

# **Freedom of Speech, College Campuses, and Pro-Palestinian Protestors**

**By**

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Although most of what's written in the Torah about the origins of the Jewish people is mythology, not history, those who over the centuries have identified as such have never had it easy, and have often been treated as pariah in their own land and while living in the land of others, including having endured the most horrific act of genocide in human history, resulting in the systematic extermination of six-million Jews. Today, there is still much prejudice against and ill-will in the world toward the Jewish people, including here in the US. Last week an assailant in Boulder, Colorado used a homemade flamethrower and Molotov cocktails to attack a group of Jews demonstrating on behalf of Israeli hostages. Although the man charged in this horrendous crime is a foreign national, both the men responsible for the murder of two Israeli Embassy workers outside the Capital Jewish Museum a couple of weeks ago, and for the arson attack against Pennsylvania's Jewish Governor Josh Shapiro and his family on the first night of Passover last month, are US citizens.

Unlike the Holocaust, however, it should be understood that all three of the men responsible for these inexcusable crimes claim to have done so in retaliation for the State of Israel's injustices against Palestinians. To simply label their acts as "antisemitism," akin to the racist scapegoating that occurred in Nazi Germany and elsewhere over the centuries, is to ignore and divert our attention away from the more than 50,000 Palestinians, according to the Gaza Health Ministry, mostly women and children, who have been indiscriminately killed at the hands of the Israeli military, along with over 100,000 more who have been wounded. To be clear, Israel's actions are in response to Hamas's October 7, 2023 attacks that resulted in the cold-blooded murder and torture of more than 1,250 innocent Jewish people, and the capture of more than 250 Jewish hostages. But Israel's response has literally been overkill. Both the International Criminal Court and the United Nations have charged Israel with war crimes and crimes against humanity for this reason. They have reportedly bombed hospitals, killed aid workers and journalists, and routinely blocked food and medical supplies from reaching sick, injured, desperate, and starving Palestinian civilians.

Before going further, I want to point out some of the informal fallacies being used to justify these obviously inhumane and illegal actions and conditions. When asked about these charges of war crimes, some US politicians, along with Israel's own leadership, respond that "Israel has a right to defend itself." Of course it does! And we could only expect that its response to the brutal and inhumane October 7 attacks would result in additional bloodshed and death, including many innocent civilians. But this reply is a strawman argument that subtly diverts the discussion to a different question than is being asked. The question is not, "Does Israel have a right to defend itself?" The question is, "Does Israel have the right to commit war crimes and crimes against humanity by indiscriminately bombing

civilians and then denying them humanitarian aid?” The appropriate response to the first question is yes, but the answer to the real question is absolutely not! No wonder those seeking to justify these heinous, inhuman, criminal acts prefer to shift our attention to a question that nobody is asking.

Accusing those who remain focused on the real question of antisemitism, furthermore, is an *ad hominem* fallacy because it diverts attention away from the real question by demonizing whoever is asking it or pointing out the inhumane actions of Israel. After the ICC issued a warrant for Israeli Prime Minister Benjamin Netanyahu’s arrest last year, he said the decision “cast shame on the court,” that the court is a “rogue prosecutor,” and that it was an “anti-Semitic decision,”<sup>1</sup> none of which addressed his own violent disregard for the lives of Palestinian civilians.

A few years ago, after I committed to addressing the injustices that Israel has been perpetrating upon the Palestinian people since 1948, leaders of our local Jewish community warned me not to do so and told me that if I continued there would be “a problem.” I did, and there was. I am now labeled “antisemitic” by many and have zero relationship with my former Jewish friends and community cohorts. We have seen the same thing happening to college students around the US who have exercised their free speech by engaging in pro-Palestinian demonstrations. They have been accused of being antisemitic and now some colleges, including Harvard, are themselves accused of antisemitism for allowing these demonstrations to have taken place on their campuses. The real point of these absurd accusations, however, is not to stop antisemitism but to stop the real question from being asked, “Does Israel have the right to commit war crimes and crimes against humanity by indiscriminately bombing civilians and then denying them humanitarian aid?” Or, more pointedly, “Does Israel have the right to engage in ethnic cleansing?” Or any of the other injustices against Palestinians it has engaged for decades?

Another error in thinking at play here is the fallacy of composition, which attributes the qualities of some members of a class to the entire class. This faulty way of thinking is the root of all prejudice and racism. Trump committed it when first running for office by suggesting no immigrants should be allowed to enter the US from Mexico because some of them are drug dealers, rapists, and criminals. Similarly, those responsible for the October 7 attack in Israel were Palestinians—acting on behalf of Hamas, the militant Islamic Resistance Movement. But this does not mean that all Palestinians are members of Hamas, and it certainly doesn’t mean that all Palestinians are responsible for the attack. Yet, Israel seems to be holding all Palestinians responsible by not discriminating between innocent civilians and the militants it wants to eradicate.

