathetic to Israeli causes.

Anti-Israeli activists targeted both private and public universities, but California—a state with a large Muslim population—attracted a disproportionately larger number of events sponsored by well-endowed MSAs and Palestinian groups. A sizable contingent of radical faculty and influential, MESA-inspired Middle East studies departments in the California state system had undoubtedly facilitated these activities. William Robinson, a sociology professor at the Santa Barbara campus was front and center in this group. In 2009, Robinson sent an email to his undergraduate students

entitled “Parallel Images of Nazis and Israelis;” the message featured Nazi and Israeli soldiers, asserted that “Gaza is Israel’s Warsaw- a vast concentration camp that confined and blockaded Palestinians,” adding that “we are witnesses to a slow - motion process of genocide.” A Jewish student complained to the university Senate which initiated an investigation of whether Robinson violated the faculty Code of Conduct. The inquiry was subsequently cancelled, a move that many in the academic community welcomed. In another headline case, the UCLA Center for Near East Studies, held a symposium “Gaza and Human Rights” on January 21, 2009. According to critics, the panel was one-sided and there were chants “Zionism is racism” and “F--- Israel.”[133]

Replicating the trend in the European Union, by the mid-2000s, anti-Zionism was increasingly viewed as a form of anti-Semitism. Kenneth L. Marcus—director of the Department of Education’s Office of Civil Rights (OCR), which reviewed complaints of anti-Semitic and anti-Israeli incidents on campus—supported this view by noting that legitimate and even illegitimate criticism of Israel *per se* did not constitute new anti-Semitism. Pivotal was “the character and motivation” of the new critique, which routinely rested upon Holocaust minimization, denial, and even inversion; the latter was evident when it was suggested that “Nazi crimes were no worse than Israeli conduct.” Marcus described as “perfect storms” the confluence of factors responsible for the phenomenon of anti-Zionism as anti-Semitism on American campuses: “overwhelming liberal” faculty; anti-Israeli agitation, often meshed with the anti-American and anti-capitalist ideology; and the failure of college bureaucracies to act, mostly because of fear of “inviting confrontation” or “appearing overzealous to interfere with academic freedom.” A 2006 study on “Political Beliefs and Behavior of College Faculty” bore Marcus out; social science and humanities faculty was overwhelming liberal, largely anti-American and anti-capitalists. [134]

MESA professors and their supporters vigorously denied these charges. In 2007, some 650 faculty signed a petition in support of the “Ad Hoc Committee to Defend the University”; they claimed defenders of Israel used charges of anti-Semitism to silence legitimate criticism of Israel and, in the process, to undermine academic freedoms. The Ad Hoc Committee argued that, “As a consequence, faculty have been denied jobs or tenure, and scholars have been denied public platforms from which to share their viewpoints.” Furthermore, “these attacks threaten academic freedom and the core mission of institutions of higher education in a democratic society.” Elaborating on the same theme, John J. Mearsheimer and Stephen Walt called imputations of anti-Semitism “the Great Silencer.” The two scholars included this charge in their controversial book that accused the Israel lobby of controlling American foreign policy. Other critics strongly argued that equating any criticism of Israel with anti-Semitism was a serious blow to First Amendment rights. [135]

But the U.S. Commission on Civil Rights disagreed, upholding the notion that extreme forms of anti-Zionist and anti-Israeli expression amounted to a new form of anti-Semitism. The Commission’s 2006 Report, “Findings and Recommendations Regarding Campus Anti-Semitism,” stated that “on many campuses...anti-Israeli and anti-Zionist propaganda has been disseminated that included traditional anti-Semitic elements.” The report noted that criticism of Israel was not “run of the mill criticism of a sovereign state” but, rather, as the EU held, bigoted and prejudicial views operating under the cover of academic freedoms. Marcus added that “to the extent that campus anti-Semitism raises First Amendment and academic freedom issues, they largely mirror those raised by racial, national origin, sexual and disability harassment

law.” In other words, those who protested against alleged “Israel defenders” should have made the same argument against speech codes toward protected groups. Richard Cravatts, the President of Scholars for Peace in the Middle East, was blunter: “The university would not allow having a Ku Klux Klan rally on its campus” because of sensibilities of African-American students. “But they do allow Imam Amir Abdul Malik Ali who argues that Zionists are murders and Nazis.” Tammi Rossman-Benjamin, co-founder of the Investigative Task Force on Campus Anti-Semitism, claimed “This [anti-Israel event] becomes a very discriminatory experience because no other students have to compromise their educational experiences because of what happens in the classroom.”[136]

Even were anti-Zionism to be recognized as covert anti-Semitism, Marcus acknowledged inability to fight it by employing existing legal remedies; Title VI of the 1964 Civil Rights Act offered protection to racial, ethnic and national minorities—but not to religious ones—rendering it debatable whether Jews could be considered a “race” in the sense that Congress had defined it. Concern was expressed, however, that seeking protection for Jews under Title VI would paint Jews as enemies of free speech, for complaints about anti-Semitism could silence legitimate criticism of Israel; this was conveyed in a widely-publicized letter by Kenneth S. Stern, an official in charge of campus activities at the American Jewish Committee, and AAUP President Carey Nelson. [137]

Nevertheless, in March 2010, Jewish groups petitioned Education Secretary Arnie Duncan to alter the definition of Title VI to cover Jewish students under an interpretation based on “shared ethnic characteristics.” The policy was now entirely new, as it reviewed a directive of Marcus that was disregarded since 2004. Granted in October 2010, the new directive had an immediate impact on civil rights of Jewish students and faculty. Marcus, who went on to head the newly-created Louis D. Brandeis Center for Human Rights under Law, offered counseling and legal services to faculty and students. Since then, cases have been filed with the Department of Education’s Office of Civil Rights, including two against the University of California. More recently, a well-known California attorney, Richard D. Barton—who chaired the Education Committee of the Anti-Defamation League—was appointed by the University Of California Board of Regents to serve on its President’s Advisory Council on Campus Climate, Culture and Inclusion. This sent a message that rippled throughout the eighteen-campus system: protest against Israel must not “stray into anti-Semitism, as defined by the EUMC and the U.S. State Department.”[138]

Barton and Alice Huffman—advisor to the University of California Campus Climate, Culture and Inclusion panel—headed a task-force that found, in July 2012, that Jewish students on some of the system’s campuses experienced a hostile environment due to harsh anti-Israel advocacy. Jewish students had complained of a double-standard “when it came to themes and language used by those protesting Israel and its policies,” relating specific examples that would have been deemed intolerable if used against any other group. Some complained that campus facilities were being diverted to promote anti-Israel activities; others charged professors with academic bias. They were particularly hurt by efforts to equate Israel with Nazi Germany, defined by the EUMC as “nazification of Israel”. Thus, the task-force urged adoption of the EUMC’s definition of anti-Semitism that encompassed the intersection of anti-Semitic and anti-Zionist speech. In October 2012, the Civil Rights Office of Department of Education confirmed the University of California system created a hostile atmosphere for Jewish students. [139]

The legal impact was immediate. The University of California settled a lawsuit brought by a Jewish student, Jessica Felber, who had alleged that Berkeley authorities had tolerated an anti-Semitic atmosphere and had failed to protect her when a student involved with Students for Justice in Palestine had intentionally injured her. And the Office of Civil Rights in the Department of Education initiated a probe of the Santa Cruz campus of the University of California predicated upon a long-standing complaint by one of its professors that the authorities had ignored charges of radical anti-Israel agitation. Marcus noted that the investigation in Santa Cruz “would have been a nonstarter” had the OCR not adopted a harder line. [140]

A preliminary assessment by the American-Israeli Cooperative Enterprise (AICE), released in October 2012, indicated that incidents of campus anti-Semitism had decreased considerably during the prior year. Titled “Israel and the Campus: The Real Story,” it registered 674 anti-Israel events on 108 campuses in the United States and Canada; one-third had occurred on 10 campuses, 4 of which were in the California state system. Most of them had been instigated by The Muslim Students Association and Students of Justice for Palestine. [141]

Crucial as the legal remedy has become, pushback against extreme forms of anti-Israel activism on campus expanded into scrutinizing legal loopholes that have benefited pro-Palestinian advocates. For example, the Lawfare Project, a New York based group headed by Brooke Goldstein, protested the plan of the International Solidarity Movement (ISM) and Free Gaza Movement to hold a fundraiser on a Rutgers University campus in November 2010; it was to benefit the Free Gaza Flotilla organized by the Turkish Foundation for Human Rights and Freedoms and Humanitarian Relief (IHH). The Flotilla incident was destined to become highly-publicized after a skirmish between Israeli commandos and protestors on one of the ships, the Mavi Marmara. The University’s President, Richard McCormick, allowed the event to proceed, invoking academic freedom. The Lawfare Project proved, however, that the fundraiser violated anti-terror laws because the IHH was providing non-material support to Hamas, designated by the State Department as a terror organization; as a publicly-funded institution, Rutgers simply could not permit highly-controversial anti-Israel actions—bordering upon illegal—on its campuses. This triggered public protest that prompted Rutgers to announce plans to keep the monies collected at the fundraiser in escrow; six months later, McCormick was forced to resign. [142]

Efforts to designate anti-Zionism as anti-Semitism did not go unopposed. When the California State Assembly passed a non-binding resolution urging campus authorities to crack down on “hate speech” that could be construed as anti-Semitic, many organizations—including those representing leftist Jews—charged that this resolution constituted a grave attack on academic freedom of speech and a high-handed effort to stifle all critics of Israel. Speaking for many in this camp, Wendy Kaminer, a civil rights lawyer and former board member of the American Civil Liberties Union, offered a spirited defense of academic freedom and warned about the dangers of charges of anti-Semitism being construed as censorship. [143]

While the efforts to deal with the Israel in the Middle East topic—the new litmus test of academic freedom—is still evolving, MESA’s hegemony seems to be on the retreat. Cary Nelson acknowledged as much, writing that “there is one area where tension and misrepresentation reign supreme: campus reincarnations of the Arab-Israeli conflict.” Siding with those who view the guidelines on anti-Semitism as an

infringement on academic freedom, he conceded, however, that critics of the MESA model of a politicized classroom made inroads. [144]

Indeed, building on his previous work on anti-Zionism as anti-Semitism, Marcus warned that blurring the line between academic instruction and political indoctrination undermines the education process in five ways: “by abandoning the educative objective (non-educativeness), by generating unreasonable controversy (controversy), by intruding material outside the scope of course instruction (extraneousness), by failing to provide appropriate consideration of contrary views (imbalance), or by presenting instruction in a manner which evinces an inappropriate bias among students (bias).” In his view, political indoctrination does not deserve academic protection and should not be defended because it erodes the standing of the university as an impartial and objective agent of education. The legal Task Force of Scholars for Peace in the Middle East took a similar view. Stating that academic freedom needs to be balanced by the need to protect the mission of the university, the Task Force offered a number of guidelines: protection for all views, an even-handed enforcement of freedoms, respect for students who should not be silenced or intimidated, and the need to create a learning environment free of bias, discrimination and hostility. [145]

Much as these efforts helped to redefine the boundaries between legitimate criticism of Israel and anti-Zionism using the tools of anti-Semitism, they were bolstered by broader forces that were identified in Germany and Great Britain. A serious decline in tenure-driven security, drastic cuts in public higher education and the need to account to public stakeholders have all played an important role. Congressional oversight of higher education has added pressure on universities to demonstrate good stewardship of public money; periodical reauthorizations of Title VI guarantee to undermine the MESA model of a politicized classroom.

Chapter 4

Israel

Higher education has been an integral part of the Zionist vision since 1883, when delegates from Hovevei Zion—a precursor of the modern immigration movement—discussed creation of a university in Palestine. A technical -engineering university, the Technion, was established in Haifa in 1912, followed, in 1918, by a cornerstone laying ceremony for the Hebrew University on Mount Scopus in Jerusalem. Seven years later, distinguished Jewish leaders, British notables, and eminent scholars attended its opening. Many observers viewed the new institution as symbolizing fulfillment of the Zionist aspiration to create a national university for the fledgling Jewish community in Palestine. But the founder of the university, Judah L. Magnes, harbored a very different vision, leading to a highly autonomous sense of academic freedom.

The Hebrew University as a Universalist Cultural-Spiritual Center: Humboldt in the Middle East?

Magnes, a prominent American pacifist, and his supporters in the anti-Zionist American Council for Judaism (ACJ) were determined to mold the Hebrew University into a spiritual/cultural center focused on peaceful pursuit of pure science and humanities. He was deeply influenced by Achad Ha'am who conceived of the Jewish community in Palestine as a cultural center for the Diaspora Jew. Stopping

short of a national entity, the formula pleased the ACJ which feared that a Jewish state would trigger accusations of double-loyalty against American Jews. This sentiment was amplified by the internationalist sensibilities of other founding figures. For example, British-born Norman Bentwich, a professor of international law, admired the British sociologist Victor Branford, who wanted to create an international union of universities headed by a “global university.” To the cosmopolitan Bentwich, the new institution in Jerusalem was an ideal candidate to play this leadership role, ultimately capable of reviving the prophetic quest for universal peace. [146]

Allusions to these lofty goals dominated the opening ceremony on April 1, 1925. Magnes quoted from a Talmudic exegesis that endorsed the prophetic tradition of spiritual pursuit over a quest for power; on this and on other occasions, Magnes referred to the University as a “spiritual temple,” and “God’s house on the mountain.” Bentwich recited from Isaiah prophesying about a new temple on the mountain where Gentiles will come on a pilgrimage. The Zionists’ nationalism message was dissonant, however, presaging problematic relations between the Hebrew University and the Jewish community in Palestine that plague academe to the present day. [147]

Magnes tried to promote peace by converting the Hebrew University into a world humanistic center and by creating *Brit Shalom*, a small but influential group of intellectuals and scholars—mostly German-Jewish refugees—that advocated an Arab-Jewish bi-national state. The intellectual father of bi-nationalism was the philosopher Martin Buber, who considered a federation to be a more proper model for Zionism than a Jewish national state. Magnes wanted the university to provide *Brit Shalom*’s members academic legitimacy and a secure source of income, much appreciated in the shaky economy of Palestine. While Buber did not leave Germany until 1938, early appointments in liberal arts were known Buberites. Among them was Hugo Bergmann, the founder of the Philosophy Department, Ernst Simon from the Department of Education, and Gershom Scholem, a leading expert on Jewish mysticism. Upon his arrival, Buber held an appointment in sociology. Conversely, scholars faced obstacles in securing positions if they tended to advocate a more national or Zionist vision of the university.

Magnes’ distaste for all things Zionist extended beyond faculty hiring. Under both Chaim Weizmann and David Ben Gurion, The World Zionist Organization (WZO) felt that the institution should be part of the Zionist national project. A self-educated man, Ben Gurion had a great appreciation for science and its potential for nation-building. Writing of the “difficulties without parallel” facing the state, he declared, “Our constructive work will fail, unless we know to mobilize all the achievements of science to the aid of our economy, our education and our security.” Of greater immediacy, Ben Gurion wanted to gain some control over the Hebrew University, since Magnes—whom he considered a bitter enemy—seemed to be running *Brit Shalom* out of his on-campus office.[148]

But Magnes rejected all appeals to collaborate with the WZO and Ben Gurion, if for no other reason than because he had no financial incentive to do so. To the contrary, Magnes could rely on generous donations from wealthy ACJ members, among them Lessing L. Rosenwald of the Sears, Roebuck and Company fortune and the Sulzberger family, the publisher of the *New York Times*. While Weizmann was having limited success raising money for the Hebrew University in Zionist circles in the United States, Magnes was left in-charge and virtually autonomous from the Jewish community. As University Chancellor, Magnes made clear that he would not succumb

to national goals dictated by political leaders. In the 1939 Yearbook, Magnes emphasized that the university was created for the Jewish people worldwide rather than for the Jews of Palestine. Hiding behind polite language, there was really acrimony with Ben Gurion and his Labor colleagues referring to the Hebrew University as the “ideological nest of wasps.”[149]

In May 1941, the perilous military situation of the Allies in Africa triggered a crucial test of power between the Jewish community and the university. Desperate to help the retreating British Army to fight the Afrika Korps of General Erwin Rommel, the Jewish National Council (JNC) [*Va'ad Leumi*] called Jews to volunteer for the British Army; in June 1942, the JNC tried to make this call-up mandatory. The Jewish Agency sent a letter to the Hebrew University urging it to notify students who had failed to answer the draft that they would be expelled. But Magnes rejected the demand, replying, “Only a sovereign state can declare a war and a draft...the Jewish Agency does not have this type of power...important segments of the community do recognize it and do not trust its real and moral power.” The letter created a political firestorm and provoked a heated debate in the university’s Senate where a slim majority voted to accede to the demand of the Jewish Agency. The minority, including Magnes, continued to insist bitterly that this had infringed upon the university’s sovereign prerogative; one historian commented that, even in the face of an existential threat from the advancing Rommel army, preoccupation with the university’s independent position had reigned supreme. [150]

Even the overwhelming tragedy of the Holocaust did not prompt the Buberites to adopt a more nationally -minded posture. Leon Roth, the head of the Philosophy Department, on record urging “to temper our village pump patriotism,” was a case in point. In 1946 the Jewish National Council declared a national strike to protest British refusal to let Holocaust refugees into Palestine. When outraged students chastised him for breaking the strike, he told them that his philosophical writings rather than political action had a better chance to make an impact.

