



Academic
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NETWORK

Beyond the Ivory Tower:

**Confronting Antisemitism, Anti-Zionism,
and Free Speech Through Firsthand
Observation and Engagement**

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AEN mobilizes networks of university faculty and administrators to counter antisemitism, oppose the denigration of Jewish and Zionist identities, promote academic freedom, and advance education about Israel. We envision a world where American higher education welcomes, respects, and supports the expression of Jewish identity and robust discourse about Israel.

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This paper contends that firsthand engagement is essential to transforming abstract debates over anti-Zionism and antisemitism into pragmatic discussions with profound implications for discrimination, human rights, and campus policy. Drawing on the author's experiences during the Law Professors' Mission to Israel following Hamas's October 7, 2023 atrocities, the analysis demonstrates how direct exposure to conflict and its human toll enriches and challenges theoretical analyses. By examining protests, official statements, and personal testimonies gathered through survivor encounters and deeply engaging with lived experiences as well as forensic briefings, site inspections, and academic discourse, the paper delineates critical distinctions between legitimate political critique and incendiary hate speech that dehumanizes and incites violence. It further shows that while robust academic debate is vital, certain expressions—particularly those invoking historical symbols of persecution—demand a context-sensitive response. Integrating historical memory, legal doctrine, and experiential insight, the Article proposes a balanced framework that urges policymakers, administrators, and scholars to step beyond academic detachment and engage directly with realities on the ground. Ultimately, this reframing yields concrete policy recommendations for higher education institutions and legislative bodies aimed at safeguarding free expression while protecting vulnerable communities from hate-driven violence.

Introduction

On October 7, 2023, the Foreign Terrorist Organization known as Hamas led an unprecedented attack on Israel: Hamas murdered more than 1,200 civilians,² kidnapped over 250 Israelis,³ and live-streamed crimes against humanity,⁴ including shooting babies with assault rifles and killing children via hand grenades.⁵ While the charred remains of civilians still smoldered in the melted husks of passenger sedans that Hamas firebombed along Israel's Route 282, anti-Israel demonstrations erupted worldwide, including on American campuses.⁶ University administrators, caught between preserving free speech and curtailing hate—and sometimes intimidated by threats of violence—struggled to identify when criticism of Israeli policy bled into antisemitic incitement.⁷

This struggle gets to the heart of the debate on whether anti-Zionism is antisemitic. Is anti-Zionism antisemitism? This debate can feel distant and theoretical in lecture halls and academic papers. But it was a visceral, real-world experience for everyone who engaged with campus life for much of the 2023–2024 academic year. Anti-Israel protests correlated with antisemitic incidents, which rose over 800% that year: from October 7, 2023, to January 7, 2024, the Anti-Defamation League recorded 3,291 anti-Jewish incidents, including 56 physical assaults.^{8,9}

Many Jewish students, faculty, and staff experienced this parallel surge in anti-Jewish hostility—at times including overt threats—and many felt abandoned by colleagues and institutional leaders who failed to speak out. Meanwhile, some Jewish students and Jewish-identified organizations joined pro-Palestinian encampments and even hosted

Jewish rituals, including Shabbat and Passover meals, while surrounded by anti-Israel and pro-Hamas placards.¹⁰ And some Arab organizations and Arab leaders—such as Jordanian former minister Saleh al-Qallab—publicly criticized Hamas as a terrorist group.¹¹

The incidents themselves were difficult to categorize. Vandals defaced a historic Jewish deli in Los Angeles with anti-Israel slogans.¹² Pro-Palestinian protestors pepper-sprayed and physically assaulted a yarmulke-wearing man in Times Square while shouting antisemitic slurs.¹³ The complexity of these incidents, however, revealed that it is no longer sufficient to treat this conflict as a binary or merely geopolitical matter. Scholars have begun to document how these dynamics impact identity formation and public discourse.¹⁴

Against this backdrop, I joined a dozen law professors on a Mission to Israel in July 2024. The decision was not easy. My daughter had just been born three months earlier, and my wife was understandably afraid of what I might see—or not come back from seeing. As I prepared to leave, my grandmother passed away. I livestreamed her funeral service from Boston Logan Airport, believing this mission would honor her legacy and strengthen our collective response to a crisis of moral clarity.

During our four-day visit, we stood amid the ashen remains of Kibbutz Nir Oz, where Hamas murdered 46 residents and kidnapped 71 hostages—including nine-month-old baby Kfir Bibas.¹⁵ We spoke with frontline Israeli soldiers returning from active duty in Gaza just hours earlier.¹⁶ We heard from Arab and Jewish Israeli civilians who rejected the false dichotomy of “Jew vs. Palestinian” and described Hamas as everyone’s enemy. We met grieving families, legal experts, professors, and politicians. We received detailed briefings on the laws of war from IDF legal counsel, debated proportionality standards with Israeli attorneys, and studied international law through International Criminal Court (ICC) and International Court of Justice (ICJ) proceedings.¹⁷ We explored the role of non-governmental organizations (NGOs), such as Human Rights Watch and Amnesty International. We bore witness to war crimes.¹⁸

These encounters forced me to confront moral, legal, and emotional dimensions that are easy to overlook from the safety of a university office. I saw how students, faculty, and administrators in Israel grappled with balancing free expression and academic freedom against the need to protect human life and condemn incitement. I also saw how euphemisms, slogans, and abstract theorizing often obscure lived reality.

This paper contends that lived experience—direct observation, not detached abstraction—is essential to understanding when anti-Zionist speech crosses into antisemitic conduct. When protest slogans glorify murder, when student groups endorse terrorist attacks, or when Jewish students are vilified for their identity, these actions cannot be dismissed as mere “critique.”¹⁹ Conversely, some critiques of Israeli governance are valid political expressions that deserve protection on campus, even when they are uncomfortable or disturbing.

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Universities today stand at a crossroads. They must protect speech, especially controversial speech, as a legal and pedagogical imperative. But they must also protect students from discriminatory harassment. Under Title VI of the Civil Rights Act, institutions that receive federal funding have a legal obligation to ensure a non-hostile educational environment—including protecting Jewish students from antisemitic harassment.²⁰ At the same time, public universities must safeguard the First Amendment, including unpopular or offensive viewpoints.²¹ Even private universities may face contractual or statutory obligations to protect expressive freedom.²²

Antisemitic incidents are rising sharply worldwide, spanning digital spaces and campus quads alike.²³ To navigate this terrain with integrity, university leaders need not only principled definitions and legal clarity—they need the moral courage to witness firsthand what is happening, and to speak honestly about what they see.

I. Is Anti-Zionism Antisemitism?

This question of whether anti-Zionism is antisemitism has become a legal, political, and institutional flashpoint. On college campuses and in public debate, terms like “antisemitism” and “anti-Zionism” are invoked with increasing frequency—and decreasing clarity. Some treat anti-Zionism as protected political dissent. Others view it as a contemporary form of Jew-hatred, inseparable from antisemitism in effect if not intent. Definitions abound. But agreement remains elusive.

This Part examines those definitional debates and the consequences that follow from them. It proceeds in three stages. Section A surveys widely used definitions of antisemitism. Section B turns to anti-Zionism, exploring its historical meanings, ideological variants, and how it functions rhetorically and politically in campus settings. Section C analyzes why these distinctions matter in law—particularly under Title VI of the Civil Rights Act—and how definitional ambiguity can serve as a shield for institutional evasion. The pivotal concerns are that a narrow definition is unresponsive when anti-Zionism becomes antisemitism, while a broad definition can chill protected speech and legitimate political criticism.

The goal is not to resolve every theoretical dispute, but to illuminate what is at stake when universities treat antisemitism and anti-Zionism as separate, interchangeable, or undefined. Definitions are not merely academic exercises. They shape which harms are recognized, which claims are believed, and whether institutional action is seen as justified or overreaching. Part II will illustrate, and Part III will argue, that abstraction is no longer enough. But, before we can transcend the war of words, we should understand it.

A. ANTISEMITISM

To engage meaningfully in the debate over whether anti-Zionism is antisemitism, we must first clarify what “antisemitism” itself means. The term may appear straightforward, but it carries dense historical, ideological, and political baggage. Understanding antisemitism requires examining its troubling origins, its modern reframing in public discourse, and the scholarly debate about how best to define it—particularly in legal and academic settings.