Likewise, to hold an entire university responsible for what some of its students say, or to hold all protestors responsible for the words of a few, is faulty reasoning, to say nothing of the fact that we’re talking about protected speech to begin with. Even worse, of course, is to

hold an entire class of people responsible for the actions of some individuals or subgroups within their class. All these fallacies are meant to avoid certain questions or to discourage certain comments from ever being expressed. *Ad hominem*, in particular, is a scare-tactic meant to make a public example of anyone who voices unwanted words. If they do, as I was warned, there will be “a problem.”

I should add that defending the Palestinian people as a whole does not justify the horrific violence some Palestinians have engaged in against Israel and Jews living elsewhere. Nor does it justify the brutal actions of those individuals involved in the heinous and indiscriminate crimes against Jews in the US during these past weeks. To be pro-Palestinian does not mean one must be against Israel. This is a false dichotomy. If one is fundamentally for humanity and for life, then one is for the humane treatment and welfare of all people and the peaceful resolution of conflict.

This, by and large, was the purpose of the more than 120 protests that occurred on college campuses during 2024, in response to the relentless atrocities committed against the scores of innocent Palestinians standing between Israel and Hamas. Such demonstrations always include some individuals who speak more passionately and angrily than others and may say things not all participants agree with. But this is the nature of free expression, the right to say things others disagree with. The overall goal of the student protestors, however, was for their universities to divest from companies supporting Israel, along with a few other demands specific to certain campuses.

The legal questions emerged when student protestors began setting up encampments on campuses, over 117 of them, along with some occupying buildings and preventing other students and faculty reasonable access to classrooms and other facilities. University administrators took various approaches to resolve these situations, resulting in approximately 18 percent of schools partially agreeing to their demands, and to just over half of them forcibly removing the encampments.<sup>2</sup> These forced removals also resulted in the arrests, suspensions, expulsions, and withholding of degrees of some student protestors.

In many cases, Jewish students merely claiming they felt unsafe have been the basis for charges of antisemitism against the protestors. To me, this is akin to the boy who cried wolf phenomenon. Claiming to feel unsafe in response to hearing things one may disagree with has become rampant on today's campuses, as has requiring professors to give “trigger warnings” before saying anything that might disturb the sensitivities of a particular student, which makes it difficult to take such claims seriously. The few incidents of violence that have been documented appear to be the result of aggressive confrontations on both sides. An incident at UCLA in April of 2024, for example, occurred when a Pro-Israel group allegedly attacked protestors, which has resulted in a lawsuit against the University for not adequately protecting the *pro*-Palestinian demonstrators.

That same month, *New York Times* published an article with the headline, “Some Jewish Students Are Targeted as Protests Continue at Columbia.”<sup>3</sup> This sounds serious, but the byline beneath it is much softer, “After reports of harassment by demonstrators, some Jewish students said they felt unsafe. Others said they felt safe, while condemning antisemitism.” The offenses the article goes on to cite as examples of targeting Jewish students only describe speech, not actions. “Some pro-Palestinian demonstrations on and around campus veered into harassment,” it says. And “protesters targeted some Jewish students with antisemitic vitriol,” and “verbal attacks left a number of the 5,000 Jewish students at Columbia fearful for their safety.” It doesn’t tell us how many of the 5,000 students felt this way.

Questioning the, so-called, “lived experience” of those who say they felt threatened but may not have actually been threatened, is precisely what can get a person “cancelled” these days, which I recognize I am in danger of, again, for doing right now. But these terms, “felt unsafe,” “fearful,” “harassment,” “antisemitic vitriol,” all given without citing anything that was said to anyone, let alone done to anyone, makes such claims spurious. In fact, the article itself goes on to admit that “Some Jewish students who are supporting the pro-Palestinian demonstrations on campus said they felt solidarity, not a sense of danger, even as they denounced the acts of antisemitism.” (Again, the article doesn’t mention what “acts” it is referring to.) At the very least, this discrepancy indicates the *Times* article is reporting on subjective experiences, not on objective truths. As one who, again, has been accused of making antisemitic comments simply for standing up for the dignity and humanity of Palestinians, as have many, and for “harming” others by saying things they disagree with, I am skeptical of any such claims.

Yet today, the Trump Administration is seeking to punish Harvard and Columbia Universities, among others, for not having quickly stopped their students from speaking out on this issue—passionate, angry, and even inappropriate as some of their protected speech may have been. Less than two weeks ago, for example, Trump began threatening to withdraw billions in funding from Harvard calling the prestigious University, “very antisemitic.”<sup>4</sup> According to a BBC report just three days ago, “The Trump administration is [also] looking to strip Columbia University of its accreditation over claims it violated the civil rights of its Jewish students,” and that his, “Education Secretary Linda McMahon said in a letter that the New York City college ‘acted with deliberate indifference towards the harassment of Jewish students in a manner that violated federal anti-discrimination laws.’”<sup>5</sup> These should make interesting court case since, as usual, the Trump Administration offers no evidence for its claims and because these Universities are being accused of *not* doing something, in this case, of not controlling the free speech of others.