Security issues and Holocaust refugees aside, Magnes and his professors rejected demands to convert the university into a national resource by adding applied science departments. Magnes, who had little regard for the Humboldtian model, wanted the institution to remain elitist and focused on the cultural center of Achad Haam. The Jewish Agency, aspiring to train more high school graduates, was disappointed that there were only 1000 students in 1947-1948. Buttressed by financial independence assured by the ACJ donors, Magnes and the faculty stood firm in its belief that the institution should not be “polluted” by national concerns. Indeed, in a 1946 article in *Haaretz*, Nathan Rotenstreich, a senior professor, declared the university had been “conceived and nurtured” by world Jewry and was under no obligation to fulfill the local community’s needs. Also impotent were board members such as Albert Einstein, who considered Magnes to be incompetent. [151]

This conflict exploded during the diplomatic initiative presaging adoption of the U.N. 1947 Partition Resolution. As the head of a new party, *Ihud*, a reconfigured *Brit Shalom*, Magnes testified before the U.N. commission against the partition idea, insisting that there was still a chance to create a bi-national Arab-Jewish state. The political stances of the *Ihud* professors provoked considerable agitation in Jerusalem; there were public demonstrations and Magnes and some of his colleagues were personally threatened. But their resolve to stay on Mount Scopus and to avoid the

emerging partition reality did not change. When, early in 1948, the Haganah lost control of a neighborhood adjacent to Mount Scopus and advised Magnes to move the university to Jewish Jerusalem, he and the entire Senate refused; to present a united front, pressure was even exerted on faculty that favored voting for the move. Acting on their own, Hebrew University leaders obtained assurances from the British military that it would protect convoys that travelled to the now besieged campus and to the Hadassah Hospital.

Magnes' reluctance to relocate was arguably linked to his last-minute plan to postpone independence by embracing the international trusteeship plan, supported by the American State Department because the founding of a Jewish state would prejudice its relations with the Arab states. The entire Jewish leadership in Palestine adamantly opposed the trusteeship scheme. A defiant Magnes traveled to the United States to lobby for the idea. On March 25, 1948, he met with Senator Warren Austin, the American representative to the United Nations, and urged him to declare economic sanctions, should the Jews create a state. After Chaim Weizmann's personal intervention and pressure from the Jewish community, Truman changed his mind and thus U.S. policy. Truman had initially been persuaded by the State Department to support the international trusteeship concept to avoid making any commitment to the Jewish state.

It was a tragedy in Jerusalem that terminated Magnes' hold on Mount Scopus. On April 14, an attack on a Hadassah convoy resulted in the death of 79 medical personnel, fracturing relations between the Hebrew University and the newly-declared state of Israel. Unbowed by charges of responsibility for the massacre, the university's Senate created a committee of inquiry into the tragedy. Thus, the university issued summonses to officers of the Haganah—reconfigured as the Israel Defense Force (IDF)—but the new provisional government balked. Government officials declared the Hebrew University has no right to summon military personnel of a sovereign state. Magnes, who died in October 1948, spent the last months of his life urging the State Department to impose sanctions on the newly-created state. His political testament, published in Martin Buber's journal *Problem*, declared that Palestine—home to Jews, Muslims and Christian—should never have been divided because Jews and Muslims can live together in a bi-national state. [152]

While Magnes and his AJC-sponsors were infuriated with Truman due to their failure to stop the creation of a Jewish state, his vision of an independent university fared much better. In his last academic speech in October 1947 entitled "Duty" (*Ahraiut*), Magnes pleaded for a truly independent and autonomous institution: "There is a Hebrew University in the land, sanctuary city, temple. I imagine it to be a *res publica*, an autonomous body that stands on its own, not dependent on the state and the *ecclesia*." [153] Even after the Holocaust and the Palestinian rejection of the U.N. Partition proposal, Magnes did not change his posture.

The university that Magnes built was determined to preserve his legacy. The sense of academic independence was so strong that the new government fought an uphill battle with faculty that resisted "nationalization." Martin Buber, evoking the "Duty" speech, urged faculty to take an "unequivocal stand against the power-hungry government" and against "official Zionism that strives to impose its rule over the entire Jewish people." Selig Brodetsky, the new president installed in 1949, was as determined as Magnes to resist efforts to make the university responsive to national needs, notably by increasing the number of students in applied sciences that were deemed essential to the development of Israel. The British-educated mathematician declared, "From now

on, and for a long period of time, the university has a duty to reject demands to create a student proletariat and enlarge the area of laboratories in the fields that are essential for the development of Israel.” [154]

Brodetsky’s aggressive posture was triggered by Ben Gurion’s recurrent demands to enlarge applied sciences, badly-needed in a country that had absorbed more than a million immigrants and now faced large Arab armies along its borders. Ben Gurion planned to develop a qualitative edge by nurturing human capital, a policy with which the Technion and the Weizmann Institute were in full agreement. In fact, both institutions were engaged in security-related projects well before independence, and Ben Gurion hoped to get the Hebrew University aboard. Though Brodetsky returned to England in 1952, Gershom Scholem continued the fight against what he and other Magnes disciples called the “vocational track,” their name for a department of agriculture, social work and other applied sciences. Scholem feared aloud that such programs would lower the university’s academic status, undermining its elite status. [155]

The Imperfect Compromise between the State and the Professoriate: The Council of Higher Education

To elude the Hebrew University opposition, Ben Gurion appointed Yaakov Dori—a former IDF chief of staff and the chairman of the Science Council attached to the Prime Minister’s office—to draft the Higher Education Law in 1951. The committee’s mandate was to ensure the proposed law would create coordination among the universities and that the institutions of higher learning would work for the economic and security needs of the state. The final Dori document gave a newly-created Council of Higher Education (CHE) a broad mandate to oversee the universities and, in a related manner, to create a special unit that would guide development of academically-based science. The CHE was to be chaired by the Prime Minister and include a majority of government representatives and leading science figures from Israel and abroad. To assure coordination and efficiency, the CHE was expected to ratify the institutions’ individual constitutions. The Dori proposal was backed by the Technion and the Weizmann Institute, but the reaction of the Hebrew University faculty was hostile; the proposed legislation was decried as a governmental intrusion into academic freedom and, in the words of some of the harshest critics, an effort to achieve “the nationalization of the Hebrew University.” [156]

Much to the government’s surprise, the bill—submitted to Knesset in June 1952—was met with strong criticism. The attack was led by Shoshana Parsitz, a General Zionist serving on the Knesset’s Education Committee; her motives were primarily political, as the General Zionists were concerned that the legislation would give Labor an unfair advantage in controlling higher education. Joining her in an effort to prevent such an outcome were Knesset members from the Communist Party and even a representative of the National Religious Party, due to concern with possible government interference in its plans to establish a religious university. But Parsitz, one of the few Knesset members with a college degree, was also concerned that the lofty standards of the academy would be “cheapened” by alleged subservience to state and society. That Parsitz adopted the language of Scholem was hardly surprising given behind-the-scenes lobbying of the “Magnes professors.”

Benjamin Mazar, who had replaced Brodetsky as president, parlayed his strong ties to the Labor elite to help achieve a balance between practical and purely intellectual imperatives. Mazar understood that since 1948 it had been the government that was

financing the university, this necessitated a measure of accountability be afforded to the taxpayers. But to Parsitz and the Scholem group that opposed Mazar, the Dori plan was objectionable because it would give government and public representatives a majority of seats on the CHE. Haim Cohen, the government's legal adviser, insisted the CHE would be "neutered" without such a majority and, in protest, stopped attending the committee's hearings. Soon thereafter, the government withdrew the proposed legislation. [157]

A second committee was convened in 1954 by the Minister of Education, Professor Ben-Zion Dinur; it made substantial concessions to accommodate the Knesset opposition. In the revised bill, the CHE would be chaired by the Minister of Education; it would include only eight government representatives, alongside ten representatives of the universities and eleven leading scientists (seven from Israel and four from abroad). The new proposal dropped the demand to supervise composition of the universities' constitutions, but retained the right to approve them. The draft indicated the CHE would not insist on supervising the managerial structure of the universities and would not interfere with academic appointments. The government thereby jettisoned Ben Gurion's vision of creating a management university.[158]

Despite such concessions, when the new bill reached the Knesset in 1954, Parsitz and her colleagues renewed their sharp criticism, claiming it gravely limited academic freedom. Because the bill could not be passed, the government convened yet another committee under David Horowitz to draft a third proposal. Hoping to pass legislative muster, the new committee adopted an extremely minimalist view of the functions of CHE; it was to play a role in creating an academic infrastructure, accrediting new universities, preparing academic budgets for the government, and coordinating among universities. Zalman Aran, who had replaced Dinur as Minister of Education, removed the last provision to assure the bill's chance of Knesset passage; he felt there was little chance Knesset members, acting on behalf of the professors, would have settled for any form of coordination or planning by the CHE or a similar body. Less invested in higher education than was his predecessors, Aran, a veteran Socialist-Zionist, chose to shepherd through a "lean bill" and to deal with unresolved issues later. [159]

Despite Aran's cautious approach, the 1958 debate in the Knesset echoed some of the old criticism. Although the government/public representation on the CHE was reduced to three, Parsitz and others felt that political and public stakeholders should have no place on the Council. She explained that "during our deliberations [in the subcommittee of the Knesset Education Committee], we talked about the fact that we need to get matters of higher education from the hands of public representatives and into the hands of academics, who are capable of taking care of these things as objective experts." She questioned the rationale of empowering public representatives of a "diverse population," a euphemism for the lower class and immigrants. Parsitz left no doubt that she had little faith in the latter's capacity to make wise decisions, contrasting them with professors whom she held in high esteem. Another MP went so far as to demand removal of all public appointees from the CHE because he feared they would represent the interests of the government. [160]

Labor MPs complained that the hefty representation of academic institutions and the paucity of public stakeholders would perpetuate the broad's indeed monopolistic understanding of academic freedom. One Labor MP sought "balance between representatives of the public, *i.e.*, the government and the state... no one body can demand for itself an exclusive right to decision-making." [161]

These misgivings notwithstanding, the Higher Education Act of 1958 reflected a highly autonomous view of the academy. The CHE, chaired by the Minister of Education, was deemed to be an independent body of 19-25 members, comprised of a two-thirds majority of faculty and academics of “standing” plus a one-third minority of public and government representatives. At the institutional level, the law granted expansive academic freedoms to the universities. Section 15 of the Act gave accredited institution the “liberty to conduct its academic and administrative affairs, within the framework of its budget, as it may think fit.” For the purpose of the law, “academic and administrative affairs” included “the determination of programs of research and teaching; the appointment of the authorities of the institution; the appointment and promotion of teachers; the determination of method of teaching and study; and any other scientific, pedagogic, or economic activity.” [162]

Professor Ami Volansky, an expert on higher education, considered the CHE’s creation to have been a rare victory for institutional individualism at a time when society was permeated by normative expectations to serve the larger collective good. He observed that the eight-year battle over the Act contrasted two conflicting visions of higher education. The first, as elucidated by Ben Gurion and Dori, saw the public and its representatives as the stakeholders that could guide the universities to achieve collective goods. The opposite view reflected the Magnes vision of an independent university standing above national interests, perceiving public stakeholders or any other form of accountability to constitute a grave danger to its autonomy. MK Elimelech Rimalt declared, “The freedom of faculty to express free opinions and to teach controversial theories, as long as they are within the boundaries of ideas, is essential to the development of science. [163]

That those Israeli legislators offered universities advanced institutional autonomy and expansive academic freedom at the individual level was even more remarkable in light of the comparative cases. To recall, even in their heyday, German, British, and American public university systems never enjoyed the same privileges. Yet, no one could have envisioned how dysfunctional the new order would be when it came to expanding the higher education system.

By the mid-1950s, the pressure of an increased student population—100,000 in the year 1955-1956—created admission demands that the Hebrew University could not meet. Spotting an opportunity for expansion, Mazar lobbied to create a structure comparable to that of the University of California, with the Hebrew University serving as the flagship of a number of regionally-based campuses. Instead, in 1959, the government resolved to consolidate a number of colleges to create Tel Aviv University, a move that threatened to deprive Jerusalem of its monopoly over higher education. Considering it a “treasonous” act by Ben Gurion, the faculty launched a fierce campaign to subvert the decision. Indeed, Uri Cohen—the author of a history of the early years of the Hebrew University—suggested the university used “violent measures” to derail the plan. These unethical and cutthroat tactics were to have included withdrawing legitimacy from the new institution, impeding faculty recruitment, lobbying politicians to block budgets, dissuading foreign donors from supporting this “upstart,” engineering an internal schism to break up the university, and denying Tel Aviv faculty any representation on the CHE. [164]

The long-simmering animosity between Ben Gurion and the Hebrew University elite erupted into an ugly public brawl shortly after the clash over creating Tel Aviv University. It was triggered by the “Lavon Affair,” a complex series of events that followed the 1954 decision by Binyamin Gibli, the chief of military intelligence, to

authorize a false-flag operation in Egypt. To induce the British government to retain its occupying troops in Egypt's Suez Canal zone, Israeli intelligence recruited Egyptian Jews to plant bombs inside Egyptian, American, and British owned targets, and then to blame the violence on local malcontents. After the plot was exposed, key participants were executed or committed suicide and others were sentenced to long prison terms. Minister of Defense Pinchas Lavon denied knowledge of the operation, but Gibli contradicted him. A series of inquiries led to Lavon's ouster as the head of the Histadrut, Israel's Labor Union, Ben Gurion's resignation as Defense Minister, and Moshe Sharett's resignation as Prime Minister. He was replaced by Ben Gurion and a new election was scheduled.

In December 1960, a public relations campaign was organized against Ben Gurion by Hebrew University professors including Gershon Scholem, Hugo Bergmann, Nathan Rotenstreich, Yeshayahu Leibowitz, and Jacob Talmon. They circulated a petition denouncing his "totalitarian tendencies" and warned about the future of the Israeli democracy. On March 28, 1961, Ben Gurion met secretly with the professors, but the impasse persisted. If anything, things became tenser when the historian Talmon, who had set the intellectual tone of the discourse, published his "totalitarian democracy" theory. He hinted that Ben Gurion and Labor Zionists were infected with the kind of "messianic ideology" that had fomented the emergence of totalitarian regimes in Europe.

That the Jerusalem professors became involved in the Lavon Affair did not surprise scholars who studied the affair. Uri Cohen, who uncovered the aforementioned "dirty trick" campaign to stop Tel Aviv from getting a university, suggested these liberal arts faculty-members converted it into "payback-time" for Ben Gurion's alleged "treason." Alex Epstein concluded it re-enforced the "romantic," Magnes-inspired visions of the professoriate: intellectual elite, floating above the humdrum political reality, dispassionate guardians of the public good, "gazing out the windows of the Ivory Tower," descending from Mount Olympus only to restore the "good order." [165]

The launch of Tel Aviv University revealed one important fact of the dysfunctional system created by the 1958 Act, perpetual financial chaos—caused by the absence of planning and budgeting—and indicated another, chronic competition. Aran, who still blamed the academic community for rejecting sound management principles, commented with a hint of satisfaction that annual operating deficits in higher education forced the universities into a constant and unseemly scramble for funds. Volansky depicted the highly-unorthodox approach toward obtaining funds that emerged. To secure largess from the government, heads of universities befriended MPs, especially the powerful Minister of Finance Pinhas Sapir. Sapir, who frequently travelled to the United States, would also honor requests to engage in fund-raising on behalf of the university presidents. Unfortunately, the well-meaning Sapir, who was very devoted to higher education, created a big problem, for this idiosyncratic system promoted competition, rivalry, and bitterness among the presidents. [166]

Despite chronic budgetary problems, the universities staunchly objected to government encroachment on their autonomy. After proposing a planning agency for higher education during a 1964 CHE meeting, Aran recalled he was harshly attacked by faculty representatives. In 1965, realizing the universities would never accept government supervision, Aran presented the problem at a special cabinet session. As a result, the new Minister of Education Yigal Allon appointed a study-committee headed by Zeev Sherf, a veteran Labor politician and a former cabinet minister, which

proposed creation of a special authority for higher education that would control planning and budgeting. As before, however, the academy objected.