1. Historical Origins

“Antisemitism” is not a neutral descriptor. It was invented to provide pseudo-scientific legitimacy to hatred of Jews. The root term *Semitic* emerged in 1781, when German Orientalist August Ludwig von Schlözer used the term *semitische* to classify Hebrew, Arabic, and Aramaic as linguistically related languages.²⁴ Although this linguistic taxonomy appeared neutral, it embedded the biblical presumption that these languages were spoken by descendants of Shem, son of Noah.²⁵ No scientific basis supports this lineage, and there is no meaningful genetic unity among these populations.²⁶

By the mid-19th century, *Semitic* had evolved into a term of racial and moral judgment. French philosopher Ernest Renan claimed in 1855 that “Semitic” peoples were intellectually and morally inferior to “Aryan” peoples, a view that helped racialize Jews in European thought.²⁷ The term “antisemitism” took definitive form in 1879 when German journalist Wilhelm Marr founded the League of Antisemites (*Antisemiten-Liga*) and published *The Victory of Judaism over Germanism*, which used the term to frame Jews as a biologically alien race threatening German national survival.²⁸ Marr’s antisemitism cloaked old hatred in the language of racial anthropology and social Darwinism, portraying Jews not merely as a religious group but as an existential biological threat.²⁹

Today, some efforts seek to reclaim moral clarity by discarding the term “antisemitism” altogether. Businessman Robert Kraft, for example, launched a national campaign encouraging Americans to say “Jew hatred” instead.³⁰ This shift aims to pierce the abstraction that antisemitism has become and refocus attention on the hatred it masks.³¹ Nonetheless, in law and academia, “antisemitism” remains the operative term, and its definition remains highly contested.

2. Modern Reframing

In contemporary discourse, antisemitism remains both politicized and misunderstood. Public controversies have erupted over campus speech, political criticism of Israel, and international policy. Central to many of these debates is the definition promulgated by the International Holocaust Remembrance Alliance (IHRA), a standard adopted by numerous governments and institutions, making it useful for legal analysis. IHRA defines “antisemitism” as:

“a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”³²

The IHRA further explains that “manifestations might include the targeting of the State of Israel, conceived as a Jewish collectivity,” but notes that “criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.”³³

The definition attempts to preserve space for criticism of Israeli policy while identifying when anti-Zionist rhetoric crosses into antisemitism. However, its application has sparked widespread debate.

3. Scholarly Debate

Some scholars argue that the IHRA definition is essential. Cary Nelson defends its clarity, emphasizing that it helps universities distinguish legitimate policy critique from speech that demonizes Jews or denies their right to self-determination.³⁴ Bernard Harrison and Lesley Klaff similarly maintain that the IHRA definition is sufficiently nuanced to draw principled lines between political speech and bigotry.³⁵ Günther Jikeli adds that the IHRA definition is vital for combatting contemporary forms of Jew hatred that hide behind political slogans while preserving academic freedom.³⁶

By contrast, Kenneth Stern, who coordinated the drafting of the IHRA definition but was not involved in the final revisions,³⁷ has warned against its codification into law. He argues that it was meant as an educational tool, not a legal instrument, and that its misapplication risks suppressing legitimate political debate, especially in academic settings.³⁸ Other scholars share this concern. Raeefa Z. Shams, writing for the Academic Engagement Network, warns that if definitions are applied too broadly, they may marginalize dissenting voices or delegitimize Palestinian perspectives—while nonetheless acknowledging that virulent forms of anti-Zionism frequently invoke antisemitic tropes.³⁹

The Anti-Defamation League has likewise tried to strike a careful balance that distinguishes between criticism of Israeli government actions (not inherently antisemitic) and efforts to deny Israel's right to exist (which it classifies as antisemitic).⁴⁰ At some point, however, the concepts collapse, as sociologist David Hirsh asserts, "A pervasive anti-Zionist worldview, when it becomes the norm, can pave the way for overt antisemitism."⁴¹ Hirsh's statement underscores the risk that political critique may eventually slide into hate speech against Jews and counsels for more expansive prohibitions against anti-Israel speech. Where that sliding occurs, however, become the nexus of that debate. Some scholars, such as Andrew Pessin, note that while any coarse answer is sometimes wrong, anti-Zionism on campus is usually a manifestation of antisemitism.⁴² On the other end of the spectrum, L. J. Jaffee decidedly proffers the coarse assertion that "Anti-Zionism is not Antisemitism."⁴³ The middle ground answer seems to be, "it's complicated."⁴⁴

A broader scholarly consensus suggests that the distinction hinges less on doctrinal purity than on pragmatic function. Dov Waxman, David Schraub, and Adam Hosein argue that the definitional problem lies in part with the expectations we place on any single definition: that it should serve legal, social, academic, and moral purposes all at once.⁴⁵ Alternative frameworks, such as the Jerusalem Declaration on Antisemitism and the Nexus Document, have been proposed in response to these concerns, though none has gained IHRA's widespread adoption.

Despite ongoing disputes, one reality is clear: the way we define antisemitism has direct implications for legal rights, institutional responsibilities, and moral clarity. While the IHRA definition is not binding federal law, agencies like the Department of Education apply it when assessing discrimination under Title VI of the Civil Rights Act. As such, even an unsettled definition has settled legal consequences—a point to which we return in Part C.

B. ZIONISM (AND ANTI-ZIONISM)

“Zionism,” a term rooted in the Jewish aspiration for self-determination, has become highly politicized and often weaponized. Like “antisemitism,” the term has flipped in moral valence: once a proud affirmation of Jewish peoplehood, it is now sometimes treated as a slur. The rhetorical inversion counter-parallels the trajectory of “antisemitism,” which was once a scientific-sounding justification for killing Jews but now serves as a legal term for protecting them. “Zionism,” conversely, has been transmogrified from a survival movement into a category of political guilt. Yet for all the political baggage it carries, Zionism remains conceptually elusive: it resists a single fixed definition. Most fundamentally, it is a movement for Jewish self-determination in the ancestral homeland. That foundational meaning is both the premise and the flashpoint for today’s definitional debates.

1. Historical Origins

Modern political Zionism arose in the late 19th century, well before the formal establishment of any state or administrative region known as “Palestine.” Theodor Herzl (1860–1904), widely considered the father of modern Zionism, articulated the need for a Jewish state in his seminal pamphlet *Der Judenstaat* (*The Jewish State*, 1896), as a response to pervasive antisemitism in Europe.⁴⁶ Herzl’s efforts to secure a charter from the Ottoman Empire failed, but his movement catalyzed mass immigration to the southern Levant—then governed by Istanbul and known informally as “Palestine”—as Jews sought to build a homeland in their ancestral territory.⁴⁷

After World War I, the collapse of the Ottoman Empire enabled British and French control of the region. The League of Nations created the British Mandate of Palestine on July 24, 1922, effectively endorsing the Balfour Declaration of 1917, which supported a Jewish national home while preserving the rights of non-Jewish communities.⁴⁸ Tensions mounted as Jewish immigration increased and Zionism grew from a spiritual aspiration into a political program. Arab nationalists rejected Jewish sovereignty altogether, while practical Zionists sought to build facts on the ground. Meanwhile, many Jewish communities—particularly ultra-Orthodox Jews—opposed the Zionist project altogether.⁴⁹

The Holocaust drastically transformed the debate. In its aftermath, the moral urgency for a Jewish homeland became undeniable to many observers, and international sympathy aligned—briefly—with Zionist aims.⁵⁰ In 1947, the United Nations voted to partition British Palestine into separate Jewish and Arab states. Jewish leaders accepted the plan; Arab leaders rejected it. When David Ben-Gurion declared independence on May 14, 1948, five Arab states launched a coordinated military attack. Zionist forces prevailed, but the war displaced more than 700,000 Palestinians—a trauma memorialized in Arab political culture as the *Nakba* (“catastrophe”).⁵¹

From the Zionist perspective, this was the War of Independence. From the Palestinian perspective, it was the dispossession of a people. These rival narratives remain

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irreconcilable. At their core lies a conflict not just over land, but over legitimacy: the Jewish right to national self-determination versus the Palestinian view of Zionism as colonial intrusion.

2. Modern Reframing

These historical flashpoints have shaped the way Zionism is understood today, particularly in campus and legal discourse. Supporters of Israel often see Zionism as a movement of liberation, self-determination, and cultural renewal. Critics of Israel tend to depict Zionism as a form of settler colonialism or racial supremacy. In this polarized environment, the word itself has become a proxy for deeper conflicts.