When it comes to freedom of speech, US courts and laws are far more liberal than any other democracy in the world. Exceptions to such speech include harassment, terroristic

threatening, inciting a riot, hate speech, slander, and libel, some of which are extremely hard to prove. If accusations of antisemitism should fall under the categories of harassment, terroristic threatening, or a hate crime, the courts will require evidence of real harm, not just hurt feelings or feeling threatened. To be clear, there is nothing criminal about making negative or unwanted comments about other people. The American news media does it every day.

More germane to my topic; the freedom of speech movement was born on our college campuses, and the right of their professors, faculty, and students to exercise such freedom has been repeatedly upheld by our highest court. As far back as 1957, for example, the Supreme Court ruled in favor of an academic who had been jailed for refusing to answer questions about some of his lectures.<sup>6</sup> Chief Justice Earl Warren explained, “The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation.”

In 1967, New York State had a law that effectively prohibited state employees from being members of the Communist Party. The State University of New York successfully sued over the matter because it required employees to sign an oath stating they were not Communists, once again firmly guaranteeing the principle of academic freedom. In 1972, the Supreme Court again ruled against Central Connecticut State College for refusing to recognize an on-campus chapter of the Students for a Democratic Society, a Left-Wing student activist organization, calling it unconstitutional and determining that the First Amendment applies to all public institutions.<sup>7</sup> Hopefully, should the cases go that far, the Supreme Court will continue to defend freedom of speech at Harvard and Columbia Universities.

Before Israel was established in 1948, Palestine was home to Arabs, Jews, and Christians, all with ancient ties to the region. Though Jewish scriptures tell of escaped slaves led to a promised land, historians suggest the early Hebrews were likely a loose confederation of oppressed peoples who settled the hill country, gradually uniting their stories and forming a shared identity. Eventually, they were briefly unified under a leader named David, whose reign became the foundation for messianic hopes of restoration. Yet throughout history, Jews rarely controlled the land exclusively, living under successive empires—Assyrian, Babylonian, Persian, Greek, and Roman.

In 135 CE, after crushing a Jewish revolt, Rome renamed the region "Palestine" to sever Jewish ties to it. Some Jews remained and likely assimilated with the evolving Palestinian population, while most were scattered across the world. Remarkably, despite centuries of exile and persecution—including the Holocaust, Jewish identity has endured.

After World War II, Israel was founded in this same, already inhabited region, as a Jewish homeland, but only after displacing over a million Palestinians from their homes and cities, whose ancestors had lived there for centuries. The resulting conflict has persisted, fueled

by hostility from surrounding nations and enduring resentment against Jews around the world. The situation has worsened dramatically after the vile Hamas attacks of October 7. But let me be clear, while Israel's own cruelty and injustice are partly responsible for such events, the inhumanity of the actual perpetrators of these attacks cannot be justified as "they were just defending themselves," anymore than this excuse can justify Israel's actions. The October 7 attackers were intentionally sadistic toward the innocent Jewish civilians who became the tragic victims of their diabolical, sick, twisted cruelties on that day. My concern for the lives and wellbeing of Palestinian people does not mean I regard these brutes with any less outrage than I hold for Benjamin Netanyahu and the soldiers carrying out war crimes and crimes against humanity on his behalf.

Today, freedom of speech is under assault, including in the US and other, so-called, free countries. There is tremendous pressure and serious potential consequences to speaking about anything these days, but especially about the most important things, like what is and has been happening to Palestinians for more than half a century. Using our freedom of speech, our right to say what we believe is so about this or other important matters, too often takes great courage nowadays. But, as religious liberals, devoted to the principles our democracies are supposed to be founded upon, we must find the courage to say and, more importantly, do what we can to foster human rights and human welfare everywhere. To paraphrase the great American revolutionary, Thomas Paine, *these are the times that try Unitarian souls. The summer Unitarian and the sunshine Liberal will, in this crisis, shrink from the service of their great principles; but those that stand by them now deserve the love and thanks of all people everywhere.* Today we are all living in trying, fearful, and uncertain times, yet even as the world changes around us, we remain the same because our values remain the same and they shall be our compass in whatever storms may come and our guiding star in the darkest nights.

<sup>1</sup> <https://new.embassies.gov.il/nepal/en/news/prime-minister-benjamin-netanyahu-22112024>

<sup>2</sup> <https://www.bestcolleges.com/research/student-protests-pro-palestinian-encampments/>

<sup>3</sup> <https://www.nytimes.com/2024/04/21/nyregion/columbia-protests-antisemitism.html>

<sup>4</sup> <https://www.today.com/video/harvard-responds-after-trump-threatens-to-pull-3b-in-federal-funds-240358981692>

<sup>5</sup> <https://www.bbc.com/news/articles/cy0j2n0p89go>

<sup>6</sup> *Sweezy v. New Hampshire*

<sup>7</sup> *Healy v. James*