After years of additional negotiations and confrontation, Rotenstreich suggested adopting the British Universities Grants Committee system, thereby creating an intermediate body between the government and the universities. Thus, in 1977, the Planning and Budgeting Committee (PBC = *Vaada Le Tichnun ve Tikzuv*, VATAT) was launched under Rotenstreich's chairmanship. The Minister of Education appointed its seven members, who were subject to a CHE vote: four "academics of stature," two public representatives, and one member of the senior academic staff at one of the publicly-funded colleges. The government described the PBC's powers: "To prepare the regular budget and the development budget proposals for higher education, taking into consideration the country's social and national needs, while safeguarding academic freedom and with due diligence for the advancement of research and education." Gedalia Yaakobi, who served as the first director-general of the PBC, recalled that Rotenstreich chose the British model over the German one because he felt that it would more reliably insulate the university system from government influence. [167]

Individual Academic Freedom: The Principled Absolutism

Although unaddressed explicitly within the 1958 Higher Education Act or through the PBC implementation, the consensus was that broad institutional autonomy should be matched by expansive academic freedom at the individual level. Indeed, during the 1958 Knesset debate, Herut-MK Yohanan Bader delivered a rousing endorsement of individual freedoms, telling lawmakers that "universities can only prosper through absolute freedom, without any intervention." [168]

During the early decades, relatively few problems arose in an environment of broad intramural and extramural freedom; the liberal arts faculty was small and professors commanded public support and even reverence. This may explain why—unlike in the United States, where the AAUS and its critics have sparred publicly and the courts have been invoked to settle disputes—the issue received little attention, among either the lay public or scholars.

One of the few exceptions was Haim Gans, a law professor from Tel Aviv University, who penned an influential essay on the topic. Gans felt free inquiry should be anchored in rationality, professionalism, and ethics. He invoked Clark Kent, an American professor who famously declared "academic freedom is what faculty thinks it is." Thus, intramural freedom afforded faculty the right to choose the topics they would teach and research, without having to deal with inference by deans or other academic authorities. Were a dispute to arise, Gans counseled deans to try persuasion but contended that faculty should not be coerced to buckle; thus, he vetoed implementing any mechanism to control such faculty choices. He was confident that academic staff, especially senior faculty, would be able to exhibit self-control absent the specter of any type of external monitoring. His view of extramural speech and action was also highly permissive. Not content with the freedom of speech and action that citizens are granted in a democracy, he advocated elevated rights for faculty. Scholars should be accorded such special protection because they play a special role in the public discourse, not only because of their individual intellectual stature but also because the university is a special community of knowledge and creativity. Without mentioning Magnes, Gans intimated that academics are "philosopher kings" who roam the halls of the "temples of knowledge" and, as long as they do not

advocate or engage in political violence, they should be defended from retaliation by university authorities. [169]

Although he espoused privately-held opinions, Gans reflected reality well into the 1980s. In the relatively placid academic environment, this expansive doctrine was left untested. On the rare occasion where the issue was litigated, courts adopted a broad view of freedom. In 1974, in the case of *Bilt vs. Chief Rabbi of Israel*, Supreme Court Justice Yitzhak Kister announced “The court will not intervene in the actions of a university professor—even if the university is owned by the State—when he publishes his articles, even if they displease the authorities.” [170] Adding to the limited case law was the 1962 Ilan Rahoum suit against the Hebrew University for having denied him a promotion to senior lectureship. The District Court in Jerusalem ruled that one facet of academic freedom pertains to the institutional autonomy of the university to decide matters of advancement. The Court explained that the “permanent faculty (starting with tenured senior lecturers) give the university its character and its scientific-research status [and] contribute to the quality of instruction and supervision of students.” As a result, the university is entitled to make a careful decision whether a lecturer would be able to fulfill these obligations. Because tenure is difficult to revoke, the Court justified the extra scrutiny given to the review process of lecturers seeking promotion. [171]

But neither Gans nor the case law prepared the academy to deal with the case of Yeshayahu Leibowitz, a professor in the Medical School at the Hebrew University. Born into an orthodox family in Riga, Leibowitz was a polymath who received several advanced degrees, but made his name as a philosopher and political activist. Notorious for controversial and provocative interpretations of Jewish religion and scathing attacks on religious parties, he held Christians in such contempt that he called Jewish converts to Christianity “traitors.” He first attracted political attention in the wake of the Six Day War in 1967, characterizing the Western Wall—a site of much national and religious celebration—as the “disco wall.” He wondered aloud whether Israel’s policy since 1967 was “evil stupidity” or “stupidly evil” and, to save Israel from “moral suicide” and becoming a totalitarian state, advocated unilateral withdrawal from all the occupied territories regardless of the Arab position. Thus, he urged relentless civil disobedience to protest the occupation, including refusal of military service in the territories. He described some IDF’s as “Judeo-Nazis,” units to Hamas, and even predicted he would end up in a “concentration camp” to be created by Israel for those who criticized the state.

Leibowitz’s intemperate language raised a few eyebrows among academics accustomed to more civilized discourse, but his conduct was explained away as “curmudgeonly.” His pioneering effort to “nazify” Israel proved more problematic, however. Still, the Hebrew University did not react, perhaps due to the combination of the broad definition of academic freedom and the idiosyncratic position he occupied in Israel’s public discourse. Public, political, and academic silence was broken in 1993, when Shulamit Aloni, the liberal Minister of Education in the Labor Government of Yitzhak Rabin, awarded him the Israel Prize, as per the recommendation of a three-person committee. After failing to get Aloni to withdraw the award, Rabin and other cabinet members announced they would boycott the ceremony. Right-wing politicians who had long considered Leibowitz a “crank delighting in attacking Israel’s most hallowed institutions,” proclaimed themselves “disgusted.” Leibowitz converted the controversy into another opportunity to criticize

Israel. Refusing to accept the prize, he charged “The State of Israel is keeping thousands of Arabs in concentration camps.” [172]

Leibowitz’s public perception as an “angry prophet” speaking truth to power may have absolved the Hebrew University from dealing with the issue of “nazification of Israel,” but the case of Professor Israel Shahak was far more vexing. Shahak, a survivor of the Bergen-Belsen concentration camp, completed a doctorate in organic chemistry at the Hebrew University between 1951-1961 and returned in 1963—following a two-year stint at Stanford University—to join the Department of Chemistry. Though he published enough to get promoted to senior lecturer, his true passion was political activism, an involvement that dated to the 1950s when he had first been exposed to Matzpen, the radical anti-Zionist on-campus group led by Moshe Mahover, who was a lecturer in mathematics at the university.

Following the 1956 Israeli-French-British attack on Egypt, Shahak repeated the Matzpen line about Ben Gurion waging a colonial-imperialistic war campaign for the “kingdom of David and Solomon.” He joined the League Against Religious Coercion where he was accused of fabricating a story so that he could allege Orthodox Judaism was racist. After the Six Day War, Shahak became involved with the Israeli League of Human and Civil Rights, then a tiny group of mostly Matzpen and Communist Party members; his radicalism and frequent assertions that Israel was a racist state became a hindrance as the organization grew in stature, so the League expelled him in 1970. He promptly created the Committee Against Administrative Detention and, to generate pressure on the Israeli government, Shahak published English-language reports on human rights violations in the territories and travelled frequently abroad to publicize them. While in America, he met with members of Congress and State Department officials; during appearances with Edward Said and Noam Chomsky, he likened Israel to Nazi Germany. As a Nazi concentration camp survivor, his “nazification” of Israel struck a special note with Western audiences. And in 1974, while on a visit to the Netherlands, he participated in a pro-PLO rally that demanded the release of a Dutch national detained in Israel for alleged terror activities. [173]

Despite his high-profile activism abroad, Shahak was not a household name in Israel until Professor Amnon Rubinstein, Dean of the Law School at Tel Aviv University, wrote to *Haaretz* to protest the “Shahak affair.” He argued the most serious aspect of the affair was “his high-ranking position at the Hebrew University, as a professor of organic chemistry,” asserting “only in Israel has this concept [of academic freedom] attained such an extreme meaning as to become a synonym for lawlessness.” He claimed “a tenured job at the university” did not provide license to retain one’s job under all circumstances, and he concluded the Hebrew University “did not act as one should expect of an academic institution.” He lamented Shahak had been promoted to be associate professor “in the middle of his hate campaign” and he opined taxpayers—through the university—should not finance any portion of his sabbatical and research travels abroad. [174]

Professor Michael O. Rabin, Hebrew University’s Rector and a renowned mathematician, responded that the case concerned the right of faculty to exercise free extramural speech and that Shahak was entitled to express his opinion as might any other citizen. He correctly observed that nothing in the university code stipulated limitations on his extramural freedom of expression. Rabin added “the disciplinary book of rules for academic employees” does not include clauses dealing with “behavior of a faculty member in a non-university context.” As for Shahak’s promotion, Rabin noted that he had passed standard university procedures” and to

deprive him “of these procedures is a primitive act.” He claimed a special audit documented that Shahak had used no university funds for travel since 1972. Rabin clearly was reluctant to drag his university into a major debate along the lines of the Brand or Ellis affair in Great Britain; on the other hand, Professor Arie Sachs, from the University’s Department of Theater Studies, proceeded to accuse Rubinstein of promulgating a “witch hunt.” [175]

Public calls for Shahak’s citizenship to be revoked were rejected by the government. Alan Dershowitz, a law professor at Harvard University and emerging pro-Israel advocate, noted that Shahak could complain about racism and totalitarianism in Israel because of the freedom of speech he enjoyed. Indeed, Shahak spent the rest of his academic career producing some of the most virulent anti-Semitic writings on record. Well before his retirement in 1990, Shahak’s writings became *de rigueur* on pro-Palestinian and Nazi websites; he was warmly embraced by David Duke and by Holocaust-deniers such as Bradley Smith and Ernest Zundel.[176]

Hebrew University was not the only institution that allowed its faculty to mix academics with activism. In the 1970s, the newly-established Haifa University attracted self-described Marxist scholars and Matzpen sympathizers such as Benjamin Beit-Hallahmi, a senior lecturer in the Department of Psychology. In the early 1980s, Beit-Hallahmi spent a sabbatical leave in the United States to research a book *The Secret Connection: Whom Israel Arms and Why*. In it he claimed Israel had armed some of the most repressive right-wing groups and countries in the world, including the apartheid regime in South Africa. The book attracted considerable attention and made Beit-Hallahmi a hero in anti-Israel circles. But mainstream scholars such as Stanley Hoffman, a renowned authority on international relations at Harvard University, criticized the work as tendentious and biased. In an exchange in the *New York Review of Books*, Beit-Hallahmi charged that Hoffman and other “defenders of Zionism” were most annoyed by the label of colonialism attached to Israel. Taking a page from Matzpen’s writings, he further explained that Israel was always a colonial state that wanted to get rid of the natives to make space for Jews, hence its affinity to South Africa. [177]

Like Shahak, Beit-Hallahmi was elevated from the rank of a little-known lecturer with a decidedly modest academic record to being a well-regarded speaker in pro-Palestinian venues; his book achieved a canonic status among the burgeoning movement to boycott Israel as it sought to emulate the anti-apartheid drive against South Africa. In both cases, unanswered was Rubinstein’s insistence that activist faculty who used their institutional legitimacy, credentials, flexible work conditions, and paid trips abroad should not be free to abuse academic freedoms. It took the financial crisis of the universities in the 1990s and the globalization of the economy to trigger taking a second look at the academic culture and practices enshrined by the 1958 Act.

The Maltz Committee: The Israeli Version of the Management University

By the end of the twentieth century major reforms that curtailed both institutional and individual freedoms had been forcibly implemented in Germany, throughout England, and within public universities in the United States. Israel had been impacted neither by the European initiative of standardizing and globalizing higher education nor by financial restrictions that had roiled the British system and, to a lesser extent, those in Germany and America. In 1997, however, Likud Prime Minister Benjamin

Netanyahu, an admirer of Mrs. Thatcher, attempted to privatize and to globalize the Israeli economy. On January 8, he decided to investigate efficiency in the public sector and, on October 7, he appointed retired Supreme Court justice, Yaakov Maltse, to chair a blue-ribbon committee on higher education. Paralleling the Darling Committee, Maltz was tasked with reforming and streamlining the academic system, which had added two research universities—Haifa and Ben Gurion—as well as a number of colleges.

In a report unveiled on January 8, 2000, the Maltz Report (MR) found the higher education system antiquated, dysfunctional and ill-equipped to compete globally. It blamed the expansive autonomy of academic institutions and their convoluted academic governance model, a dual administrative/academic structure headed by a president and a Rector and a large Senate (the main governing body). The MR noted that this arrangement, an idiosyncratic legacy of the Hebrew University, was too bloated and mired in inertia to operate in a global economy which required a rapid response capacity. According to the MR, another problem with governance stemmed from democratic election of deans, heads of departments and program chiefs; as such, they were susceptible to pressure by fellow faculty and unlikely to take bold steps. The MR noted that students testifying before the committee complained about indifferent or alienated instructors, essentially having been denied “Humboldtian rights” in the classroom and beyond which characterized the British and German models. The MR did not focus upon extramural rights, simply stating they were not being regulated. Overall, the MR found that faculty had a “very permissive” view of academic freedoms stipulated in paragraph 15 of the Higher Education Act, and little sense of responsibility to students and society. [178]

The MR recommended reforming governance: administration would be run by the president and an appointed executive committee, the position of Rector would be eliminated, and the number of senate members would be limited to seventy three. It emphasized that students should be considered an important part of the academic process, for their rights needed to be respected to create a proper learning environment. And—pursuing a notion derivative of the Darling Report that was firmly embedded in Germany, Great Britain and the American public system—the MR urged implementation of another major innovation for Israel, recognition of the public and its representatives as legitimate stakeholders in higher education, responsible for Quality Control and ensuring that departments regularly become subject to outside evaluations; recruits from the public and economic sectors were to serve on academic boards of governors. Finally, the MR echoed the language of the AAUP 1915 and 1940 Statement, advising the faculty to avoid activities that would result in “depletion of the intellectual status of the university or inflict damage to its scientific, cultural and educational name.” It urged each university to promulgate an ethics code, preferably based on a model drafted by the CHE. [179]

Compared with transformations in Germany, U.K. and the United States, the MR was a relatively mild document, merely generating hope for reform. In any case, on September 21, 2001, the government tasked a team headed by Nissan Limor, the director of the CHE and the CBP, to formulate a plan for implementing the recommendations. Soon thereafter, Limor unveiled the “Association of Institutions of Higher Education under the Higher Education Law, a Draft of a Proposal for Consideration 14/10/2001.”

The academic community responded with great alarm. On December 21, 2001, the CHE rejected the Limor plan and ordered the drafting of a new document. Most

university senates spurned the MR altogether and faculty created the Inter-Senate Committee of the Universities for the Protection of Academic Independence (ISC). Co-chaired by Yair Censor and Ilan Gur-Zeev, two professors from Haifa University, the ISC issued a scathing condemnation. It warned that “eighty years of academic freedoms in Israel are threatened by the government’s decision to transfer management of academic affairs from experts to public figures.” [180]

Released in March 2002, the ISC’s a Position Paper claimed the Maltz recommendations were erroneous, for they had been based on mostly “groundless and unsubstantiated claims.” The Paper declared that “if any reform is needed in the academic administration of the universities it is the empowerment of the university senate as the supreme academic authority on campus, as it is the parliamentary rule in a democratic society.” It was silent regarding the need to emphasize student rights. The ISC categorically rejected the notion of public stakeholders, noting that “there is no excess wisdom and motivation in government bureaucracies.” The concluding section reiterated “intense opposition to the MR’s recommendations,” explaining that the ISC stand “is a matter of principle and stems from concerns about the future of scientific research and academic teaching,” rather than “from irrelevant or sectarian interests.” The Paper further noted the ISC “insists on the preservation of academic freedom,” which is the “guiding principle upon which [the] Higher Education Law 1958 is based.”[181]

The two-pronged ISC campaign against the MR ensured that the 1958 Act remained the gold standard in defining academic freedoms and proved that the management university model was totally inadequate because, as Censor put it, “a university is not a business.” ISC members waged a successful public opinion campaign in *Haaretz* and other sympathetic media, but the real audience was the Knesset Education Committee and the Likud government. [182]

But the deferential attitude toward the academy that had permeated the debate in the fifties had virtually vanished by the early 2000s. To the contrary, substantial public and political animosity towards “the professors,” has surfaced over the years. Not unlike in America, grumbling about “elitism” and “political correctness” became more prevalent and the term “professor” acquired a negative connotation in popular parlance. Strong pro-Palestinian advocacy of some liberal arts faculty created the impression that—far from being an objective and detached community of knowledge—the universities had become a hotbed of radical activism. Activist faculty furthered this notion. One admitted: “Peace Now was established in 1978 by students and faculty members of the Hebrew and Tel Aviv universities, and most of the subsequent opposition groups...including the most defiant, came from the same circles.”[183]

Absent a strong neoconservative network comparable to that which had evolved in the United States, the fight was led by Limor Livnat, a conservative politician and Minister of Education in the Likud government of Ariel Sharon. Livnat’s solution was to change the representation of the CHE, which she felt privileged research universities and the liberal Ashkenazi elites who controlled them. It may be recalled that misgivings about the composition of the CHE had arisen when Hebrew University professors in the CHE had tried to sabotage the launch of Tel Aviv University. Also, in 1999, two researchers had suggested the CHE was perpetuating the pattern of privileging narrow institutional interests at the expense of broader national interests. They had identified a conflict of interest between members anxious to preserve their shares of the budgetary pie and the need of the country to expand its

higher education system. The study alluded to the fact that, under the guise of academic freedom, the academy actually functioned as a cartel catering to its interest.[184]