For many Jews, Zionism is inseparable from identity and safety. Zionism promises Jewish sovereignty in a world that has repeatedly proven unsafe for stateless Jews.⁵² The Jewish state—like any state—has flaws. But to deny its right to exist is not merely a critique of policy. It undermines the legitimacy of Jewish peoplehood, especially when the same critics affirm the national claims of other peoples, including Palestinians.⁵³

Anti-Zionism today often travels under the flag of anti-colonialism or human rights. But scholars have shown that this rhetoric frequently cloaks eliminationist goals. Gil Troy argues that anti-Zionism is not a dispassionate critique of state conduct; it is a political mutation of antisemitism that retains its essential animus but adapts to modern norms.⁵⁴ Einat Wilf likewise contends that societies in ideological crisis frequently project their tensions onto Jews, and today, onto Zionists.⁵⁵ Anti-Zionism becomes the acceptable form of antisemitism in circles that would never admit hatred of Jews directly.

Troy and Wilf are not alone. The Anti-Defamation League, for instance, distinguishes between criticism of Israeli policy and categorical rejection of Jewish sovereignty, labeling the latter as antisemitic.⁵⁶ Dina Porat, Yad Vashem's chief historian, documents how anti-Zionist slogans have long served as cover for antisemitic ideologies.⁵⁷ These scholars recognize that anti-Zionism is not necessarily antisemitism—but that the two often converge, especially when Zionism is denied as a right granted to all other peoples.

3. Scholarly Debate

Some scholars urge restraint. David Feldman argues that anti-Zionism and antisemitism, while sometimes overlapping, are analytically distinct and must not be conflated.⁵⁸ Kenneth Stern, who was involved in the IHRA drafting but not its final product, has criticized efforts to codify that definition into law or campus policy. He fears it could chill legitimate political speech and suppress dissenting views on Israeli conduct.⁵⁹ Stern argues the IHRA definition was meant as a research tool, not a legal weapon. But others reject Stern's interpretive authority. Cary Nelson, who has written extensively on academic freedom and antisemitism, argues that Stern's dissent has been misused to discredit IHRA, and that adopting it as a nonbinding framework enhances rather than restricts university discourse.⁶⁰

Raeefa Z. Shams, writing for the Academic Engagement Network, critiques overly expansive definitions that equate all anti-Zionism with antisemitism. She worries that this conflation erodes academic freedom. Yet even she acknowledges that much anti-Zionist rhetoric on campus draws from antisemitic tropes and fuels hostile climates for Jewish students.⁶¹

Nelson responds to these tensions by defending the IHRA definition as a pragmatic compromise: it allows for robust debate about Israeli policy while setting a floor against discrimination.⁶²

The IHRA's working definition is widely cited in legal and policy contexts. It defines antisemitism as "a certain perception of Jews, which may be expressed as hatred toward Jews," and it includes examples involving Israel that "might" be antisemitic—such as applying double standards or denying Jewish self-determination.⁶³ Critics claim the definition is too vague or too easily misused. But defenders see it as a flexible, context-sensitive tool. Its use by the U.S. State Department, the European Commission, and dozens of universities attests to its significance in contemporary legal and institutional discourse.⁶⁴

The stakes of this definitional debate are real. If Zionism is merely another political ideology, then anti-Zionism might be protected dissent. But if Zionism is the collective expression of Jewish self-determination, then denying it while affirming that right for all other groups looks much more like discrimination. Whether or not anti-Zionism is always antisemitism, the law must remain alert to how it functions in practice. That is the challenge Part C now takes up.

C. LEGAL CONSEQUENCES OF DEFINING ANTI-ZIONISM AS ANTISEMITISM

We are caught in a war of words that obscures the reality of war. On October 7, 2023, terrorists murdered more than 1,200 people. In particular, the Palestinian terrorist organization known as Hamas,⁶⁵ who led "Operation Al-Aqsa Flood,"⁶⁶ made no secret of their motive: hatred of Jews, which is in their founding charter.⁶⁷ There is no reasonable debate on this point, which one can read firsthand; the United Nations identifies how Hamas encoded Jew hatred as its founding principle.⁶⁸

Yet instead of confronting this atrocity, many universities and institutions became quickly entangled in abstractions wrapped in slogans. The phrase "from the river to the sea" echoed across campuses as if it were a benign call for freedom, rather than a genocidal erasure of Jewish life from the Land of Israel. The Law Professors' Mission to Israel cut through this veneer of moralizing. Its participants bore witness to burned-out homes, bullet-riddled baby cribs, and civilians gunned down while hiding in kibbutz bomb shelters. This was not a metaphorical war. It was a massacre.

The abstract debate over definitions—Is anti-Zionism antisemitism?—is overly cerebral. This is unfortunate because the stakes are anything but academic. The practical impact of this discussion does not come from arguing over semantics; we are confronting real-world threats to safety, dignity, and legal protection. The central question is not whether a perfect definition of antisemitism exists, but whether institutions are willing to recognize when calls to "resist Zionism" devolve into targeted hostility against Jews. The cerebral approach gets it wrong, no matter how it comes out, because this is not primarily a cerebral matter—unless you are referring to the literal gray matter of innocents that Hamas terrorists splattered onto the dashboards of passenger sedans and melted into the immolated steel remains of firebombed ambulances.

Before we return to that question in Part II—before we evaluate campus protests through the lens of genocide denial, eliminationist rhetoric, and incitement—we must first examine the legal frameworks that make these distinctions matter.

1. Title VI, Free Speech, and Hate Crimes

In U.S. universities, antisemitic speech may constitute a hostile environment under Title VI of the Civil Rights Act, even where such speech is protected under the First Amendment.⁶⁹ Title VI prohibits discrimination on the basis of race, color, or national origin in programs receiving federal funding. While it does not explicitly protect religion, courts and agencies have recognized that Jews may be covered under Title VI when they face discrimination based on ethnic or ancestral identity.⁷⁰ Title VI enforcement became increasingly prominent as universities struggled to address rising antisemitic incidents linked to anti-Israel activism, particularly surrounding the BDS movement.⁷¹

The U.S. Department of Education's Office for Civil Rights (OCR) has repeatedly clarified this point, most recently in its 2024 Dear Colleague letter, which affirms that anti-Zionist expressions may be investigated under Title VI when they target Jews or Israel in discriminatory ways.⁷² These standards incorporate the IHRA definition, which describes antisemitism as "a certain perception of Jews, which may be expressed as hatred toward Jews" and includes as examples the denial of Israel's right to exist or applying double standards not demanded of any other democratic nation.⁷³

At the same time, public universities must safeguard freedom of speech. Under the First Amendment, even deeply offensive speech remains protected unless it rises to the level of direct threats, harassment, or incitement to imminent lawless action.⁷⁴ This legal balancing act—protecting both free expression and equal protection—places administrators in a difficult position. State hate-crime statutes may criminalize acts motivated by anti-Jewish bias, but universities must also avoid censoring political speech merely because it is unpopular.

When slogans like "Zionists don't belong on this campus" appear in student protests, administrators must ask: Is this protected political speech? Or is it a campaign of identity-based exclusion? The answer is not always clear. But what is clear is that legal consequences flow from how we define and understand anti-Zionist expression.

2. Beyond Labels: Functional Analysis of Anti-Zionist Speech

The scholarly consensus is fractured—but many scholars urge a functional analysis rather than a formalistic one. Gil Troy argues that modern anti-Zionism is not a distinct ideology but a "mutation" of traditional antisemitism, preserving the logic of exclusion while updating its vocabulary.⁷⁵ Einat Wilf agrees, characterizing anti-Zionism as a societal projection that recurs during periods of ideological breakdown. She contends that hatred of Israel now serves the same psychological function as classic antisemitism once did: it provides a convenient scapegoat for complex global frustrations.⁷⁶

This analysis matters legally. The same rhetoric that appears as "criticism of Israel" in the abstract may, in context, amount to discriminatory conduct. If a protestor denounces Israel's

policies, that may be legitimate political critique. If that same protestor screams “Zionists get out” at visibly Jewish students—particularly if those students are wearing religious symbols—that may cross the line into actionable discrimination. In campus contexts, the relevant question is whether the speech functions to demean, threaten, or exclude Jewish individuals because of their identity.

Kenneth L. Marcus, a former head of OCR, warns that labeling all anti-Zionism as antisemitism can suppress debate—but ignoring its discriminatory impact allows hostile environments to flourish.⁷⁷ British sociologist David Hirsh similarly argues that pervasive anti-Zionist worldviews often normalize antisemitism, especially when cloaked in the rhetoric of anti-racism or human rights.⁷⁸ Scholars on the other side, such as Kenneth Stern and David Feldman, urge caution against expansive definitions that may chill academic freedom. But even they acknowledge the danger of anti-Zionism functioning as a vehicle for traditional antisemitic ideas.⁷⁹

The takeaway is clear: the label is less important than the effect. What does the speech actually do? Does it single out Jews for hostility, exclusion, or violence? Does it invoke antisemitic tropes, such as global conspiracies or blood libels, under the guise of anti-Zionism? If so, institutions may—and must—respond.

The takeaway is clear: the label is less important than the effect. What does the speech actually do?

3. From Theory to Real-World Implications

Legal definitions matter not only in courtrooms but also in administrative offices and university boardrooms. When campus protests call for intifada or praise Hamas, the legal implications are not hypothetical. If Jewish students feel threatened or excluded because of their identity or perceived affiliation with Israel, universities may face Title VI complaints, civil liability, and reputational damage. And those risks have grown, not receded.

Several states have incorporated definitions of antisemitism—including IHRA—into their hate-crimes laws or education policies.⁸⁰ The U.S. House of Representatives, in 2024, passed a resolution declaring anti-Zionism a form of antisemitism;⁸¹ and more recently, the Trump administration has threatened to stop funding universities who fail to adopt broad definitions of and protections against antisemitism,⁸² further intensifying political pressure on institutions to adopt clear standards. Meanwhile, courts have begun weighing in. In one recent decision, a Texas Court of Appeals found that adopting the IHRA definition in a university speech code, without sufficient safeguards, risked violating the First Amendment.⁸³ This highlights the fine line between legal protection and unconstitutional overreach.

The American Civil Liberties Union has also raised red flags, warning that equating anti-Zionism with antisemitism in blanket terms could infringe on protected speech.⁸⁴ And yet, the refusal to act in the face of virulent anti-Zionist harassment can equally run afoul of civil rights laws. Universities must navigate this terrain carefully—balancing their dual obligations to protect expressive freedoms and ensure nondiscriminatory educational environments.

Ultimately, the goal is not to police thought but to uphold civic norms. Universities must distinguish between robust critique and identity-based vilification. And legal definitions—while imperfect—remain necessary tools in making that distinction. The next Part of this essay turns to our firsthand experience in Israel. There, legal theory collided with human tragedy. And the boundary between speech and action, criticism and incitement, became chillingly clear.

II. Experiencing Israel After October 7

On July 7, 2024—exactly nine months after the October 7 attacks—I arrived in Israel as part of the Law Professors’ Mission. The country was visibly and viscerally in mourning. Inside Ben Gurion Airport, hundreds of red “kidnapped” posters covered the terminal walls. Each included the name and face of a hostage abducted by Hamas. Many were decorated with hand-drawn hearts, personal messages, and stickers from children. In a nation of roughly 9.3 million, this was not symbolic art. It was the record of a society wounded by terror. The sheer volume of these posters rendered abstract casualty statistics impossible to ignore.⁸⁵

This kind of grief is not an exhibit in a law school seminar. It is not theoretical. The IHRA definition of antisemitism explicitly links contemporary hatred to the legacy of historical trauma.⁸⁶ In Israel, that trauma is not historical. It is current. It exists on every wall, in every conversation, and in every legal briefing that followed on this trip.

A. ARRIVAL AND FIRST IMPRESSIONS

My encounter with the poster of baby Kfir Bibas occurred less than fifteen minutes after I disembarked. He was nine months old when Hamas kidnapped him from his home in Kibbutz Nir Oz.⁸⁷ His toothless smile resembled my own daughter’s, who had been born just weeks earlier. I looked at his picture and experienced what no textbook could replicate. It became impossible to think about “hostages” as a category. These were not abstractions; they were lives—children, parents, siblings—reduced to slogans in political debate.

Everyone I spoke with in Israel had been affected personally by the attacks. The scale of trauma was clear. With over 1,200 civilians killed, the per capita impact was greater than the September 11 attacks in the United States.⁸⁸ A proportional attack on the U.S. would have killed more than 40,000 Americans. That figure maps the scale of grief onto a context familiar to U.S. academics, but it is still too clinical to express the reality of shared



Figure 1. Hostage posters were everywhere in Israel, constantly reminding of the ongoing tragedy. Credit: Seth Oranburg.

trauma. The one-dimensional nature of statistics as compared to my lived experience reveals how detached campus discourse often is from the realities that Israeli students and faculty are living.

My own family was grieving, too, so perhaps I was more tuned in to this pain. My grandmother passed away five days before the trip. I live-streamed her funeral from Boston Logan Airport and boarded the flight to Tel Aviv alone.

My wife stayed in New Hampshire with our infant daughter. I made the decision to go because I believed that witnessing the aftermath of October 7 was not only morally necessary, but essential to understand what the legal categories—proportionality, distinction, incitement—actually mean in practice.

B. MEMORY AND THE MARKETPLACE

We began Tuesday morning in Jerusalem at Yad Vashem. The memorial is built into the hillside and flanked by dense pine trees. Its architecture is deliberate: steep stone walls slowly envelop visitors in darkness as they descend into the memory of the Holocaust.

Inside, glass vitrines display Zyklon B canisters, Nazi armbands, battered shoes, and yellow stars. A diorama of Auschwitz illustrates how Jews were deceived into lining up for death—“showers” marked with signage, clothing shelves neatly labeled by size. An entire civilization corralled into death through bureaucracy and architectural precision.

In that space, I recalled the IHRA’s warning about antisemitism that distorts or denies the Holocaust.⁸⁹ It’s not just a rhetorical concern. It is a lived one. To claim that Jewish grief is overplayed, or that the Holocaust can be abstracted into a metaphor, is to stand in that museum and say nothing is real.

From Yad Vashem, we proceeded to Mount Herzl. There, families gathered for a memorial honoring soldiers killed since October 7. The Israel Defense



Figure 2. “Kidnapped” poster for Kfir Bibas were ubiquitous in Israel. Credit: Seth C. Oranburg.



Figure 3. Law Professors Mission to Israel group at a Yaad Vashem exhibit. Credit: Shahar Azran.

Forces read their names aloud. A woman clutched a photograph. A man held a folded flag. The ritual was spare. The grief was not. Each name carried the weight of a nation's mourning.

Later that day, we arrived at Hebrew University for a session titled "Approaches to Free Speech on Campus: U.S. vs. Israel." The discussion was academic, but the stakes were personal. Law professors explained how legal norms around expression are shaped by context: Israel's model is not like the United States' because Israel's classrooms are not like ours. For example, at least 16% of Hebrew University's 24,000 students are Arab-Palestinians—about half from East Jerusalem and about half Israeli citizens.⁹⁰ Most Jewish students are IDF veterans, many of whom fought combat operations against Palestinian forces.⁹¹ That makes classroom conversations about war deeply fraught. These are not hypothetical disagreements. They are literal wounds these students personally experience.⁹²

In the U.S., we debate whether chanting "from the river to the sea" is protected speech. In Israel, that chant echoes down the halls of classrooms where students on both sides of geopolitical lines have buried friends and family. Moreover, these conversations take place within sight of the Dome of the Rock, at the heart of the contest over ancient land. Context doesn't just matter—it transforms the question entirely.

That afternoon, we toured the Old City. We passed the Church of the Holy Sepulchre, where pilgrims knelt at the Stone of Anointing—the place believed to be where Jesus was prepared for burial. The scent of incense clung to the air.

Then we walked to the Kotel, the Western Wall of the Second Temple. There, as I stood facing its timeworn Jerusalem stones, an ultra-Orthodox man approached and asked if I wanted to wrap tefillin—small leather boxes containing passages of Torah bound to the head and arm during prayer. I responded in English, and he switched languages with ease. We quickly discovered a shared connection: the same Chabad rabbi in New Hampshire. What began as a casual offer became a surprisingly intimate moment. He asked for a selfie. I agreed. And then I prayed.

I cried as I prayed, but not from piety. This wall—sometimes called the Wailing Wall—invites catharsis. In that hot July sun, I felt my tears flow into a salty well of a million crises. For more than two thousand years, my ancestors sought this place as an opportunity to open their hearts and share their laments. And for a moment, I felt merged with that resonance.



Figure 4. Law Professors Mission to Israel Group at Hebrew University, with the Dome of the Rock visible from the landing. Credit: Shahar Azran.

Only when I stepped back and turned for a final glance did the Temple Mount come into view. The Dome of the Rock rose above the plaza. I could not go there. Few Jews can. Israeli courts, citing public order, have long upheld restrictions that prohibit Jewish and Christian prayer on the Temple Mount.⁹³ Meanwhile, I stood where many Muslims now fear to tread. In that moment, I felt deep sadness over the rift. At the heart of the spiritual world, we have not found universal humanity—but our deepest divides.