This research was credited with the new thinking in the Ministry of Education, but it was Livnat who went public. Her controversial article, “End the Academic Cartel,” assailed the research universities as commercial cartels representing the interests of one social stratum [Ashkenazim] at the expense of colleges and the lower class Mizrahim. She blasted the faculty for its “ivory towers” isolation and its failure to serve society. Introducing competition into the system was, in her view, the only way to break-up the academic cartel.[185]

Itamar Rabinowitz, president of Tel Aviv University, ratcheted up the acrimonious tone of the debate by dubbing the government’s plan an unprecedented effort to undermine the traditional values of higher education and academic freedom. He accused Livnat of trying to terminate the traditional independence of the CHE, adding that the CHE had never been deemed to be a democratic institution reflecting the population at large. Rabinowitz compared Livnat to Margaret Thatcher and warned that the management model was a “pyrrhic victory,” because it compelled many British researchers to relocate to the United States. As for affirmative action, Rabinowitz contended that “Second and Third Israel” [non-Ashkenazi] students were woefully unprepared in basic skills and required extensive and expensive remedial work. Rabinowitz rebuffed Livnat by referring to the right-wing as “barbarians at the gate,” engaged in a Kulturkampf with the universities they perceived to be the “last bastion of the old elites.” [186]

With its ethnic overtones, Rabinowitz’s warnings of an imminent collapse of higher education inflamed the public discourse. Other academics went further. Gur-Zeev stated, “The right-wing wants to liquidate the academic freedoms” as part of its fight against Israeli “elites.” He predicted that the logic of the marketplace that Livnat tried to impose on the universities would eventually lead to their privatization. Still, for all the vilification of Livnat as the “Israeli Mrs. Thatcher,” the Education Minister received some backing from the academic community. Predictably, she garnered support from the colleges that had long resented the dominance of research universities and had envied their privileges. But some research faculty agreed with Livnat’s contention that the CHE needed to reflect a broader spectrum of interests. Yakir Plessner, a professor at the Hebrew University, maintained that there was nothing in the language of the 1958 Act to prevent the appointment of college faculty to the CHE. [187]

Despite the ISC’s efforts, Livnat shepherded her slate of appointees into the new CHE. But the MR’s Quality Control concerns faced an uphill battle. In this regard, she obtained early support from Yaakov Bergman, a professor of public administration at the Hebrew University; he revealed that, in 1999, the Israeli Academy of Science and Humanities had ordered an investigation of two sub-performing research fields, immunology and neuroscience. After the Academy had refused to make its report public, Bergman launched a campaign for its release. In a scathing 2003 article in *Haaretz*, Bergman accused the Academy leaders of deceiving the public about Israel’s alleged research excellence by hiding the fact that much of it was mediocre. He felt this was not an isolated phenomenon, but part of a broader pattern whereby universities showed little regard for how taxpayers’ money was spent while resisting outside quality controls. Bergman emphasized the MR’s recommendation that departments institute outside evaluations had been ignored. In

his view, the failure of accountability and transparency enabled universities to hide mediocre research under the guise of academic freedom. Bergman contrasted Israeli Quality Control with the way in which in Great Britain and in the United States it was routine, rigorous, and open to the public. He also pointed out that an Education Subcommittee in the House of Representatives—dissatisfied with annual reviews of academic performance—had held a hearing entitled “The Status of Higher Education: What do Parents, Students and Taxpayers Get for their Money.” In a follow-up article, Bergman challenged his colleagues who decried any type of oversight by citing their academic freedom. He accused them of promoting “false academic freedom” that abused true academic freedom. Echoing the MR, Bergman stated that there must be no freedom to fail to teach or to pursue research, no freedom to turn an academic position into a “secondary job”, and no freedom to abuse travel and sabbatical privileges for private purposes, whether for advocacy or enjoyment. To those who argued that these privileges were anchored in time-honored labor agreements, Bergman responded that they should be conditioned on the faculty’s continuous research; as it stood, they amounted to an automatic hand-out to those who had ceased fulfilling their research duties.

As for the fierce resistance to the MR’s call to appoint more business-based boards, Bergman pointed out that the governor appointed board members of even premiere public institutions such as Berkeley. Bergman mocked academics for their Chicken Little attitude: forever warning of “the end of the academy,” the “destruction of the universities”, and the “end of the separation between the executive and the academic branches.” He also chided them for converting politicians into bogymen intent on devouring the academy to shroud their own interests under the most expansive model of freedom. Stopping short of describing such attitudes as selfish, Bergman quoted Martin Trow who had found that faculty was as self-interested as any other segment of the society, and repeated Trow’s suggestion that minimizing political influence required divesting the faculty of their extensive rights of self-governance. [188]

While Bergman considered the problems to be systemic, his major concern was with liberal arts. His experience with the Academy taught him that many academic leaders considered “soft sciences” to be marginal to Israel’s international standing. With no national standards and scrutiny, the liberal arts were left to flounder. Consequently, Israeli social science trended thirty percent below the global average, according to the Institute of Scientific Information-Social Science Citation Index (SSCI), the lowest figure for Israel in any discipline; it contrasted sharply with hard sciences where, the SSCI showed, Israel was well above average. Bergman suggested the figure represented the lowest return for taxpayer-money invested in Israeli research. Other critics backed up Bergman’s claims, including Yochanan Glucker, a retired professor of philosophy at Tel Aviv University, and a co-editor of *Katharsis* (Catharsis) a journal devoted, among others, to shortcomings of liberal arts in Israel. Glucker decried the mismanagement and corruption embedded in the promotion process which, in his opinion, lead to mediocrity and incompetence in humanities and social sciences. Echoing Bergman, Glucker stated that this state of affairs would have not been tolerated in medicine or hard sciences.

Responding to Bergman’s campaign, the government formed a “Committee to Investigate the Goals and Functioning of the Israeli Academy of Science and Humanities” (IASH) under Oded Abramsky, a professor on the medical faculty at Hebrew University. The Abramsky Committee found that the IASH did not function as mandated by the law and recommended a more vigorous and proactive role in

overseeing research. Thus, the Committee urged the IASH to publish an annual research survey and to distribute it to Knesset and government officials. Committee members were counseled to create separate divisions for sciences, social sciences, and humanities. Drawing on the prominent advisory role held by the American Academy of Science, the Committee report encouraged the IASH to help government formulate national research priorities which—in a nod to the MR—led to creation of the Quality Control Division in 2003. The structure and the process of Quality Control resembled the regionally-based accreditation agencies in Germany, Great Britain, and the United States. It was grounded on a multi-step procedure that featured self-evaluation as well as an evaluation by an external committee. More to the point, the CHE announced that Quality Control would improve the higher education system and help it “integrate into the global academic system.” As an American education expert noted, Quality Control was one of several measures that reflected recognition that, “in the emerging global economy, advanced human capital has become a crucial factor in economic development and a central component of a nation’s competitive advantage.” In public universities, the increase in “state or direct regulation of academic quality assume[s] the sovereignty of the state in defining and enforcing academic standards.” [189]

Developing these themes further, Professor Shlomo Grossman, the head of the PBD, advanced a new plan for implementing the MR reform in 2004. To improve governance, the Grossman document asked the universities to transfer all non-academic functions to an Executive Committee comprised of a minority representation of faculty members. Grossman also wanted to limit participation of faculty in the election of the president and urged the addition of a student representative to the Executive Committee. The PBC set a two-year deadline for the universities to implement these changes.

But the Grossman proposal did not fare any better in some circles than had the original MR. Itzhak Galnoor, a political scientist from the Hebrew University and an ISC leader, described the MR-Grossman document as a wholesale onslaught on academic autonomy, claiming that “Attempts to politicize higher education and enforce a ‘management orientation’ threatens academic freedom” and were “nurtured by a general atmosphere of anti-intellectualism.” He accused “extreme groups on the far right”—ultranationalist and ultra-messianic factions—of creating a slippery-slope towards McCarthyism with their demands to fire “academics for opinions that they express as citizens.” Like Rabinowitz, Galnoor felt that the management university and the conservative onslaught revealed “deep loathing for the idea of free thinking.”[190]

Linking the management university model to Mrs. Thatcher’s policies enabled the Israeli professoriate to decry the broader ills of a neo-liberal economy. Censor and Gur Zeev claimed to be “fighting the neo-liberal agenda” of privatization brought on by “capitalist globalization” that “seeks to impose the logic of the market on the universities.” They bemoaned the passing of the Humboldtian university ideal, predicting the MR would “bring ruination on the universities.” Still, the two activists were discouraged by what they described as apathy in the ranks, noting that professors were difficult to mobilize because they were too busy with their research. They were even more rankled by “defections” of some unnamed academic leaders whom they blamed for accepting the logic of the reforms.[191]

While the ISC seemed intent on confronting the MR, other academics felt compelled to answer some of Livnat’s charges. Professor Zeev Tadmor from the Technion and Professor Yehoshua Jurtner from Tel Aviv University who headed an NGO dedicated

to social outreach, *BaShaar, The Academic Community for Israeli Society*, led this effort. In 2004 *BaShaar* produced its own manifesto, “The Position of Higher Education and Research Universities in Israel: Warning Signals and Policy Lines” which defended broad academic freedoms anchored in the 1958 Act, but also stressed the need to balance academic freedom with responsibility to society and state. Repeating the MR’s observation that Israel existed in a dynamic global environment, the authors conceded that universities were slow to adapt and urged periodic self-examination to improve governance. Breaking with academic orthodoxy, the manifesto urged public figures representing business and industry to be more closely involved in higher education. Seeming to rebuke the ISC subtly, universities were urged to demonstrate transparency and a positive attitude toward constructive outside criticism. [192]

With divisions in its ranks and a chronic budgetary deficit, the academic community contended continuously with the government. By the mid-2000s, observers took to using the term “crisis” to describe the higher education system which, from a public perspective, was enhanced by a “brain drain” of top Israeli scientists for more promising careers abroad. Aggravating factors included: chronic governmental underfunding, failure to improve governance, rapid and uncontrolled growth, concerns about quality in some sectors, and limited accessibility. [193]

Ehud Olmert, who had succeeded the ailing Ariel Sharon, appointed former Finance Minister, Abraham Shochat, to chair a Committee for Examining the Higher Education System in November 2006. The recommendations of what became known as the Shochat Committee (SC) were unveiled in July 2007. To fill the revenue-gap, the SC suggested raising tuition for students by seventy percent, instituting merit-based pay-scales for faculty, and replacing faculty-tenure with fixed-period contracts. To encourage scientific excellence, the SC urged doubling the National Science Foundation allocation and creating a special fund to attract promising Israeli scientists working abroad. The recommendations were welcomed by university presidents, but they were attacked by students upset by the proposed tuition-hike and by faculty anxious to preserve the tenure system; some faculty predictably warned about loss of academic freedom and voiced reservations about creating a separate “system of excellence.” The ISC’s Censor claimed the university presidents were keen on dispensing with tenure because they were promised enhanced budgets by the Treasury to push the deal. In reaction, Shochat slammed lecturers for “baseless protest” against much needed reforms, and the chair of the Knesset Committee of Education lamented that the SC “was a historic opportunity that we are in danger of losing,” [194]

Those who hoped the Olmert government would finally impose the British model were to be disappointed for, overwhelmed by faculty threats, the cabinet shelved the SC recommendations. A year later, in 2008, during a special conference called by the CHE, Nobel Laureate Aaron Ciechanover compared the Israeli “brain drain” to that of the mass exodus of Jewish professors from Nazi Germany in the early 1930s, a metaphor for which he later apologized. Despite the enhanced drama this rhetoric created, the Finance Ministry stood firm and initiated a public counteroffensive. It accused the PBC’s “distorted budgeting” for failing to encourage excellence and creating the brain drain. Recalling their failure to implement the MR, treasury officials blamed the universities for lack of “efficiency and transparency” in handling their budgets and decried the frequent faculty strikes. [195]

As if to prove the Finance Ministry right, Comptroller General Micha Lindenstraus issued a scathing report in 2008, claiming expansive interpretation of academic

freedom had prompted the universities to try to become “sanctuary cities.” He noted the courts and the government had been compelled to intervene previously to ensure universities abided by accepted public norms and legal constraints, and he recalled the admonition of past Comptrollers that claims of academic freedom—citing Article 15 of the 1958 Act—did not provide license for university officials to hinder the work of his investigators. He accused them of serious financial mismanagement that contributed to chronic deficits, practices such as hiding the true scale of debt and inflating salaries and benefits, and echoed the MR with regard to inefficiency, lack of transparency, and flawed governance. [196]

In 2009, Likud’s victory under Benjamin Netanyahu enhanced pressure on academe, speculating that Netanyahu—inspired by Mrs. Thatcher and Livnat—would try to finalize the MR reforms. Some critical scholars painted a much darker picture. Iris Agmon, a senior lecturer from Ben Gurion University and head of the Forum for the Protection of Public Education, averred that universities suffered from the “rotten fruit” born by the process of “industrialization and corporatization of higher education in the age of a neo-liberal, globalized economy.” Agmon had previously stated that Israel was in danger of following the British management university model which, in her opinion, shortchanged liberal arts. [197]

Bergman remained active in the field of higher education and tried to convince the new government that reform was long-overdue. In June 2009, he rebutted claims of five Rectors that the higher education system was performing well, for he saw Israeli universities lagging behind their Western counterparts because they had resisted the type of reforms introduced by Great Britain and others. He quoted a former chair of the PBC, Nehemiah Levtzion, to the effect that Israel “had unprecedented academic autonomy,” adding that it enabled the higher education system to evade government supervision and waste taxpayers’ money. On December 20, 2009, in a PowerPoint presentation for the Budget and Planning Committee, Bergman claimed that advanced Western governments had drafted their higher education system to serve the economic and social needs of their countries during the last quarter of the twentieth century, a development of which the Israeli government had been unaware. Based on data maintained by the British and by the Organization for Economic Co-operation and Development (OECD), Bergman concluded the public and its representatives overseas were winning the battle with the entrenched academic monopoly, quoting from one British publication: “It is now part of mainstream academic, let alone political, thinking that one of the central purposes of higher education is to serve the needs of the economy, whilst widening social opportunity. Inevitably, as this understanding of the purpose of higher education had seeped into the general consciousness, so the universities of what is to count as high status knowledge has weakened.” [198]

Contrary to Bergman’s hopes, Netanyahu’s Minister of Education Gideon Saar and his academic representative, Manuel Trachtenberg, an economics professor from Tel Aviv University decided to implement the MR-Grossman plan by using a slow and cautious carrot-and-stick policy. Quite evidently, the Israeli universities were not ready to follow the British model and the government was reluctant to pressure them to do so. For instance, it was only in 2011, that the Hebrew University, one of the last hold-outs, partially updated its constitution to comply with CHE.