Jerusalem forces the visitor to reckon with contradiction. Sacredness exists alongside surveillance. Religious liberty coexists with coercive state control. These tensions are not theoretical. They are visible in the marketplaces and the monuments, the checkpoints and the chants. They shape the laws, the politics, and the soul of this place.

That night, we shared dinner at Mahane Yehuda, at Tali Friedman's atelier. Tali lost many friends on October 7. Her children, both teenagers, had spiraled into depression after 10 of their friends were murdered. And yet Tali cooked for us with joy and grace. She said preparing food helped her heal. This wasn't just a meal. It was a ritual of survival.

Tali said she wanted to make us feel at home, though her own had been shattered. That act—of feeding guests while grieving—said more about resilience than any slogan or placard ever could.

One of our evening briefings was led by Professor Gerald Steinberg, a longtime scholar of international relations in Israel. Since the early 2000s, Steinberg has focused on the influence of prominent non-governmental organizations (NGOs)—including Amnesty International and Human Rights Watch—on public perceptions of Israel within the domains of human rights and international humanitarian law. He described this influence as a form of “soft power” that operates in tandem with kinetic violence, shaping the legal and moral narrative through reports, press coverage, and international forums.



Figure 5. This article's author praying for peace at the Western Wall. Credit: Shahar Azran.



Figure 6. Chef and market manager Tali Friedman cooks family styles meals at her atelier as a means of nourish her dreams of an Jerusalem that is safe for Jews and Arabs alike. Credit: Shahar Azran.

In Steinberg's analysis, NGOs often frame Israel's conduct in the language of apartheid and genocide, echoing terminology advanced by the United Nations Human Rights Council. Such narratives, Steinberg argued, tend to minimize or obscure the brutality of attacks against Israeli civilians and are later deployed in "lawfare" efforts—including attempts to block arms sales to Israel and to undermine the legitimacy of Israeli self-defense.⁹⁴ He noted that these narratives increasingly surface in university discourse as well. Steinberg acknowledged that some academic audiences have been skeptical of applying political analysis to NGOs, particularly in the legal field, but suggested that this dimension is slowly gaining scholarly traction.

C. BEARING WITNESS

The next morning, before our mission group boarded a bus to visit to bear witness to the communities impacted in Southern Israel, I learned over breakfast how impactful this was to my Israeli faculty counterparts. The attacks on October 7 had a devastating impact on university life—especially at Ben-Gurion University of the Negev (BGU), the only university in the Negev region and a key institution in southern Israel.⁹⁵

The BGU community suffered significant losses, with over 110 members killed, including students, faculty, and immediate relatives; five members taken hostage; and thousands displaced or called to reserve duty. Notably, Noa Argamani, a third-year computer science student, was among those kidnapped, her abduction widely publicized. Despite these challenges, BGU has demonstrated remarkable resilience, continuing its mission to support and rebuild the southern region. The university has provided housing for displaced individuals, expanded psychological services, and launched initiatives to bolster the local economy and community. BGU President Prof. Daniel Chamovitz emphasized the university's pivotal role in Israel's future, stating, "I believe BGU is the most important university for the future of Israel."⁹⁶

Yet when we departed for the South, this experience was still abstracted. I did not even realize how detached I was until I came face to face with the reality of this war.

1. Tekuma Car Graveyard

The South presented a very different kind of classroom. We first stopped at the Tekuma Car Graveyard, which sits on the edge of Israel's southern corridor, near the Gaza border. More than 800 civilian vehicles are parked here in silence—some mangled, some charred, many both. Together, they form a grim mosaic of everyday life turned to rubble.

I filmed the wreckage of an ambulance as an IDF officer recounted its final moments: "This ambulance, which once sheltered youngsters at the Rim Nova Festival—a celebration meant to embody peace and love—was blasted with dozens of AK-47 shots. Hand grenades were thrown into it, and then a rocket-propelled grenade set it aflame. When cleared, we recovered the remains of 18 people, including an 18-year-old girl in a wheelchair."⁹⁷

These were not military vehicles. They were sedans, hatchbacks, and mopeds. I filmed a burned-out white Audi A5—the same model I drive. As I stared at its melted frame, I imagined my wife and daughter in that car. What if it were us? These visceral images convert abstract statistics into personal sorrow.

The graveyard was a place of forensic evidence, yes—but also sacred grief. It offered no clean answers, only the residue of dehumanizing violence. The smell of scorched rubber and flesh clung to the wind. Ash drifted across the asphalt. It wasn't someone else's tragedy anymore. It was mine.

In law school, we teach doctrines like *proportionality* and *distinction*—legal rules meant to distinguish civilian from military targets, to balance force with necessity. But no statute, no legal theory, can fully account for the intimacy of grief embedded in a vehicle's remains.

As I left Tekuma, I carried more than video footage. I carried the knowledge that these were not unfortunate accidents or collateral misfires. These were deliberate attacks on civilians. And no amount of legal abstraction can explain away the choice to turn a festival of peace into a furnace of death.

This was not where our journey ended. But it was where any illusions ended.

2. Kibbutz Nir Oz

From Tekuma, we continued to Kibbutz Nir Oz. The setting felt eerily familiar. I had lived and worked at Kibbutz Hatzerim—just 20 miles away—twenty years earlier. Both were founded on socialist Zionist ideals. Both belonged to the same regional council. Both bore the same architectural simplicity: flat-roofed bungalows shaded by eucalyptus trees, communal dining halls, and narrow paved lanes where children once rode bicycles.

Many of the kibbutz communities attacked on October 7—including Nir Oz and nearby Be'eri—were long associated with left-leaning politics and peace activism. Residents had volunteered for years to aid Palestinian civilians. Oded Lifshitz, a founder of Nir Oz, was a veteran journalist known for driving sick Gazans to Israeli hospitals.⁹⁸ Vivian Silver, a peace activist from Be'eri, was murdered in her home after dedicating her life to coexistence efforts.⁹⁹

But Nir Oz had become something else entirely: a crime scene.

The communal dining hall, once filled with laughter and shared meals, had been reduced to a scorched, hollow skeleton. The smell of destruction lingered in the air—an odor reminiscent of musky cork, or moldy cardboard left to rot in a damp basement. Our guide explained that the smell came from an industrial refrigerator that had been repurposed to store the burned and bullet-riddled bodies of the residents, because the morgues were too overwhelmed to receive them all.¹⁰⁰ We could smell this from the mail room, where residents' mailboxes were marked "kidnapped" or "murdered," as appropriate.



Figure 7. The author of this article interviews an IDF officer, who explains how Hamas targeted this ambulance with assault rifles, rocket propelled grenades, and hand grenades—and why this constitutes war crimes.

The dining tables were still set. Each one bore a bright red hostage poster. Some posters were marked with “dead,” crudely taped over “kidnapped.” One table featured a child’s highchair. I froze when I saw it. On the chair was a poster of baby Kfir Bibas. His wide, toothless grin looked just like my daughter’s. That smile—so familiar, so human—dismantled any remaining detachment I had. The whole Bibas family had once sat here. Now, their faces were taped to furniture like missing-persons fliers. I stared at Yarden Bibas’s photo—Kfir’s father—and wondered: had I stayed in Israel after my kibbutz summer, would I be in one of those tunnels now?

Would I be clinging to my daughter’s hand, not knowing if my wife was alive? It was the closest I’ve ever come to understanding what Rawls meant by the veil of ignorance. In that moment, the veil lifted, and I saw my own life behind someone else’s eyes.

We toured the rest of the kibbutz. Shot-out windows glared at us like hollow eyes. Front doors were pockmarked with bullet holes. Some were still ajar. The heat had baked every surface into dust. We walked into homes where tables remained set for breakfast, where toys lay scattered on the floor. These were not military installations. They were family homes. And they had been invaded, burned, and destroyed with shocking precision.

Later, when we viewed body camera footage recovered from Hamas terrorists, I recognized the exact rooms I had entered just days earlier.¹⁰¹ The crime scenes were no longer theoretical. I had smelled the ash. I had touched the walls. Watching those videos wasn’t like watching the news. It was like reliving a massacre.

Our guide at Nir Oz was Sharone Lifshitz, a longtime resident. She wore a black “Bring Them Home Now!” t-shirt—the slogan of the Hostages and Missing Families Forum.¹⁰² On October 7, Palestinian Islamic Jihad (PIJ) had kidnapped her parents, Oded and Yocheved Lifshitz. By the time we met Sharone, her mother had been released, but her father was



Figure 8. Sharone Lifshitz, a peace activist, explains the urgency of returning the hostages home by pointing out artifacts, like these mailboxes, of the paused lives they left behind. Credit: Shahar Azran.



Figure 9. The communal dining hall of Kibbutz Nir Oz now functions as a memorial to the hostages and victims of October 7.

still missing. Later, we learned that Hamas had already murdered him and returned his body in February 2025.¹⁰³

Oded Lifshitz was an octogenarian peace activist. He regularly crossed into Gaza with a group called Road to Recovery, which arranged medical transport for Palestinians needing treatment at Israeli hospitals. Sharone described his kindness, his pacifism, and her refusal to hate in return. Despite the murder of her father and the horror of that day, she still believed in the possibility of peace and supported a two-state solution.

But others we met did not share that view. Some saw the attack on Nir Oz as an attack not just on Jews, but on the very idea of peace. It was hard to disagree. The pogroms targeted leftist communities, many of which had spent decades building bridges with Palestinian neighbors. And it was those same communities—unarmed, unguarded—that were selected for annihilation.

The October 7 attacks had a profound impact on peace activists residing in the Gaza envelope. Many of these individuals and communities, known for their longstanding commitment to coexistence and peace efforts, found themselves targets of the violence. For instance, Kibbutz Nir Oz and other communities had residents actively engaged in fostering dialogue and supporting Palestinian rights. The attacks not only resulted in tragic loss of life but also sent shockwaves through the peace movement in the region.¹⁰⁴

If there was a moment that redefined my understanding of anti-Zionism, it happened in Nir Oz. This was not criticism of Israel's military policy. It was not opposition to settlement expansion. It was the deliberate, ideological slaughter of pacifists. It was anti-Zionism turned genocidal.

And it happened in a place that once looked just like the kibbutz where I came of age.

3. Nova Festival Testimony

Later that afternoon, we arrived at the site of the Nova Music Festival. The air was still. Trees swayed in the heat. But it was not pleasant. This was a crime scene. More than 360 civilians were murdered here during a sunrise dance party. Dozens more were abducted. Hamas terrorists had planned the attack in advance, coordinating rocket fire, ground infiltration, and ambushes on fleeing festivalgoers.¹⁰⁵

There, we met Bar Hinitz, a survivor. He stood beside the stage where the massacre began. His voice shook, but he spoke with clarity. "Every time I start to tell the story," he said, "I always tell people that in the way of recovery, I learned to really listen to myself."¹⁰⁶ He



Figure 10. Terrorists used accelerants to immolate civilian homes at Kibbutz Nir Oz, rendering them remarkably damaged. Credit: Shahar Azran.

encouraged us to do the same. If we needed to step away, take a breath, or walk, he said, that was okay.

Bar explained that Nova was not just a party. It was a community grounded in peace and mutual respect. “In those kind of parties,” he said, “if you sit for a second alone, someone will come to you and say, ‘Hey brother, are you good?’”¹⁰⁷ The music was global—DJs from Japan, Brazil, India. The crowd was young. The atmosphere was joyful.

He had arrived at 1:00 a.m. with his best friend, Omer. “We came to celebrate life,” he said. “We didn’t bring much—just a mattress and two chairs.”¹⁰⁸ At 6:30 a.m., they stood near the main stage as the sun began to rise. That moment—sunrise at a trance festival—is usually the emotional high point. But instead of music, they saw rockets overhead.

“The DJ comes to the mic and says, ‘Guys, red alert, red alert, it’s not a drill, evacuate as quick as you can.’”¹⁰⁹ Chaos followed. They jumped into their car, fled the parking lot, got turned around, and headed in the wrong direction—toward the terrorists. “One guy shouted from his car, ‘There is a terrorist here—go back!’”¹¹⁰

Eventually, police waved survivors east into the fields. Bar and Omer followed. Five minutes later, they heard gunshots. “Automatic weapons,” he recalled. People ran. Some abandoned their cars. “We didn’t know where to run,” he said. “Just hide, and roll between spots, so they won’t recognize you.”¹¹¹

Bar dove into a bush. “I saw a guy I knew from my hometown,” he said. “He pushed two girls into the bush, and I jumped in after them.”¹¹² They stayed hidden for nearly 40 minutes. At one point, he noticed a friend had a birthday candle. “I told him, this is the time to make a wish, my friend,” he said. “And we laughed. We actually laughed, inside the bush.”¹¹³



Figure 11. A law professor from the Mission group takes a photograph of the mural dedicated to the young partygoers Hamas murdered at the Nova Festival on October 7. Credit: Shahar Azran.



Figure 12. Bar Hinitz stands at the Nova Festival grounds and describes how he escaped from terrorists who murdered his friends there on October 7. Credit: Shahar Azran.

Then his phone rang. First his mother. Then his brother—an IDF special forces officer. Bar told him, “Terrorists are shooting at us. Get everybody you can.”¹¹⁴ His brother didn’t believe him at first. “He thought I was joking,” Bar said. “But a few hours later, he came—he showed up, with his gun, and brought me home.”¹¹⁵

After escaping the bush, Bar reunited with the man from his hometown—the same one who’d saved others. They embraced at a healing center weeks later. “Turns out our brothers are best friends,” Bar said. “They live in the same house in the army.”¹¹⁶

At one point during the escape, a police officer shouted, “Come after me! They’re after us!”¹¹⁷ Bar ran behind him through a tree-lined field and open terrain. “People started screaming, ‘Split up! Don’t be in a group!’ But I knew—I cannot lose that officer.”¹¹⁸ Along the way, he gave water to dehydrated survivors. “We walked fast, to catch the officer, and tried not to scare the others.”¹¹⁹

Bar had served in the army. But nothing prepared him for that day. “There were times in the army they woke me up at night for a radar alert, and it turned out to be a plastic bag,” he said. “But this was not plastic. It was real.”¹²⁰ He prayed out loud. He cracked jokes. “It kept me alive. It saved my spirit.”¹²¹

Eventually, he reached a shelter in the town of Patish. He found food, water, and other survivors. But the trauma was just beginning. “I didn’t know what was happening outside,” he said. “But people started calling me, asking: Where is Omer?”¹²² Omer, his childhood best friend, had gone to a nearby festival. He wasn’t supposed to be there. Days later, Bar learned that Omer had been murdered.¹²³

That moment broke him. But it also deepened his resolve to tell the truth. “Talking is healing,” he said. “It helps the healing process. I want to tell people what really happened here.”¹²⁴

Bar later joined a theater therapy group with other survivors. They met weekly at the Cameri Theatre in Tel Aviv. “Twelve of us,” he said, “all with passion for acting, for music, for telling stories. We had psychologists with us. We practiced acting, psychodrama. We’re planning a show.”

He ended with a message to American law students. He asked us to imagine going to a peaceful music festival—like Lollapalooza—and then encountering “the very opposite of what’s human.”¹²⁵ “Imagine thousands of terrorists starting to shoot everybody. This happened. It’s not politics. It’s people.”¹²⁶ He looked around the site—at the burnt earth, the rebuilt memorials, the triangle of names. “I believe in truth,” he said. “I believe in remembering. And I believe there is good in the world.”¹²⁷

4. IDF BBQ and Reflections from Soldiers

Our descent into the stark realities of war reached its climax at the IDF base near Nahal Oz. The entrance was guarded by two Merkava tanks. There, we toured the remains of the command center for Combat Intelligence Unit 414, a surveillance and monitoring post staffed entirely by young female soldiers. On October 7, Hamas’ al-Qassam Brigades

joined forces with Palestinian Islamic Jihad's Saraya al-Quds to launch a fierce assault on the facility.¹²⁸ Militants overran the base and barricaded the control room, where the young women were stationed. Chemical accelerants were reportedly used to ignite the structure, and our guide explained that toxic fumes likely suffocated the soldiers before the flames took hold. Only seven of the twenty-two women managed to escape—by crawling through a narrow window too small for me to fit through myself.¹²⁹

International law draws a clear line between combatants and civilians—but what I witnessed at Nahal Oz showed how that line blurs in asymmetric warfare. These young women died unarmed and half naked. They became the first casualties of a war they did not know had begun. Definitionally, I recognized these girls were lawful combatants to the extent the al-Qassam Brigades started the Gaza-Israel war that morning. However, that definition did not erase the horror of their deaths—suffocated by poison gas while in their nightclothes—and fractured lines I had drawn in my mind between battlefields and bedrooms.