Even of campuses that were in compliance, academic animosity toward the management model persisted, a sentiment revealed when Amos Shapira, a former CEO of Cellcom, a communication company, was picked as president of Haifa University in 2011. Shapira’s supporters hoped he would facilitate much-needed

fund-raising, for the university was in serious decline in competition for philanthropic dollars. The CHE did not require university presidents to have an academic background, but critics portrayed Shapira's lack of academic credentials as a damning defect.[199] Some faculty saw the appointment in more sinister terms. Daniel Gutwein, a professor of Jewish studies and a vehement critic of privatizing the Israeli economy, described it as "another step in the Finance Ministry's hostile takeover of the universities." He claimed the academic community at-large should be forewarned that the University of Haifa, struggling financially, was forced to adopt "business logic" when it tapped the private sector. He charged that "the search committee at Haifa succumbed to this "illusion" pushed by the Finance Ministry and its" propagandists" that a more commercial approach was needed to solve the crisis. "[200]

Gutwein's colleague, the historian Gur Alroey, called to void the Shapira appointment claiming the in the "academic world, businesspeople are quite low-down, in terms of ethics and values." Indeed, Alroey took pride in the fact that his university did not attract donations since there was "hypocrisy in the philanthropic business as many of the buildings on campuses bear names of businesspeople who laundered their questionable profits by contributing to Israel." He chided faculty members for not speaking-out about the ethics of such questionable donations warning that, in the quest for money, the university had been forced to compromise its historic academic freedoms. [201]

Only few academics disagreed with the view that the Shapira nomination was a step toward a government take-over of the universities. Israel David, a professor of engineering at Ben Gurion University, denounced his colleagues for defending the "sacral creation laws" of academic freedom, his tongue-in-cheek reference to Article 15 of the Higher Education Act. David claimed the professoriate invoked these "sacral rights" each time one of its privileges was threatened. Worse were the "ritualistic threats" that taking away any of the freedoms would trigger a catastrophe affecting the entire academic system. David attributed this attitude to a sense of entitlement among the Israeli faculty, which persisted even as other public organizations were forced to accept new management norms. [202]

Bergman's and David's push for governance reforms dovetailed with empowerment efforts of student groups functioning as consumers of the academic products, as per the management university model in Germany and Britain. Expansion of their rights placed professors on-notice that the Humboldtian idea of partnership between students and professors should be restored. This process had been initiated legally when the Knesset had passed the 2007 Students Rights Act, which borrowed heavily from the MR. Its contents were to be conveyed—by law—directly and promptly by university authorities to both the faculty and students. It allowed for the authorities to oversee and to regulate the process by which students "have the right to express their views, opinions and attitudes with regard to the content of curriculum and the values conveyed therein" (Section 5) and by which students exercise their guaranteed right to organize and to protest about all issues, including students' rights (Section 6).[203]

Not to be outdone, the National Students Union (NSU) published its own "independence manifesto" comprising an unbridled attack on faculty and administration. Quoting from the Comptroller's Report, it contended the profound crisis in the academy was caused by a sharp decrease in government allocations and the failure of the CHE and PBC to impose regulatory power over the universities. It claimed there is "not one academic system in the world that enjoys a measure of

autonomy like the Israeli one,” and lamented the fact that same faculty that failed in the past was still in charge and still enjoyed expensive freedom. Inspired by the Students’ Bill of Rights in the United States, the notion that academic rights should be limited to faculty alone was vehemently opposed. Indeed, it claimed their exercise of such unfettered rights had yielded the mismanagement of higher education and to the shortchanging of students. It noted that, in other countries, the failure of academic self-governance had produced changes that had deflected more accountability to state representatives, to the public, and to the students. It insisted the same should take place in Israel.”[204]

In 2010, in a quest for more transparency, the head of the students union at the Hebrew University asked the Movement for Quality Government to investigate the extent to which the 2004 Maltz-Grossman mandate had been implemented. Predictably, the study indicated reforms had been spotty; some executive committees exceeded 25 members, not all senate forums had been trimmed-down to 71 members, and there remained great reluctance to incorporate students into decision-making bodies. The report was forwarded to the CHE, but the students threatened to take legal action as well. In their opinion, the universities used academic freedom as a shield against governance reforms and needed to be forced to improve management and transparency. [205]

The government apparently decided to do the same, using the legal system to restrain efforts to invoke academic freedom in the administrative realm. On November 11, 2012, Judge Ilan Itah of the National Labor Court rejected the claim by Tel Aviv University that “academic freedom”—as stipulated by the 1958 Higher Education Act—empowered it to refuse to comply with a law requiring senior faculty hired after October 1, 2003 to contribute to their retirement accounts. He stated that the Supreme Court had already expressed its opinion that “academic freedom is not a magic concept which overrides natural justice and implementation of law.”[206]

With so much focus on institutional autonomy, the debate provided few specifics about intramural or extramural individual freedoms. As in the three comparative cases discussed in earlier chapters (Germany, the United Kingdom, and the United States), the subject of Israel in the Middle East turned into a compelling test of both.

The Arab-Israeli Conflict: The Intramural Dimension

It may be recalled that the Humboldtian notion of converting the classroom into a marketplace of ideas contradicted neo-Marxist critical scholarship. To Antonio Gramsci’s disciples, challenging the positivist paradigm in liberal arts necessitated upending the notion that the classroom serves as an extension of public discourse; it was to be a command-post from which “hegemonic” narratives of elites would be challenged and replaced by those of oppressed groups: minorities, lower classes, women, gays, and Palestinians. Since Israeli Gramscians considered virtually all positivist research to be a “hegemonic Zionist narrative,” they hastened to replace it with a post-Zionist narrative. Yehouda Shenhav, from the Department of Sociology at Tel Aviv University, a self-avowed critical sociologist, stated that adhering to objectivity and neutrality—the hallmark of positivism—should be considered a form of intellectual treason under certain moral circumstances. Shenhav stressed that, after several decades of occupation of Palestinian territory, traditional sociologists had failed to incorporate the reality of the “Israeli colonial regime” into their research. He contrasted such behavior with two role-models of courageous outspokenness, Yeshayahu Leibowitz and Israel Shahak. [207]

As already noted, the post-modern notion that truth cannot exist in liberal arts and cannot be discerned through objective and dispassionate research complicated the Humboldtian formula. Uri Ram, a member of the Ben Gurion University faculty and leader of the “revolution against positivism” in Israeli sociology, railed against the “tendency of academic sociology to descend into arid scientism, ornamented with fig leaves of technique and professional decorum.” Ram urged embracing “soft” ideographic methodologies that emphasized life history and subjective accounts of individuals, preferably from non-hegemonic groups, as a primary source of knowledge. Not incidentally, Ram and his critical colleagues insisted that subjective narratives were more useful in effecting societal change than was “hard” empirical information. [208]

To appreciate the challenge that the neo-Marxist, critical movement posed to the notion of academic freedom, its philosophical defense is in order. The Humboldtian argument was essentially consequentialist; freedom of teaching and research was necessary to discover truth. Without such freedom, accepted truths could not be challenged and errors could be perpetuated. On deontological grounds, denying academic freedoms was considered both unjust and illogical because faculty was under an ethical obligation “to find out the truth” through careful research and discourse and to communicate it to students. But, as Eric Barendt admitted, both the consequentialist and the deontological argument were difficult to square with the critical, postmodernist approaches that “deny objective truth altogether” and take the view that “reality is socially constructed rather than determined or discovered by rational inquiry.” In fact, the “awkward question is whether academic freedom can be justified once we abandon the view that objective, or at least better truth can be discovered by research undertaken in universities by professionals trained for their work.”[209]

Barendt did not pursue the “awkward question” but, as demonstrated, neoconservatives argued cogently that neo-Marxist critical scholarship could not hide behind academic freedom because it undermined the positivist belief in truth and rejected the marketplace of ideas. Philosophical considerations aside, faculty were made risk-averse and less likely to turn their classrooms into Gramscian laboratories of social change because of such realistic concerns as job security, post-tenure review, pressure from public stockholders in public universities, Title VI requirements, and threat of litigation.

In the absence of such inhibiting factors in Israel, post-Zionists had more academic freedom to pursue the Gramscian imperative. Many were either anti-war activists or members of Matzpen and the Communist Party. For them and like-minded faculty, the MESA-Saidian view was tailor-made, as it provided academic legitimacy for their political views. Zionism was seen as an illegitimate colonial movement that deprived the indigenous Palestinians of their patrimony. Its progeny, the State of Israel, was an oppressive apartheid-type state and—according to another variant—a proto-fascist state whose military was engaged in Nazi-like behavior.

Launched by Palestinians and their supporters in Great Britain and the United States, the “apartheidization of Israel” was an academic-political project aimed at the “American elites.” In this view, as long as the political class regarded Israeli rule in the territories as temporary, the United States was likely to abandon its support of Israel. To create a real change in perception, the Palestinian question had to be presented in terms of the apartheid paradigm, preferably by Israeli scholars. To spread this message, in 1987, Uri Davis, a lecturer at Bradford University who had been a

Matzpen member, published a book *Israel: An Apartheid State* and co-founded The Movement Against Israeli Apartheid in Palestine (MAIAP).[210]

Israel-based scholars lent a hand with the project. From their modest beginnings at Haifa University in the late 1970s, post-Zionists created a substantial presence in the social sciences, most notably at Tel Aviv University and subsequently at Ben Gurion University. Facilitating their quick rise was an extensive network of English-language critical journals and radical presses intended to counter positivist scholars. It was relatively easy to have published an article or a book critical of Israel. Some journals were directly supported by Arab money and three of the presses were self-avowed radical establishments: Pluto, Verso and Zed. As indicated, University of Michigan Press was forced to abrogate its contract for distributing Pluto's books in the United States, but Israeli academics were promoted on the basis of work published by Pluto and other critical outlets. Hebrew language journals such as *Theory and Criticism* supported the Van Leer Institute in Jerusalem and Resling Press provided additional publishing outlets. International foundations took a lead in organizing conferences and projects that enhanced the academic stature of post-Zionists.

Israeli Jews were popular speakers at conference, to deflect charges of anti-Semitism and anti-Zionism. As an additional perk, post-Zionist scholars discovered it was relatively easy to obtain coveted visiting-professor appointments in Ivy League schools and other top-tier American universities. Their fortunes improved even further after major university presses opened their doors to critical studies of Israel. To quote one critic, "In recent years, prestigious university presses have waived all academic criteria in order to publish any book—no matter what its academic merits are—which knocks Israel." [211]

The Gramscian-activist research prescription was articulated by some of the leading figures in the movement: Yehouda Shenhav, Oren Yiftachel, Neve Gordon, Adi Ophir, and Uri Ram. Shenhav, a leader of *Keshet Mizrahit* (Mizrahi Rainbow). A group of Mizrahi scholars and intellectuals argued that "Arab Jews", his name for Jews from Arab-speaking countries, were no less victims of Zionism than the Palestinians. Yiftachel, self-described as a neo-Gramscian, produced writings allegedly proving that Israel was a "creeping apartheid state." Ophir, a political philosopher, used advanced critical theory to imply that Israel's treatment of Palestinians was on the same ontological plane of evil as was the Nazi treatment of Jews. Ophir and his frequent co-author, Ariella Azoulay were leading voices in the "nazification of Israel" movement, while Azoulay staged art exhibitions designed to make the visual connection between the Nakba and the Holocaust. Ram pioneered the theory that Zionist historians and intellectuals turned nation-building entrepreneurs "invented" the Jewish people. Shlomo Sand, a Tel Aviv University historian, later adopted this thesis in his controversial book *The Invention of the Jewish People*, thanking Ram for this inspiration in its introduction. [212]

The Department of Politics and Government at Ben Gurion University, in particular, boasted a strong neo-Marxist critical faculty. A majority of the full-time members were self-described Marxist, neo-Marxist, or critical scholars. Lev Grinberg, a veteran Marxist, published a book that "proved" that Israel was a militaristic, fascist state. Neve Gordon was a former director of Physicians for Human Rights-Israel (PHR-I), a non-governmental organization that has been denounced by the Israel Medical Association as a "radical group disguised as a medical organization". He wrote books and articles to "prove" that that Israel was an apartheid state. A search of Gordon and

Yiftachel on *JStore*, the largest data base of academic journals, indicates that both have had a commanding impact on the “apartheization of Israel” literature.

With nothing in Israel resembling the German ruling in the Historical Falsification trial, critical scholars felt at liberty to push the narratives of their choice. Ilan Pappé, a political activist in the Communist Party and a Haifa University professor, joined other New Historians to blame Israel for the colonial conquest of Palestine and the ethnic cleansing of the indigenous population. Pappé, who attacked traditional positivist historians for “concealing the Palestinian narrative,” stated that historical truth should be subjugated to political circumstances of time and place. In his view, New History was an effort to force Israeli society to acknowledge its record of oppression, dispossession, and brutality. To this end, Pappé concentrated on a number of massacres that the IDF had allegedly perpetrated during the 1948 war, but his version of events has changed over the years. Following the collapse of the Oslo peace process, Pappé upped the ante, writing that David Ben Gurion prepared plans for ethnic cleansing well in advance of the war. [213]

In the early 2000s, Theodore Katz, a Haifa University graduate student, wrote a dissertation that alleged the Alexandroni Brigade had committed a massacre in Tantura, a village outside Haifa. Veterans of the Brigade who felt libeled sued Katz in the District Court in Tel Aviv. The presiding judge Dr. Drora Pilpel made case law history by placing a limit on the academic freedom to rewrite history. Pilpel stated that Katz had to determine “whether a massacre of unarmed civilians did or did not occur in Tantura.” She added that facts contained in historic research were not subject to interpretations or opinions. Unlike a play, in which artistic license was the rule, history could not be provided with a “good” or a “sad” ending. “Facts have to be part of the scientific infrastructure of the project and as close to truth as possible.” The judge wondered how Katz could have received a grade of ninety-seven on his dissertation. [214]

Curiously, the university, also sued by the veterans, invoked academic rights of students; it noted that students were taught how to conduct research, but it was beyond its authority to interfere in the students’ right to reach conclusions. The legal procedure was terminated when Katz agreed to retract the allegation and, following an investigation, Haifa University awarded Katz a non-research degree. Katz then retracted his retraction and announced plans to write a book on the “Tantura massacre.” Pappé, who strongly defended Katz, published an article on the alleged massacre in the *Journal of Palestine Studies* and in his own book *The Ethnic Cleansing of Palestine*. In 2011, the Boston-based advocacy group CAMERA alleged that Pappé had fabricated the Ben Gurion quote, but there was no legal follow-up to the charge. [215]

By and large, scholars who followed the Tantura case considered the legal intervention a grave threat to academic freedom. In a symposium “Academic Freedoms and Academic Responsibility,” law professors and experts on ethics agreed that the Tantura case presented the courts with a pioneering opportunity to clarify the boundaries of academic freedom and to define what constituted academic research. Yet they expressed misgivings that a court of law had to get involved in an issue that would have been better left for the academy to resolve. The participants were concerned that litigation may limit academic freedom because graduate students might hesitate to deal with potentially controversial subjects. Michael Ardon suggested that a special law should be enacted to protect the freedoms of scholars to do research without facing libel suits of the kind bought by the Alexandroni veterans. Amos

Shapira complained that the libel laws in Israel were so strict that they hurt academic freedom. Only one participant, Dan Amir, questioned whether academic research should be protected from outside scrutiny, for he felt historians could either falsify results or produce sloppy research due to laziness or negligence. Some raised the Holocaust denial trial of David Irving, but no one was willing to state that Katz either accepted invalid testimony or manipulated the results for political reasons, a possibility the court had raised. It was left to Pappe to assert that historical truth cannot be scientifically determined, especially when it involved a situation of active conflict. [216]

In yet another benefit of expansive individual freedom, liberal arts departments allowed activist academics to switch their research to subjects close to their political interests. For instance, Daniel Bar-Tal, Branco Weiss Professor of Research in Child Development and Education, in the School of Education, Tel Aviv University, abandoned his field of expertise to publish studies of attitudes of adult Israelis toward the Arab-Israeli conflict. Bar-Tal, a past co-editor of the radical *Israel-Palestine Journal*, was the intellectual architect of the theory that Israelis, traumatized by the Holocaust, could not embrace true peace. Shenhav had been hired to research and teach sociology of organizations, but he admitted that, after joining the Rainbow Coalition, his research interests turned to ethnic issues and the Arab-Israeli conflict. Shenhav, an advocate of a bi-national Jewish-Palestinian state and the right of return of Palestinians, has published a large number of articles and a book on the subject. Haggai Ram, an Iran expert in the Middle East Department at Ben Gurion University whose limited academic record included a book *Iranophobia: The Logic of an Israeli Obsession*, was part of a group advocating for nuclear disarmament in the region; he concluded Israel's phobia about Iran had little to do with the Islamist regime because it stemmed from problems of modernization, ethnic identities, and exaggerated and misplaced strategic concerns about the "war on terror." After publishing *The Invention of the Jewish People*, Shlomo Sand, professor of French history and culture at Tel Aviv University, saw his modest academic career turn into a celebrity position in anti-Semitic and anti-Israel circles. Abandoning any pretense of researching in his field, Sand followed up with a sequel entitled *The Invention of the Land of Israel* [217]

Moshe Zimmermann, professor of German history at the Hebrew University, "reinvented" himself as a Middle East expert and proceeded to author books critical of Israel; in the German-language *Fear of Peace: The Israeli Dilemma*, he claimed "Policy deterrence became an existential issue for Israel because it is afraid of peace." Moshe Zuckermann, professor of German history at Tel Aviv University, made a similar career switch; occasionally called the "Israeli Norman Finkelstein," Zuckermann accused Israel of using anti-Semitism and the "Holocaust industry" to dispossess the Palestinians, a theme of his book *Anti-Semite!* Not incidentally, Zimmermann and Zuckermann became highly popular in pro-Palestinian circles in Germany.

Other tenured activists simply took a "break" from publishing. Galia Golan, then a professor of Soviet politics at the Hebrew University, spent considerable energies working on conflict-related issues. A former spokesperson for Peace Now and a leader of the leftist Meretz Party, she authored a number of semi-polemical work, some published in the *Palestine-Israel Journal*, of which she was a board members. Anat Matar, senior lecturer in the Department of Philosophy at Tel Aviv University, promoted boycott against Israel and tried to reclassify Palestinian terrorists in Israeli

prisons. In a book co-edited with Abeer Baker, *Threat. Palestinian Political Prisoners in Israel*, Matar argued that terrorists were actually political prisoners and accused the government of violating their rights as well as torturing them.

Pushing Back or Rolling Over? The Response to the Post-Zionist Classroom

Compared with the United States, mounting a challenge to the politicized academy in Israel was destined to be daunting. The MR did little to limit the expansive vision of academic freedom, and there was no Israeli equivalent to the broad conservative and neo-conservative pushback against radical academics. Despite a well-received book which, among other things, critiqued the Magnes -inspired academic culture, Yoram Hazoni, a co-founder of the neoconservative Shalem Center, and his colleagues could not match the output of their American counterparts. The Center's intellectually respectable journal *Azure* did not focus on the politicized academy as thoroughly as NSA and ACTA. The Begin-Sadat Center at Bar-Ilan University and the Jerusalem Center for Public Policy were too narrowly-focused on foreign policy to provide a paradigmatic-level response to post-Zionists. The small Israel Academia Monitor, modeled on Middle East Forum's Campus Watch, created a database for tracking radical academics and offered editorial commentaries but it lacked resources comparable to those of its American counterpart.