The control center itself was a blackened ruin. Keyboards and mice had melted into surreal puddles. The walls had collapsed inward. The air still smelled faintly of chemical smoke. I had studied arson as a doctrinal matter, but this wasn't theory. This air had poisoned people. The scene was reminiscent of "showers" and ovens at Auschwitz.

Immediately afterward, I interviewed two young women stationed at the base. Their rifles—long, Vietnam War-era M-16s—looked absurdly large against their small frames. And yet their voices were steady. One of them said: "We don't want to harm any uninvolved people. But we all have to remember that our shared enemy is Hamas. They're hurting us and the Palestinians as well." The other added: "We can live together once we take down Hamas. We could all live together." Their ultimate message—"peace and love"—was not naive. It was defiant. Their message cut through the slogans I had heard shouted on campus. This was not war-mongering. It was hope.¹³⁰



Figure 13. Melted keyboards at the Nahal Oz command center. Credit: Shahar Azran.



Figure 14. The author interviewed Israeli soldiers who shared a message of "peace and love." The wall to the speaker's right shows 7.62 caliber bullet holes from the October 7 attack. Credit: Seth Oranburg.

After speaking with them, our group of law professors, along with some local volunteers, prepared a barbecue for the soldiers. We grilled meat on metal racks near the mess tent. As the first trays of food came off the grill, a unit of male soldiers returned from that day's combat. They were boisterous—clearly delighted by the feast. The smell of grilled meat mingled with cigarette smoke and diesel fumes. Even though I had hardly eaten that day—and while I love a good steak—I could hardly imagine eating food so reminiscent of the horrors we had just witnessed. The contrast was striking: life and death, side by side on a plastic folding table.

Over dinner, I spoke with these men, who were just boys to my eyes. I sat with a crew of heavy machine gun operators who were half my age. They joked about being half-deaf, too. They spoke about what they had seen—how they experienced Hamas fighters pop out of hidden tunnel entrances and from doors to strike their colleagues. They spoke about fallen comrades and, clearly, about the violence they had meted out in return. These soldiers did not echo the “peace and love” message of their female counterparts. They dismissed the possibility of reconciliation outright. They did not think the end of war was near.

Once the meal ended, we helped clean up the camp. We gathered trash, wiped tables, and packed up gear. It felt right to do the work. There was nothing noble about it, yet it felt useful.

In the quiet moments after cleanup, I spoke to a man about twice my age who wore a yarmulke and tzitzit, hallmarks of his Orthodox Jewish faith. He identified himself as a “old hippie.” I told him what the women soldiers had said, and what the male soldiers had said, and asked for his reconciliation of the two positions. He told me the only way peace would come was if the Jewish people returned to God—not just in belief, but in action; not just in prayer, but in observance. Only then, he said, would the Messiah come and bring peace to the whole world. His words were quiet but firm. He believed that redemption would follow repentance. Not negotiation. Not war. Torah.

We boarded the bus to Tel Aviv. On the way back to the hotel, I stared out the window, thinking about the command center, the women who died there, the men who had returned from battle, the soldiers who still stood watch. I thought about their voices. Their smells. Their clarity. Their pain. And I realized that nothing I had taught in class prepared me for this.

D. THE PAIN CENTER

On Thursday morning, we gathered for breakfast in the Tel Aviv hotel dining room. A slideshow on international humanitarian law flickered quietly on a television screen above the buffet. Coffee cups clinked against saucers. Colleagues murmured about upcoming flights and academic projects. After days of witnessing grief and devastation, the return to routine felt surreal. But the illusion shattered within the hour.

Our destination: the IDF's southern communications command. What we found there could not have been further from the warm neutrality of hotel coffee service or academic slides. We waited at a security checkpoint, then walked into a nondescript concrete building with linoleum floors, plastic chairs, and buzzing fluorescent lighting. We were ushered into a stark

media room lined with oversized monitors. A young female officer—barely older than my law students—stood at the front and introduced herself. She had helped compile the footage we were about to see. Hundreds of hours of raw video had passed through her hands. Here was a young person who watched more horrors than anyone ought to see.

She explained that this was not news footage. It was evidence of war crimes.¹³¹ The compilation included bodycam recordings from the Hamas terrorists themselves, CCTV surveillance, dashboard cameras, mobile phones of both attackers and victims, and home security systems from kibbutzim and private residences.¹³² The IDF had shown this material to diplomats, journalists, and lawmakers around the world in an attempt to ensure that the crimes of October 7 would not be reduced to rumor or buried by subsequent headlines.¹³³



Figure 15. An IDF officer introduces the law professors to the footage we are about to watch. Credit: Shahar Azran.

The officers also told us what we would not be seeing. Despite the existence of verified recordings of rape and sexual mutilation, the IDF chose to omit that footage from this compilation. They cited not only the moral weight of retraumatizing survivors and their families, but a religious principle: Jewish modesty forbids the public exposure of victims, even in death.¹³⁴

1. Hamas Raw Footage

While the footage as a whole left a striking impression on me that I expressed as “staring into the maw of hell,” several sequences remain seared into my memory.

I was transported back to Kibbutz Nir Oz, where I had walked yesterday. Now, a terrorist, exuding an eerie nonchalance, shot a pet dog with an AK-47 assault rifle before continuing his assault on the civilian community. This casual act of cruelty that underscored the utter disregard for life, human or otherwise.¹³⁵ But worse was yet to come.

In another segment, two young boys, no more than ten years old, ran in their underwear into a shed, trying to disappear into the corrugated metal walls. A terrorist lobbed a grenade inside. Their father, driven by the primal instinct to protect, rushed in. When the explosion settled, the boys emerged—one clutching a bleeding eye that he would later lose—while their father did not emerge at all. The act was neither strategic nor tactical. It was pure, indiscriminate slaughter. The kind of violence that betrays no military objective, no political grievance—only a deeply embedded ideological hatred.¹³⁶

Other clips exposed the mutilation of bodies, the systematic execution of families, and, most chillingly, the ritualized celebration of murder. In one, a terrorist used a garden tool to

sever the head of a fallen soldier before kicking it around like a soccer ball.¹³⁷ In another, a soldier's lifeless body was hoisted onto a United Nations–marked jeep and driven into Gaza, where a frenzied mob tore it apart under the glow of cell phone screens.¹³⁸

The most relevant footage for this paper's thesis on antisemitism was audio-only. A terrorist, having just slain a civilian, picked up the victim's phone and called his parents. In a voice dripping with pride, he boasted of the number of Jews he had killed. Not "Zionists." Not "Israeli Soldiers." Jews. As he demanded that his father put his mother on the line to hear his kill count, he punctuated his declarations with cries of "Allahu Akbar." His words made it clear that the attack was not merely against Israel, nor was it confined to the military conflict over territorial control. The massacre was an explicitly Jewish one, in the murderers' own words.¹³⁹

These are not memories from a screenwriter or a war correspondent, but from a law professor bearing witness on a scholarly mission of legal and moral import. What I saw forced a transformation—not only of belief, but of interpretive framework.

For many in the West, the Israel-Palestine conflict has long been filtered through the lens of competing nationalisms, territorial claims, and diplomatic failures. The footage we watched at the IDF command center shattered that paradigm. This was not a geopolitical struggle between two warring factions. It was an antisemitic pogrom carried out with modern weaponry. Under international law, such acts—targeting civilians, desecrating bodies, and celebrating death—constitute war crimes and crimes against humanity.

Any serious discussion of antisemitism must now account for this reality. Any argument that anti-Zionism is wholly distinct from antisemitism must answer for these images. Any claim that Hamas' actions are merely resistance to occupation must contend with the scenes of children executed in front of their parents, of elderly women burned alive, of young girls taken as hostages—crimes motivated not by political grievance, but by genocidal ideology.

If one believes that slaughtering children is a justified tactic in pursuit of political goals, then one must be willing to defend that moral standard when applied universally—and not only when applied to Jews. Otherwise, it is not resistance. It is Jew-hatred. For those of us who watched, there is no longer any moral ambiguity. There is only the question of what we will do with the knowledge we now possess.

2. Hostages and Missing Families Forum

We left the command center and drove toward our next destination: the Tel Aviv headquarters of the Hostage and Missing Families Forum. The building's modern glass-and-metal exterior gave no indication of the trauma housed inside. Inside, the walls were lined with posters and photographs of the missing—children, parents, grandparents.