It thus fell to two non-academic groups - *Im Tirzu*, founded by Ronen Shoval and Erez Tadmor in 2006, and the Institute for Zionist Strategies (IZS), to challenge the neo-Marxist critical dominance in certain social science departments. In May 2010, the former published "Anti-Zionist Indictments and Bias in Universities," a 64-page analysis that documented perceived anti-Zionist biases in syllabi. In October 2010, the latter unveiled a longer analysis entitled "Post Zionism in Academia" that backed-up the *Im Tirzu*'s findings. [218]

On November 2, 2010, the Knesset Education Committee held a special hearing entitled "The Exclusion of Zionist Positions in Academia". It was attended by representatives of universities, heads of the two groups, and the lay public.[219] *Meretz* MK Haim Oron strongly objected to the notion that the Knesset should deal with what he considered to be an internal academic matter. University representatives were even more incensed; Zvi Hacoen, Rector of Ben Gurion University and his counterpart from Tel Aviv University, Aron Shai, rejected the *Im Tirzu* and IZS analysis as lacking scientific merit. The Knesset panel considered proposed remedies, including that of Gideon Saar to create ethic codes for the universities; this policy had first been urged by the MR, but only one university, Ben Gurion in 2007, had implemented it.

Two days later, *Haaretz* summarized the bitter and emotional warning of academic leaders that Saar's suggestion would undermine academic freedom; the professoriate interpreted this hearing as a brazen effort to undermine the Magnus-style academy as countenanced by the 1958 Act. Even those who questioned the conduct of the post-Zionists found it expedient to close ranks, so as not to jeopardize what one analyst dubbed its "Mount Olympus status." [220]

Still, some scholars offered a trenchant critique of the post-Zionists, arguing that curricular diversity was essential because, in the social sciences, politics and theory tend to mix.

Ephraim Yuchtman-Yaar, former dean of social sciences at Tel Aviv University, arguably the leading contemporary Israeli sociologist, claimed they ignored the work of those who did not fit their theory. In a widely-read article in *Haaretz*, he pointed

out that an introductory course in Israeli sociology at Tel Aviv University excluded the entire oeuvre of Shmuel Eisenstadt, a positivist and the “founding father” of Israeli sociology. By excluding such “opposition” contributions, critical academics conveyed a one-dimensional picture of reality to their students, depriving them of an opportunity to exercise critical thinking in pursuit of truth. [221]

Ziva Shamir, former head of the School of Jewish Studies from Tel Aviv University, backed-up these claims. In a post-retirement essay, she alleged that activist professors abused their classroom authority to indoctrinate students and to intimidate their critics among faculty. She wrote: “I am aware of the fact that it is difficult to go back to the era of positivism, and that the new trends in critical scholarship give the instructor more political leeway. However, as member of a promotion committee I came across teaching evaluation forms with students’ complaints about their “missionary” professors whose main goal was to convey their political message. The contemporary “missionary” faculty is doing damage to the teaching process...[T]hese instructors also contribute to hypocrisy in the classroom; on the one hand they speak about academic freedom but on the other, their teaching does not encourage pluralism and a free exchange of ideas.” Shamir admitted she had delayed expressing these views until after she had retired because she had feared she would be publicly scolded for being among “McCarthy faculty” by radical scholars, as orchestrated by their media-allies. [222]

Amnon Rubinstein, who did a stint as Minister of Education before joining the law faculty at Interdisciplinary Center in Herzliya had been, as noted, critical of the Hebrew University’s lenient treatment of Israel Shahak. He seized on the Knesset debate to provide a more systematic analysis of the key-issues. In an essay “Freedom of Academic Speech in Israel” Rubinstein observed that a definition of academic rights and obligations in intramural and extramural settings had been articulated by Germany, Great Britain and United States, but not Israel. He mentioned the Supreme Court Justice William Brennan who embraced the Humboldtian ideal of a classroom serving as a “marketplace of idea;” this would require use of balanced syllabi, with a matching reading list. Rubinstein contended that was especially important in Israel, a small country with only five research universities offering social sciences programs. As a result, the academic freedom of faculty members to offer their chosen curriculum had to be balanced by their duty to educate students to achieve high standards emphasizing “thinking” and “craving for truth.”[223]

Rubinstein realized that neo-Marxist, critical scholarship created a profound dilemma for the universities, bearing in mind that students were a captive audience. On the one hand, the authorities could not “turn a blind eye” to political propaganda by faculty; on the other hand, there was a great reluctance to interfere, so as not to create a perception of political censorship. Invoking an American court ruling, Rubinstein suggested two solutions: [1]—when available, an alternative course could be offered to students who objected to the political tone of the instructor, or [2]—instructors had to acknowledge that any political views expressed were private. Neither remedy ensured a comprehensive curriculum would be provided to the open-minded student; regardless, at the very least, faculty members would become motivated to refrain from using abusive or intimidating language, a protection afforded to students in the Students Act 2007.

Such notions resided at the heart of the Humboldtian marketplace of ideas but, evidently, the government doubted activist faculty would voluntarily embrace classroom diversity. Thus, in late 2010, the CHE held a series of meetings under the

guidance of the Minister of Education, preparatory to mandating how to inject diversity into the classroom. Couched in general terms, the resulting resolution did not explicitly mention liberal arts, but both the Knesset hearing and the CHE deliberations implicitly announced that, after decades of *laissez faire* policy, they were prepared to scrutinize the liberal art classroom. [224]

Still, unaddressed was the companion issue of whether activist faculty should be allowed to switch to research topics unrelated to the expertise for which they had been hired. In the comparative cases, tradition held that faculty in research universities were free to choose subjects within their field, delimited by applying reasonable parameters; a scholar in natural science would rarely publish in the realm of engineering, and *vice versa*. And in the liberal arts, post-tenure evaluation made it harder for such practices to flourish. Israel lacked this track-record.

Israeli sources indicated that a tighter fit should be required between the field of expertise and research. In *Rahoum vs. Hebrew University*, the judge had ruled the lectureship served as a probationary period that afforded the university an opportunity to ascertain whether candidates could teach and pursue research in their fields of expertise. The ISC position paper had asserted, “Scientific research is an indispensable and inseparable part of teaching. A teacher who is not engaged in research cannot keep up with the rapid development of science or technology in his field....[Teachers] who left research cannot keep up with the current professional literature and, while contact with scientific reality is severed, they stay chained to what they acquired while still active in research. Such a teacher not only proffers on the student obsolete science, but also is a barrier to all teaching innovations in his/her field.” [225]

As a result, personal intramural academic freedom has been defined as the freedom of a faculty member to choose any topic of research and teaching in his or her field of expertise, regardless of whether it may be unpopular or controversial. In a programmatic essay on higher education Avraham Gal, professor of physics at the Hebrew University, insisted that such academic freedom should apply only within the domain of a faculty member’s expertise. [226]

Putting activist faculty on notice that a balanced approach was required in the classroom did little to define the permissible limits of extramural rights.

The Arab-Israeli Conflict: The Extramural Dimension

Radical faculty activism was relatively rare in Israel until opposition to Israel’s control of the territories prompted academics associated with Matzpen to organize. In February 1988, Matzpen members and a few academic sympathizers conceived a strategy of internal boycott and resistance. Adi Ophir, then at the Hebrew University and a activist in Peace Now, urged acts of refusal, notably of military service in the territories, based on his philosophical rationale published in *Politica*, an organ sponsored by the Citizen’s Rights Movement. “Failure to refuse participation in the various aspects of occupation is actually tantamount with actually collaborating with it,” he wrote. In March 1988, Hannan Hever, from the Hebrew University, a member of *Yesh Gvul*, and Ophir launched *The 21st Year*. Its Covenant for the Struggle Against the Occupation promised to refuse “to collaborate with the Occupation and pledged to do either part or all of the following: never enter the occupied territories without an invitation from their Arab inhabitants, not allow their children to be exposed to the racist bias of the school system, boycott institutions and products of companies whose Palestinian employees are denied human dignity and decent

working conditions, and boycott goods produced by Israeli settlements in the occupied territories.” The Covenant urged that Israeli society be redefined as a “system of occupation” and declared a “total struggle against the total presence of the occupation.” [227]

The Covenant excited radical faculty. Anat Matar became involved with the draft and reserve duty resistance movement. Israeli law, backed by a Supreme Court ruling, mandated prosecution of those who refused to serve, but Matar and likeminded colleagues offered support to student-resisters. Indeed, encouraging draft resistance was illegal, but neither the state nor the university authorities moved against the highly-motivated Matar and her likeminded colleagues. Matar was also involved with “Inside the Army,” a group dedicated to identifying enlisted men and women and officers, who were willing to make high-profile denunciations of the IDF. [228]

The failure of the Oslo process and the Second Intifada prompted activist faculty to revive the “nazification of Israel” theme. Moshe Zimmermann compared settlers to *Hitlerjugend* (“Hitler Youth”) and drew similarities between the IDF and the Nazis. That he was particularly popular in Germany rendered additional resonance to comparisons between Israel and Nazi Germany. Neve Gordon amplified this theme in an article entitled “Don’t Fence Me In,” quoting both Gramsci and Foucault. He wrote: “Examining the architectural similarity and differences between the camps Israel has constructed to hold Palestinians and the concentration camps Jews were held in during the Holocaust, urges one to ponder how it is that the reappearance of barbed wire in the Israeli landscape does not engender an outcry among [Holocaust] survivors.” Lev Grinberg from the Department of Politics and Government at Ben Gurion University wrote in a Belgian newspaper that Israel has practiced “symbolic genocide” when it had targeted Sheikh Ahmed Yassin, the spiritual leader of Hamas in 2004. These and other activists seemed to be inspired by the anti-Semitic Adbusters Media Foundation that made frequent comparisons between Gaza and the Warsaw Ghetto. *B’Tselem*, a human rights watch group supported by activist faculty, ran an ad in *Haaretz* depicting the Gaza Strip as being behind barbed wire.[229]

Absent an Israeli equivalent of the EUMC’s “Working Definitions of anti-Semitism,” public outrage at the “nazification of Israel” went unaddressed. As a rule, university authorities argued that extramural speech was protected under freedom of expression. David Newman, head of the Department of Politics and Government, noted that Grinberg was one of a “small number of misguided left-wing academics”; he counseled against focusing on them because it would detract from the larger issue that academic freedom in Israel was endangered. [230]

With limited domestic support for their cause, activist academics increasingly looked to the international community to pressure Israel. The 2001 U.N. World Conference Against Racism in Durban—organized by the NGO-Forum—provided them a broader avenue of action. Durban consolidated disparate anti-Israel initiatives into a coherent campaign to delegitimize Israel as a racist, apartheid state and it laid the infrastructure for targeting its national interest through Boycott, Divestment, and Sanctions (BDS) and a coordinated ancillary effort of political pressures and legal measures (lawfare). International humanitarian law and universal jurisdiction were to be used to prosecute Israelis thought to have perpetrated crimes against Palestinians.

The IDF struggle to stop terrorist attacks in the early 2000s caused Palestinian casualties. To protest this alleged “slaughter,” radical faculty sent dozens of petitions to the U.N. and E.U. In one case, in 2003, they urged the U.N. to stop the Israeli

government from using Operation Iraqi Freedom to expel the Palestinians. The rumor of an alleged plan to cleanse Palestinians originated with Yasser Arafat and was disseminated by virtually the entire network of radical faculty. Ophir even urged NATO to bomb Israel to get the “regime” to give up the territories.[231]

Following Durban, al Haq and the Palestinian Center for Human Rights (PCHR) launched a “war crimes” campaign with the help of Israeli scholars. This claim was publicized in 2002, during a visit by Neve Gordon with Arafat which violated an IDF order. Gordon’s open-letter to the head of the Gaza division, Brigadier Aviv Kohavi, called him a “war criminal.” Anat Matar, coordinating with *Yesh Gvul*, fingered Doron Almog, Commanding Officer of the Southern Command, as another “war criminal.” Matar was said to be in-touch with Daniel Mahover, the son of one of Matzpen’s founders, Moshe Mahover, and the head of civil litigation in the London office of Hickman and Rose, in order to request a warrant for the arrest of Kohavi and Almog while they visited England. During his attempted visit to London, Almog was tipped-off of a pending arrest and returned home without having disembarked from his El Al flight; Kohavi was advised to cancel a planned stay at Sandhurst Military Academy. Matar, Gordon, and some of Gordon’s departmental colleagues signed a petition to Western governments urging them to terminate aid to Israel and to help prosecute its war criminals. [232]

A call to boycott Israel—another item on the Durban agenda—was enthusiastically received by the activists, who sensed an opportunity to expand on the “The 21st Year” Covenant. Gordon was one of the first to respond in a 2002 article titled “The Caterpillar Effect,” urging divestment from Caterpillar because the IDF used Caterpillar bulldozers to destroy Palestinians’ homes, thereby converting a seemingly-peaceful technology into a weapon of war. Gordon’s article was promptly posted on the “Boycott Israel Campaign” website. These efforts galvanized like-minded faculty, including Rachel Giora, a senior lecturer at Tel Aviv University, who considered Durban to be one of the “milestones of the BDS campaign.” Thus, the Covenant’s boycott efforts were augmented by Gordon, Giora, Matar, and (the late) Tanya Reinhart, a student of Noam Chomsky and a leading activist.[233]

In 2008, after several years of informal activity, “BOYCOTT! Supporting the Palestinian BDS call from Within” was created by activist faculty including Giora, Matar, and Kobi Snitz from the Weizmann Institute. Merav Amir, from Ben Gurion University, and Dalit Baum, at Haifa University co-started “Who Profits From the Occupation,” a project that identified Israeli companies that allegedly profited from occupied territories and advised “ethical buyers” to boycott a range of products including Ahava cosmetics. Baum went on to head the West Coast office of the American Friends Service Committee (AFSC), where she has offered workshops on the BDS. Israeli academics were also behind the divestment drive of Presbyterian Church USA and United Church of Christ. In her chronology of BDS, Giora took credit for many of these efforts, writing that it helped to undermine Israel’s legitimacy in the United States and elsewhere.

The academic boycott by the British University and College Union and its predecessors was, by far, the most-publicized part of the BDS movement; it also demonstrated the crucial role of the academy in the Durban project. To recall, the boycott was initiated by Ilan Pappé, in conjunction with BRICUP; other Israeli academics added to this effort, either directly or through work that described Israel as an “apartheid” state. After release of the initial boycott proposal, university presidents sent a strongly-worded letter denouncing academic boycotts as antithetical to the very

concept of academic freedom. But university authorities took no steps to curtail BDS supporters among their faculty because, as Newman argued, it was in the interest of the greater good to tolerate extramural expression of faculty, no matter how “misguided.” This posture grew untenable in 2008, however, when Gordon’s editorial in *Los Angeles Times* advocating BDS sparked an avalanche of bad publicity in the American Jewish community; threats from enraged donors to cut-off contributions forced the universities to take a stand.

After years of defending academic freedom as a sacred principle, university leaders were faced with a painful dilemma. Due to the budgetary deficit, it was difficult to increase the share of philanthropic dollars—as per the recommendation in the Hurwitz-Brodet Committee Report— in view of a “donor-revolt” against post-Zionists; long after Pappé had departed, Haifa University was struggling to attract support. Also, Gordon’s *Los Angeles Times* op-ed placed enormous pressure on Ben Gurion University to rein-in its radical faculty. Carmi acknowledged as much, disclosing that a donor had withdrawn an offer to renovate the library because Gordon had not been fired. Carmi expressed dismay that the university had suffered such bad publicity due to what she described as “a small radical fringe,” and Newman blamed “extremist right-wing groups” for misleading well-meaning but misinformed donors, lamenting that some had become convinced the university had become a “hotbed of anti-Zionist activity.”[234]

With Giora, Matar, and other BDS enthusiasts attaining a high public profile, it was only a matter of time before the “donor-revolt” reached Tel Aviv University. In May 2010, Mark Tanenbaum, an American philanthropist, used his position on the Board of Governors to craft a proposal, based on the university’s bylaws, which would have made it possible to fire Giora and Matar on the grounds of “breach of discipline.” During a stormy meeting of the Board, Tel Aviv University president Joseph Klafter prevented a vote on the motion, prompting Tanenbaum to resign and pledge his support to Bar Ilan University.[235]

Charitable contributions aside, the BDS movement raised the broader issue of academic freedom and national security. Germany, Great Britain and the United States had all developed ways to balance both imperatives through a combination of professional statutes, case law, and ethic codes. Surprisingly, despite decades of armed conflict, security considerations did not feature prominently in the Israeli discourse. More to the point, as early as in the mid-2000s, think-tanks and legal experts placed BDS within the framework of the larger asymmetrical conflict targeting Israel’s legitimacy. For instance, in 2006, Anne Herzberg, legal counsel of NGO Monitor, drew attention to the issue in a *Wall Street Journal* article. Brooke Goldstein, the director of the New York-based Lawfare Project, issued a set of directives on the dangers of BDS and ways to combat it. Yet, it took a few more years and two non-Israeli scholars to link BDS to asymmetrical conflict and national security. [236]

Geoffrey Alderman, a professor at Buckingham University in England and a member of the UK Council on Academic Freedoms, suggested that a distinction be made between peacetime and wartime. He noted that, in Great Britain, there were considerable restrictions on freedom of expression during times of war; to his mind, the Low Intensity Conflict (LIC) in which Israel was engaged required appropriate speech codes to prevent injury to national interests. BDS was not only a hostile act endangering Israel’s security and economy, but also a direct threat to the higher education system. Alderman took particular issue with Newman’s incessant warnings

about dangers to academic freedom, writing that no academic was above the law. On a tour of Israeli campuses, he told audiences that an academic boycott was unambiguously a “totalitarian act,” and that causing harm to the university’s name would be unacceptable back home. [237]

Alan Dershowitz articulated a similar argument in his keynote address at the controversial 2010 Board meeting at Tel Aviv University. He blasted Israeli advocates of BDS. Alluding to Giora and Matar, who happened to be abroad on a BDS mission, he declared that delegitimization of Israel was a strategic threat. He stressed that “Israel boasts the highest level of academic freedom in the world” and that “few nations in the world confront on a daily basis...the kind of academic dissent experienced in Israel.” Drawing on comparative academic standards, he urged that faculty freedom needed to be balanced by considerations for students and society. These remarks prompted eighty faculties to sign a letter to Klafter condemning Dershowitz and accusing him of behavior “bordering on incitement.” Klafter issued his own statement, noting that the “university will unequivocally defend freedom of expression of the members of the academic community. [238]

Protestations of academic McCarthyism notwithstanding, at the end of 2010, the CHE held a series of meetings to determine whether Article 15 should be revised to combat BDS advocacy. On December 21, the CHE issued a declaration reaffirming academic freedom as a “supreme value,” but added that calls for boycott by faculty members are unacceptable because they threaten the system of higher learning and society at-large. The CHE urged academic authorities to find ways to enforce the resolution. The CHE resolution coincided with the government’s decision to provide a broader legal remedy; after lengthy deliberations, on July 11, 2011, the Knesset passed the Law for Prevention of Damage to the State of Israel through Boycott, which made it an offense to call for boycotting Israel or the West Bank settlements.[239]

Fearing additional backlash after its outspoken activist faculty had taken a lead-role in denouncing the BDS legislation, Ben Gurion University moved speedily to amend its 2007 Code of Ethics. The amended protocol stated: “In voicing their political or religious opinions, unlike particular professional views, faculty should refrain from using the Ben Gurion University’s name.” When voicing political opinions extramurally, they were asked to clarify that they did not represent the university. “Staff members are responsible for separating their professional and civic activities. Voicing a partisan stance during a class is strictly prohibited, as it may unfairly and indiscernibly influence the students attending the class. The university may regulate the lecturers’ partisan and religious remarks, despite the fact they are part of their civil liberties, in order to prevent teaching and research being used for partisan purposes.”[240]

Much as University leadership hoped to preempt future embarrassment, the Ethics Code and the BDS law were merely a prelude to a much broader debate about academic freedom.

Academic Freedom: The Grand Debate

Absent 9/11 and Britain’s War on Terror, the Israeli academic community had few incentives to reexamine the Higher Education Act of 1958 which had reflected the expansive academic philosophy of Judah Magnes. Discourse had been sporadic, pertaining to *ad hoc* issues and limited to a number of experts, but a brief debate was triggered in the winter of 2009-10, when Colonel Pnina Sharvit-Baruch, a former head of international law division at the IDF, was to teach a class in the Law School at Tel

Aviv University. Chaim Gans led a petition drive against Sharvit-Baruch. In a letter to the Dean, he contended that Sharvit-Baruch had legitimized strikes on civilians during the Cast Lead offensive in Gaza that could be construed as war crimes. Anat Matar then expressed “shock” that law students would be taught by “someone who helped to justify killing of civilians, including hundreds of children.” After public outrage had subsided, the Dean assured Prime Minister Olmert that Sharvit-Baruch’s class would proceed as planned. [241]

Amnon Rubinstein drew attention to instances where radical faculty had used university sponsorship to organize political conferences. As a co-founder of the Tel Aviv law faculty, he felt “shame and outrage” because such events lacked “scientific” merit. For example, he recalled the Law School’s 2007 seminar “Security Prisoners or Political Prisoners,” at which granting security prisoners a definable political status had been advocated. Public protests had prompted last-minute adjustments, but he felt the panel—ranging from “left” to “radical left”—had been imbalanced; it had even featured a convicted Palestinian terrorist. He suggested a political hall or a beer hall would have been a more appropriate venue than the faculty’s Hall of Justice.[242]

Arnon Soffer, a professor at Haifa University, compiled a list of events organized by radical scholars on campuses which he felt had been intended to denigrate Israel; he then revealed that academic leaders had refused to look into the misuse of university space. [243]

Academic freedom and political activism converged again in May 2011, when public attention was directed at faculty who had refused to uphold the duty to serve in the reserves. Idan Landau, a linguistics professor at Ben Gurion University and a veteran activist who had been repeatedly jailed, spent a week in military jail for being AWOL. Because he was a state employee, he could not be compensated for time spent in detention or jail. The University had previously ignored this regulation, so Landau—who had arranged for a makeup class—was unpleasantly surprised when half of his salary was docked for not doing research during the week of his incarceration. In a letter of complaint to Carmi, Landau stated his research did not require on-campus presence and, in fact, he had made excellent progress while in jail. A hastily-organized petition by Israeli and foreign academics accused the university of a political witch-hunt against Landau. Blogging under the name of Jerry Haber, the head of the largest Jewish studies programs in Israel expressed “outrage” at the “prosecution” of Landau by Ben Gurion University, denouncing Carmi as a “patriotic ideologue.” [244]

For Landau and his supporters, the monetary issue was secondary to the larger question of whether a university should support a staff member who chose to engage in civil disobedience as a private citizen. This was a policy that Carmi, already under fire for “coddling radicals,” was evidently unwilling to pursue. Rubinstein noted Carmi’s remarkably candid response—“It is known to us that this will exacerbate the pressure on the university”—and made a broader point about abuses of academic freedom by radical faculty. He claimed the state should prosecute faculty who urged draft resistance in a way that could be construed as a call-to-action. Having pioneered placing academic freedom into a comparative perspective, he was already on-record demanding that all universities adopt an ethics code to prevent expansive abuse thereof. To support his contention, Rubinstein referred the *Stastny vs. Board of Trustees of Central Washington University* ruling, which explained why—even at the height of Vietnam War—there had been no calls by academics to boycott the United States.[245]

Haim Harari, former president of the Weizmann Institute and former head of the PBC, warned that freedom of speech and academic freedom must not be conflated; scholars should enjoy the same right to free expression as do other citizens, but academic freedom should be limited to a specific domain of teaching and research. Thus, there was no academic freedom to advocate a boycott, a pursuit that was unrelated to scholarly activity. Overall, he felt a democratic society must limit freedom of speech to protect itself from physical and cultural destruction.[246] Meanwhile, Moshe Kave, president of Bar-Ilan University went further; he argued that boycott supporters should have the moral courage to quit or face dismals.[247]

But to those on the left, the BDS law and ethics codes comprised thinly-veiled efforts to muzzle academic expression. Gans bitterly charged that Rubinstein “joined the Israel Beiteinu chorus,” a reference to the right-wing party that had demanded limits on freedom of speech. Decrying Rubinstein’s proposal to create an ethics code, he warned that empowering university tribunals to sanction and even to dismiss a professor “for making certain kinds of comments that do not constitute criminal offenses” was unacceptable. He predicted the new measures would have a chilling effect on free-thinking and democratic-discourse. Without mentioning Gans by name, Rubinstein criticized the virtually unlimited freedom espoused by what he called “the Tel Aviv School in a round table organized by *Bashaar*” [248]

Under the headline “bashing the Israeli left,” Newman repeated his warning that the “assault on the rights of faculty” would alienate Israel from the international community of scholars. Menachem Klein, a pro-Palestinian activist from Bar-Ilan University who opposed BDS, reminded lawmakers, “University researchers’ primary responsibility and loyalty are to universal humanistic values that direct their scientific research, not to their employers.” Without naming Magnes, Klein conveyed the Magnes-Buber vision of the university as standing above national interests, an argument Gans had also reiterated in his defense of expansive freedoms. Radicals painted the BDS-controversy as another McCarthyist ploy of the radical-right. In one of the series of meetings on academic freedom in 2012, Neve Gordon charged that *Im Tirzu* and others had orchestrated a coordinated assault on the universities and faculty. [249]

For all the heated exchanges, the BDS discourse did little to clarify limits of intramural or extramural rights. The controversial Department of Politics and Government offered a more compelling insight into the issue. In July 1997, it was approved by the CHE as a dual-minors program; in 2001, the Department sought accreditation for its BA program. The CHE appointed Zeev Maoz and Avner de Shalit, professors at Tel Aviv University and Hebrew University respectively, to evaluate the Department. In January 2, 2002 Maoz submitted a scathing report, writing that there was a “shocking” lack of core political science classes and that faculty members specialized in topics that were marginal to the discipline. As a result, a large number of them taught courses that had little to do with their academic training and research. Among the faculty listed was David Newman, a political geographer who taught a class on electoral system, Rina Poznansky, a historian by training, who offered a class on political parties and Dani Filc (at the time a Ph.D. candidate in philosophy at Tel Aviv University and a former MD) who instructed a course in Israeli government. Maoz was especially concerned with the absence of courses in methodology and quantitative methods; he noted that the sole instructor (a doctoral candidate) had no background in the field. Since virtually all senior

members did not research in core political science subjects, Maoz asserted that it would be hard for the Department to provide qualified instructors for core course. In his conclusion, he urged the CHE to reject the request for accreditation.

But de Shalit felt that the Department should not be denied accreditation. Given the split decision, Ben Gurion University was notified that changes were needed in order to receive formal recognition. The then rector, Professor Noah Finger, wrote to the CHE acknowledging that the absence of the core courses was an impediment and promised to correct the problem. In November 2003, the CHE appointed de Shalit, Gad Barzilai from the Department of Political Science at Tel Aviv University and Ella Belfer, a historian from Bar Ilan University, to consider anew the accreditation request. Though Finger's promise to institute a core political science curriculum was not followed up, the new committee was highly positive. In a March 2004 report, the committee praised the Department for offering a "unique program" – a reference to a course in applied political training (*hitmachut politit*). A co-operative program, the *hitmachut* students were expected to work for NGOs and participate in workshops and field trips organized by faculty; the report recommended to make the course mandatory. The committee had also formed a favorable opinion of the faculty, praising the "special relations" with students and the collegial atmosphere in the Department. Ignoring Maoz's concerns, the report recommended adding a slot in political philosophy and Israeli government. Acting upon its recommendation, the CHE agreed on a temporary accreditation; by 2009, fully-accredited, the Department was allowed to offer an MA program.

By giving its blessing to a "unique program" as part of a "pluralistic approach to political science," the de Shalit committee accepted the Department's right to offer a political science program closely modeled on Antioch College in Ohio, a small liberal arts school known for embracing radical causes. Rather than standard political science education, the College proffered courses geared toward political activism, which students then used in a co-operative program for what was termed "progressive political activism." Had de Shalit and his colleagues bothered to review the co-operative program in the Department, they would have learned that the field work – reflecting the activist makeup of the faculty - was heavily skewed toward left wing activism. Further empowered by the recommendation, the Department expanded the range of its workshop to include rights of the Negev Bedouins, "exploited workers," illegal immigrants and Palestinians. An English - language graduate program for international students featured trips to Hebron where students met with representatives of Breaking the Silence, a NGO monitoring the IDF, Land Day activities in the West Bank and the Separation Barrier, among others. According to complaints from some participants, there was no effort to balance the "Palestinian narrative," making the program an ideal tool for educating anti-Israel activists. But Dahlia Scheindlin, an adjunct faculty and a high profile pro-Palestinian activist, stated that following the Antioch model should be considered a source of pride for the Department.

That the CHE allowed a public university to run a program suitable for a small private college was, as noted, clearly at odds with academic practices of Germany, Great Britain and public universities in the United States. Though the activist faculty attracted public attention, there was no scrutiny of the Department's offerings until 2008, when the CHE ordered a routine evaluation of all political science departments.

Thomas Risse, a professor at the Free University of Berlin, was asked to chair the five-member International Committee for Evaluation of Political Science and International Relations Programs. In 2011 the Risse Committee (RC) issued a report that echoed the misgivings of Maoz; it identified serious problems with the weak political science core and a virtual absence of quantitative method training. The RC noted the imbalance of views in classroom curricula which were heavily weighted toward a critical perspective. This was hardly surprisingly since the Department practiced hiring and promoting instructors based on paradigmatic similarity or previous political connection. The RC found that, as result, there was a paucity of mainstream political science approaches, a “rather eclectic set of courses that...lack a coherent focus,” and a tenure-track faculty that had no background in political science. [251]

The RC found the excessive “community activism” of the faculty to be detrimental to the idea of a classroom as a marketplace of ideas. It recommended that “political science instructors should see to it that their own opinions are expressed as personal views, so that students can take critical perspectives and so that there is broad exposure to alternative perspectives, in order to widen and deepen their own understanding.” In yet another concern, the RC urged to improve the research and publication of faculty, noting that most had not published in mainstream presses and journals. It recommended “spelling out more clearly individual performance for tenure and promotion criteria, in line with MALAG [CHE] criteria.” In its concluding section, the RC report counseled the Department of the need to practice “common standards of scholarly achievement and excellence are emphasized in the process of hiring and promotion.” In an unprecedented move, it advised that “if these changes are not implemented, the majority of the Committee believes that, as a last resort, Ben Gurion University should consider closing the Department of Political Science and Government.” [251a]

In a dissenting opinion, Galia Golan- one of the Israeli scholars on the committee - challenged these findings. She questioned whether there was any correlation between the lack of core courses and the political activism of the faculty. More importantly, Golan rejected the need for balanced views, writing: “I am not certain who and how a ‘balance’ may be determined, but I believe that such a demand runs directly counter to the principle of academic freedom, a basic principle of university education.” Golan brokered absolutely no interference with faculty classroom conduct, hardly a surprising position given she pioneered the type of political activism that the BGU faculty had engaged in. [251b]

Yaacov Bergman was one of the few to welcome the CHE’s decision to undertake a new evaluation of the Department. It may be recalled that his concerns with mediocre research and indifference to taxpayer money had led him to advocate reforms. He was joined by Maoz, who revealed his 2002 opinion in a front page article in *Haaretz*. And to preempt charges of political motivation, Maoz boasted of his impeccable leftist credentials. [252]

But such declarations could not quell a chorus of protest by members of the Department and their supporters; they accused the CHE of an egregious violation of faculty freedom to choose their research topics, and they accused the government of conducting a McCarthy-style witch-hunt. Dani Filc, who replaced Neve Gordon as

departmental head, charged that the report was part of a campaign to hurt the most “popular department in Israel”; another senior member added that some members of the committee had “extreme right views.” Far from being an outlier, his view was popular among the liberal supporters of the Ben Gurion radicals. Alon Harel, a professor of law at the Hebrew University, who organized a petition on behalf of Neve Gordon after his *Los-Angeles Times* BDS article, was emblematic in this sense. Writing in *Haaretz* “The Anti-Academic Elitophobe Journey: Who Wants to Destroy the Elites and Why,” Harel charged right-wing “elitophobes,” with leading a crusade to destroy the academy. [253]

Others questioned the legality of the RC and offered substantive criticism of its work. Oded Goldreich, a computer scientist at Weizmann Institute, quoted at length the work of Chaim Gans to argue the CHE had violated Article 15 of the 1958 Higher Education Act; he suggested the CHE lacked empowerment to impose which of the two paradigms—the positivist or the critical—should be offered, perhaps choosing to ignore the fact that the CHE unambiguously had stated its desire that both be taught “so that students can take critical perspectives and so that there is broad exposure to alternative perspectives, in order to widen and deepen their own understanding”. In a subsequent post, Goldreich decried the “misplaced faith” in objective criteria—his reference to the SSCI—for evaluating academic research, adding that they only provide an “illusion of objectivity.” Worse still, he claimed that they hide serious divisions of opinion which should be aired rather than covered-up. Strongly condemning the CHE, the Coordinating Committee of the University Faculty in Israel averred that principles of academic freedom were at risk. [254]

Responding to the RC, Ben Gurion University defended the Department, while promising to institute the recommended changes. It made available three new slots for the academic year 2012, but the decision on the three new hires was left to the Department. Only one of the three comported with the criteria suggested by the RC. The second one, Ayelet Harel- Shalev was a doctoral student of Gad Barzilai with no particular qualifications to fill the RC mandate. The third was Michal Givoni, a long-term adjunct who specialized in a branch of critical theory known as radical humanitarian witnessing and testimony. A former graduate student of Adi Ophir, Givoni considered witnessing and testimony to be “a subversive idiom of oppressed and subaltern groups and as the primary medium of moral sensibility towards victims of atrocities.” To show their moral sensibility, she urged witnesses to “abolish the temporal and ontological gap that is usually presumed to separate testimony from the event,” and their input is to be duly recognized “as the primary form of struggle against the always-imminent realization of murderous political projects.” Givoni praised the *Breaking the Silence* testimony to the Goldstone Committee as transcending strict empirical reality; as part of critical international law, known as “post sovereign” theory, she advocated open borders and universal rights of refugees. The Department’s choice of affiliated scholars in 2012 replicated past preferences. Hagar Kotef, another graduate student of Ophir whose doctoral dissertation involved a critical analysis of liberal feminism entitled “Tracing the Political Body,” moved on to study the “the checkpoints regime” in the West Bank. James Ron, a veteran political activist, had a strong history of criticizing Israel. [255]

The changes did not satisfy the CHE’s Subcommittee for Quality which announced its recommendations on September 5, 2012. It noted the “reservations expressed by members of the International Evaluation Committee with regard to the

implementation of recommendations made by the committee regarding the broadening of methodologies and theoretical approaches being taught in the Department of Politics and Government.” It added that the “Council expresses its dissatisfaction with the fact that the department of Politics and Government did not exploit this opportunity to recruit new faculty members in order to expand upon the methodological approaches employed by faculty in the department in a way that would reflect the pluralism of the discipline, as recommended by the International Evaluation Committee. Specifically, this relates to the absence of the positivist approach in Political Science among faculty of the department. The recruitment of faculty, the majority of whom represent a sub-field within the Interpretive Approach to political research (critical theory), which is already over-represented in the department, does not follow the recommendations made by the International Evaluation Committee.” Pending a monitoring subcommittee’s review, “in the current situation, the department will not be allowed to enroll students for the 2013-2014 academic year.” [256]

The decision was leaked to the media, creating an academic firestorm. Professor Carmi and top officials at Ben Gurion University accused the CHE of political bias and urged the international academic community to send letters of protest. In a private e-mail that surfaced in *Israel Hayom*, Dean Newman wrote that, given Israel’s sensitivity to its international image, the petition drive should prove to be a highly-effective way to pressure the CHE. [257]

In an unprecedented response, dozens of professional associations in political science, sociology and geography in the United States, and Great Britain—as well as international associations representing thousands of scholars worldwide—sent letters of protest to the CHE and the Ministry of Education. They were joined by the Europeans Consortium for Political Research, the London School of Economics, and many leading scholars. With modest variations, the petitions repeated the University’s charge that closing the Department was politically-motivated and warned that such action would hurt Israel’s academic standing in the world. [258]

Local faculty took a particularly active role in protesting the CHE decision. Within a short time, letters condemning the move were dispatched by virtually all relevant professional associations in Israel. The Israeli social science network was flooded with posts expressing indignation and quite a few calls to limit the CHE’s functions or even to abolish it.

Only a minority of the forum participants felt otherwise. Professor Eran Vigoda Gadot, the head of the School of Political Science at Haifa University, backed-up the CHE’s right to monitor accredited programs. Zeev Maoz restated his opinion that the Department should have been closed and, in follow op-eds in *Haaretz*, Maoz blamed Rivka Carmi for tolerating an academic program that was so deeply compromised. He charged her with allowing the Department to contravene the RC by hiring scholars who were “more of the same.” Maoz urged to create an academic “receivership” that is to appoint an outside chair to correct the problems. [259]

Bergman went one step further in exposing the tangled events behind the accreditation battle. Using the Freedom of Information Act, he provided compelling documentation indicating that, as he put it, de Shalit’s committee – in conjunction with the CHE - gave the Department “a pass.” Bergman noted that by appointing de Shalit to chair the 2003 committee, a positive evaluation was all but a forgone conclusion. He also disclosed that, in an apparent effort to cover up the ethics

breach, de Shalit had refused to acknowledge his role as the second evaluator in the 2001 committee. Moreover, de Shalit denied receiving the Maoz report, a fact refuted by the documentation obtained under the Freedom of Information Act. Equally ethically egregious, in Bergman's opinion, was the decision of Ben Gurion University to appoint Gad Barzilai, now Dean of Law at Haifa University, to supervise the implementation of the RC recommendation. Not only was Barzilai associated with the 2003 "fix," but, according to rector Zvi Hacoheh, he recommended Harel- Shalev. Barzilai's subsequent conclusion that the Department fulfilled the RC requirements was even more puzzling given the hire of Givoni and the associated position offered to Kotef and Ron.

For its part, the University rejected accuracy of the charges issued by the Subcommittee on Evaluation. It insisted the three new hires were in line with the recommendation of the RC and the new core offerings made the Department comparable to other well-known political science programs, such as those at Hebrew University, Cornell, Harvard, and Columbia. And the University emphatically denied that the RC had urged adding more mainstream positivist faculty in order to increase pluralism in the Department. Moreover, ignoring the concern that the paradigmatic orientation had not been appreciably altered, the University stated that Professor Risse and other members of his committee congratulated the Department on carrying out the necessary changes.

Transcending substance, the University questioned the legality of the CHE evaluation on the grounds that it violated Article 15 of the 1958 Higher Education Act. Written with an eye to a potential court challenge, the University referred to the Article's language that allowed for a recognized university to act "as it sees fit" (within the budgetary framework). Quoting both from the Bible and the 1987 essay of Chaim Gans, the University asserted that this formulation was unique in the annals of law and that it conveyed total and absolute freedom. The University found that the CHE had the right to accredit a program, but no right to withdraw accreditation. Finally, the University pointed out that the Quality Evaluation was not anchored in law, but was a voluntary measure based on mutual trust between the university and the CHE. [260]

Pressure was increased during the run-up to the CHE meeting of October 31, 2012, which was scheduled to discuss the Subcommittee's recommendation. A roundtable of scholars organized by the Israel Democracy Institute entitled "The Council of Higher Education: Legitimate Regulations or Infringement on Academic Freedom?" on October 22, 2012 was illustrative. Many panel members were outspoken past critics of the CHE, some represented Ben Gurion University and others were politically sympathetic to the ideological line of the Department. Predictably, there was a virtual consensus that the CHE's decision to launch an evaluation of the Department had been politically-motivated. Iris Agmon of BGU condemned the CHE for its part of the "industrialization-privatization drive." Only two participants offered a different view. Vigoda Gadot defended the right of the CHE to review the quality of higher education, noting that Ben Gurion was a public institution supported by taxpayers. Yaacov Bergman spoke from the floor to call attention to CHE's refusal to disclose the ranking of universities and departments; constituting a sharp contrast with Great Britain, where grading was used to disburse public funding. In other words, the British system would have decreased the budget for Department of Politics and Government. [261]

Seemingly taken aback by the campaign, the CHE tried to set the record straight. Its director, Moshe Vigdor, complained about “the unprecedented attack against the CHE” where “red lines are crossed.” He deplored the University’s decision to hire lawyers and public relations experts, noting that it caused the CHE great harm. Worse was the appeal to the international community: “it is unheard of that a letter by the head of an Israeli academic institution is forwarded to elements abroad—including professors, professional unions and institutions—against the CHE and the state, even before the CHE discussed the issue and before it resolved the issue.” Vigdor, who called the attack “imported,” pointed out that “universities in the United States sometimes go through reaccreditation and no one will claim interference due to hidden motives.” He assured the academic community and the public that the CHE was a scrupulously professional and objective body, pleading for the end of “foreign interference.”[262]

Vigdor’s assurances made little impact on those who considered the CHE’s step to be politically-motivated. In what was a typical retort, Alon Harel, found that measures taken against the Department had been politically-motivated. He explained that, for most of its existence, the CHE had served as a barrier between the higher education system and the government. Things had begun to change when a politically-involved faculty displeased extreme radical groups such as *Im Tirzu*; their “violent reaction” had prompted the Minister of Education Gideon Saar to act. Instead of appointing scholars with distinguished records, Saar had picked academics with right-wing views for the 2012 CHE; as a result, “the members of the new CHE understood their duty well and delivered the goods.” [263]

Following this build-up, the October 31 meeting was somewhat anticlimactic. Contrary to previous claims by Ben Gurion University and its supporters, Professor Risse was physically present and backed-up the Subcommittee on Evaluation. Risse and others told the University’s representatives that only one of the three new hires comported with the original recommendation, leading them to conclude that the Department “still lacks the necessary faculty in core topics” as suggested by the International Committee on Evaluation. To fill these gaps, the Department was urged to hire in 2012-2013 two or three instructors in methodologies that lacked adequate representation. The University was given three weeks to furnish a detailed plan for addressing the request; in an apparent rebuke to its hiring practices, the Department was asked to follow the procedures “in Germany and the world.” After considering the new plan submitted by the Department, the CHE decided not to withdraw its accreditation. [264]

Conclusion

Israeli universities—compared to those in Germany, Great Britain and public universities in the United States—enjoy a high level of institutional autonomy and their faculties benefit from an exceptionally broad definition of individual freedom. This condition stems in large part from the unique genesis and evolution of the Hebrew University in Jerusalem, an institution that is older than the state. Unencumbered by state regulations and controlling its own financial destiny, the Hebrew University wanted to create a “cultural center” for the Jewish Diaspora, perhaps becoming the flagship of a worldwide university system. Judah Magnes and his professors successfully resisted pressure from the Zionist leaders to cater to the

educational needs of the Jewish community in Palestine by adding applied sciences; they let it be known that applied disciplines would “contaminate” the intellectual pedigree of the institution and detract from its status as a “secular priesthood.”

In developing this vision, the Hebrew University totally disregarded the then-popular pedagogical principles of von Humboldt. Liberal arts professors were equally dismissive of other principles of the Humboldtian model: the need to create a marketplace of ideas in the classroom and willingness to extend academic freedom to students as well. The high-profile political activism of Magnes and *Brit Shalom* professors was a far cry from von Humboldt’s admonition to abstain from politics. Even by the standards of the more flexible 1915 and 1940 AAUS statements, the Hebrew University was an outlier. The intense personal dislike between Magnes and Ben Gurion was only partially to blame. More importantly, there was a sense that the liberal arts professoriate had a special mission to stand guard over the political process, an objective and selfless community speaking truth to power. In other words, according to the Hebrew University, academic freedom evolved from the right to teach and to do research without outside intervention, to an act of defending society from the political establishment.

The creation of a sovereign state in 1948 did little to undermine the legacy of this unrestrained notion of academic freedom. Despite the fact that taxpayers assumed responsibility for the financing of the universities, there was no corresponding sense that the public and its elected representatives should be considered stakeholders in the system. To the contrary, Hebrew University faculty mobilized a group of opposition Knesset members to fight proposals that would have given the state more robust oversight on higher education. In comparative terms, Article 15 of the Higher Education Act of 1958 institutionalized a highly expansive form of academic freedom, both at the institutional and individual levels.

The pitched battle of the Hebrew University against its perceived rival Tel Aviv University exposed dysfunctional factors, but politicians had little appetite for a new round of discourse on higher education. Such reticence was undoubtedly fed by public perceptions that came to contrast “unscrupulous and conniving politicians” with the carefully cultivated myth of the self-disinterested professor. Almost two decades later, at the end of the 1980s, Chaim Gans could announce his continuous satisfaction with the success of the Israeli professoriate in safeguarding the vision that Magnes forged in the 1930s.

This position was especially remarkable given the transition toward the management (corporate) university model in Germany, Great Britain, and the United States that took place in the 1980s. None of the dynamics underlying this development—Mrs. Thatcher’s education reform, the competitive drive of the Bologna Initiative, and the market imperatives that forced public universities in the United States to enhance efficiency to compensate for the shrinking public dollar—were present in Israel. The belated Maltz Report, a mild version of the British model, made little headway because of furious opposition from faculty that the government could not overcome.

At the intellectual level, with the exception of the fledgling Shalem Center (now Shalem College), Israel has never developed a bracing critique of the radical paradigm along the line of Alan Bloom or Leo Strauss. Nor was there much effort to offer a Hebrew translation of classical conservative work, a stark contrast to the prodigious project of translating hundreds of volumes of critical scholarship. Equally important, the phenomenal growth of rational choice theory virtually bypassed Israeli

social sciences, making it difficult to disseminate studies such as Trow's which found that faculty dressed up its narrow professional interests in the rhetoric of selfless service to knowledge. NSA and ACTA drew heavy on such research to successfully oppose what they considered to be self-serving, ideologically-driven activist faculty.

In yet another feature virtually absent in Israel, case law in Germany, Great Britain, and the United States engrained numerous challenges to a broadly-conceived academic autonomy. The fuzzy boundaries of academic freedom were demarcated, in particular, by the British labor tribunals and the American courts. The Israeli courts, in contrast, were historically averse to involvement in academic affairs, a tradition that has been slow to change. Legislation aimed to promote students' rights did not have much impact either, because faculty resisted all infringement on their right to fashion course syllabi. If the Grand Debate is any indication, a student's right to have a balanced education is an anathema to the Israeli professoriate.

Over the years, a few experts have criticized the broad institutional autonomy and the expansive individual rights. Amnon Rubinstein and Yaacov Bergman, in particular, have noted that Israeli academics fare better than their Western counterparts; the latter also argued that that expansive freedom undermined the competitive edge of the country's universities. Much as these arguments merit a wider public hearing. However, Israeli media are not equipped for that role. The Knesset Education Committee has been slow to perform its oversight function to determine whether taxpayers are getting a reasonable return on their investment.

Because the management university is still a work in progress and because tenure-protected job security is solidly the rule, Israel has seemingly reaffirmed the Magnes vision. From a comparative perspective, the results are paradoxical. Israeli scholars have been routinely promoted based on publication in radical presses such as Pluto and journals of dubious academic credibility. Unencumbered by EUMC's Working Definition of anti-Semitism, Israeli academics have been free to engage in "nazification" and "apartheidization" of Israel. Their work has been quoted by pro-Palestinian or pro-Iranian circles seeking academic legitimacy for their positions. Yet, none of the legal remedies developed in Great Britain and the United States are applicable to Israel, where Jews are a majority. Israel has no equivalent of the German Constitutional Court whose ruling addressed academic research deemed to be historical falsification. The Tantura verdict which in some respects resembled the German history falsification case did not stop Ilan Pappé from propagating the massacre story in his subsequent writings.

For Israeli devotees of Antonio Gramsci, combining scholarship with political activism has been facilitated by the virtual absence of post-tenure review; many politically-active faculty switched to research the Palestinian-Israeli conflict or simply ceased publishing to devote time to political work. Either way, the practice has shortchanged the taxpayers who underwrite the country's instructional and research needs. Important facets of social science research have been neglected; students are being taught by faculty that does not specialize in the field in which they were hired. Taxpayers are forced to support political activism disguised as academic endeavors.

Furthermore, political activism involved in the BDS campaign would have not been possible in Germany, Great Britain, or the United State due to a combination of statutes, case law, ethics codes, and contractual agreements. Lacking an array of such measures, the government was forced to use the blunter tool of legislation which still needs to pass the muster of the Supreme Court. At the very least, the BDS law

furnished radical scholars and their supporters in Israel and beyond with an opportunity to decry the encroachment on the democratic process. .

The debate on the CHE to censure a political science department—was most compelling with regard to the comparative perspective. Little in the discourse indicated concern for the type of issues that limited faculty freedom in Germany, Great Britain, and the United States: accountability to the public and its elected representatives, student rights to a balanced curriculum, and an OECD-type mandate to improve human capital and competitiveness. To the contrary, a close reading of the CHE critique showed that the Magnes model endures, having reinvented ways to fend-off challenges in the twenty first century.

By requesting outside intervention, the president of Ben Gurion University Rivka Carmi overtly bypassed the CHE as the representative of the sovereign state; critics such as Moshe Vigdor decried this maneuver but were powerless to neutralize it. That the professional organizations, known for their glacial pace of deliberation, would mobilize so speedily was less than surprising, for Western campuses have functioned as incubators of the campaign to delegitimize Israel. By exposing Israeli academic rights to the type of scrutiny from which other countries are exempt, they simply followed a well-established script. The outcome of the case has been considered a major triumph for radical scholars as it places them under a “protective umbrella” of the international academy. This unique arrangement virtually assures that aligning the academic autonomy system with that of the comparative cases will continue to constitute an uphill struggle.

Recommendations

Before a list of recommendations can be drawn up and acted upon, a broad campaign to educate the academic community, the political establishment, the media, and the public is needed. The lack of understanding of how other countries balance academic freedom with responsibility to state and society has enabled radical scholars not only to abuse academic privileges, but also claim that Israel is sliding toward McCarthyism. Even more crucial, a comparative perspective is needed to bring the Israeli higher education in line with that of high achieving countries. The current report is a first step in this direction.

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