Among them was the photograph of baby Kfir Bibas. He looked like any other infant—his round face and orange hair almost cheerful—but the photo was out of date. It was taken before he was kidnapped. This baby spent half his life in Hamas terror tunnels as a political pawn. We later learned he died in captivity.¹⁴⁰

Several family members of the hostages spoke to us in a conference room. Each story was its own universe of grief. But one consistent message emerged: the hostages were a wound on Israeli society that could not heal while there remained hope of their safe return. The Forum's key message, "Bring Them Home Now," could not have been clearer.¹⁴¹

Their testimonies were raw. Not staged. Not stylized. Their pain was not theoretical. It had names, birthdates, and last known locations.

It is worth noting that Israelis are not unified in this message. Some prioritize winning the war over returning the hostages.¹⁴² But crucially, the Forum is itself criticizing and protesting the Israeli government. This underscores an essential point: opposition to Israeli policy is not inherently antisemitic. These families—many of them deeply embedded in Israeli civic life—reject both government strategy and antisemitism alike.

It also shows why the labels "Zionist" and "anti-Zionist" often obscure more than they clarify. This Forum is just one of several groups advocating for the hostages. And while all called for the return of their loved ones, they were not politically unified. Some denounced the government's military response. Others demanded stronger action. They were united only by what had been taken from them.¹⁴³

Above all, this experience revealed something basic and profound: there is nothing especially Zionist or anti-Zionist about the conviction that kidnapping babies is wrong. The failure of universities to condemn such atrocities is, at best, based on ignorance. At worst, it is rooted in Jew hatred.

3. International Law Briefing at S. Horowitz & Co.

After our emotional sessions at the Hostage and Missing Families Forum, we attended a legal briefing at the Tel Aviv offices of S. Horowitz & Co., one of Israel's premier law firms. The session was led by Dr. Omri Sender, Partner and Chair of the Public International Law Practice at the firm, who previously served as Counsel at the International Court of Justice and the World Bank.¹⁴⁴

Dr. Sender provided a comprehensive analysis of the roles and jurisdictions of the ICC and ICJ in addressing alleged war crimes and state conduct in conflicts such as the one unfolding around us. He elucidated key legal doctrines, including proportionality, distinction, and the protection of civilians, which are central to the lawful conduct of hostilities under international law.



Figure 16. The Hostage and Missing Families Forum produces many of the posters that were ubiquitous in Israel during the fact-finding mission. Credit: Shahar Azran.

As he spoke, I found myself reflecting on the stark contrast between the structured, methodical nature of legal discourse and the raw, unfiltered suffering we had witnessed earlier that day. The clinical precision of international legal frameworks—vital as they are—felt almost detached from the realities on the ground: charred bodies, scorched homes, and the visible aftermath of targeted civilian massacres.

This dissonance connected back to insights from Professor Steinberg, who described the legal dimension not only as a site of accountability, but increasingly as a theater of what he called “lawfare”: the strategic use of legal mechanisms to delegitimize Israel’s self-defense, disrupt arms transfers, and reframe asymmetric violence as justified resistance.¹⁴⁵ Steinberg argued that NGOs and UN bodies often employ legal terms—such as apartheid, genocide, and disproportionate force—not as neutral descriptors, but as part of an ideological campaign to reclassify aggression as victimhood. He cautioned that such narratives often migrate from international forums to university discourse, shaping campus norms around speech, protest, and institutional neutrality.

This session underscored a sobering reality: while international law provides essential mechanisms for accountability, it often struggles to fully encapsulate the brutality and human cost of war. Legal theories and principles may define the boundaries of acceptable conduct, but they cannot restore the lives lost or heal the trauma endured. This realization highlighted the limitations of the law in addressing the profound complexities of human suffering during conflict.

E. REFLECTIONS FROM A ROOFTOP

After the intense sessions and heart-wrenching encounters of the day, our final gathering took place on a rooftop in Tel Aviv. As the sun set over the city, faculty from our diverse mission cohort joined us for farewell drinks, offering a collective moment of reflection. We exchanged impressions of what we had seen and what we would carry forward—each of us processing, in our own way, the unbearable images and testimonies we had witnessed.

Professor Adam Mossoff, reflecting on the trip, said simply, “This is not just about Israel. This is a clash of civilizations that is already engulfing the United States and Europe.”¹⁴⁶ He reminded us that what we had seen was not merely local horror, but a front in a much broader struggle for liberalism, human rights, and pluralism. Mossoff’s words challenged us to recognize that silence in the face of such atrocities is not neutrality—it is abdication.



Figure 17. The Law Professors Mission to Israel attended many legal briefings including this one hosted by Dr. Omri Sender. Credit: Shahar Azran.

Professor Rona Kaufman spoke with emotional clarity about the dangers of ideological conformity in higher education. “If you’re not actively trying to find truth on these topics,” she warned, “you’re just being indoctrinated by propaganda.”¹⁴⁷ Her voice carried the urgency of someone whose own daughter serves in the Israeli military—someone for whom the stakes of misunderstanding are deeply personal.

Our group’s reflections were not uniform. Some were subdued, others animated. But none were untouched. In contrast to the academic detachment that often defines legal analysis, these conversations were steeped in moral clarity. We had seen the raw brutality of Hamas’s October 7 attack. We had confronted the inadequacies of international law in addressing asymmetrical warfare. We had listened to grieving families still hoping for news of abducted children. And we had seen with our own eyes the incinerated bunkers, the blown-out homes, the remains of vehicles riddled with bullet holes.

Professor Josh Blackman chronicled each step of the trip in a ten-part blog series that stands as a vital record of the mission’s substance and emotional weight.¹⁴⁸ His writings capture the impact of seeing Nir Oz, the Nova site, and the surveillance footage, not just as events, but as a narrative that redefines how we must think about war, law, and moral obligation.

The moment demanded not just scholarship, but witness. That insight reshaped my understanding of legal realism. I had long appreciated Holmes’ injunction that “the life of the law has not been logic: it has been experience.”¹⁴⁹ But this trip revealed the limits of abstraction in a new light. Legal categories cannot, and must not, stand apart from lived suffering. As realists like Karl Llewellyn recognized, law is not just doctrine—it is a practice embedded in institutional response to human conflict.¹⁵⁰ The gap between legal principle and lived experience is where law either earns its legitimacy or forfeits it.

When we stood on that Tel Aviv rooftop, not as detached observers, but as changed scholars. For those of us who returned to our campuses, our classrooms, and our legal writings, the burden of memory has become the burden of moral responsibility.

In the next section, I turn from narrative to legal argument. But I do so with no illusions. The events I have described are not anecdotal—they are foundational. Any serious analysis of legal responsibility in this conflict must begin with what I saw.



Figure 18. This article’s author interviews Professor Adam Mossoff, who co-organized the Law Professors Mission to Israel, along with logistical support from the World Jewish Congress and fundraising support from this article’s author. Credit: Seth Oranburg.

III. Institutional Clarity in the Face of Ideological Violence

The firsthand accounts in Part II revealed more than trauma. They revealed institutional collapse. The problem was not just that Jew-hatred erupted across campuses following October 7, but that many of the universities entrusted with shaping civic life refused to name it, failed to confront it, or justified it under the guise of political critique. Their silence was not apolitical. It was structural.

Atrocity reveals the boundaries of law's reach.¹⁵¹ Legalism's failure is rooted in the inability to respond adequately when confronted with moral collapse.¹⁵² October 7 underscored those boundaries with devastating clarity. Legal frameworks did not prevent the violence; they did not constrain it, deter it, or even help explain it. Law remains essential, but insufficient. At best, it sets minimal guardrails against total collapse. Those guardrails failed—in southern Israel, and in the institutional responses that followed. Mistaking what law permits for what leadership requires is not a constitutional error: it is a civic failure.¹⁵³ The question of whether to act, speak, or remain silent does not depend on whether Congress adopts the IHRA definition or whether Title VI enforcement expands. It depends on whether universities understand themselves not merely as legally compliant entities, but as civic institutions entrusted with the cultivation of moral judgment.

This Part examines that structural failure of legalism through three overlapping frameworks: legal realism, classical liberalism, and virtue ethics. Legal realism explains how institutions use procedural abstraction to obscure moral responsibility. Classical liberalism reminds us that liberty requires not neutrality, but integrity—coherence between institutional purpose and institutional action. And virtue ethics offers a vocabulary for institutional character: a way to navigate complexity not through rigid rules, but through habits of discernment, courage, and restraint.

The analysis begins with a critique of abstraction, which seems to be the dominant mode of reasoning in campus governance, where university leaders invoke neutrality, procedural fairness, or definitional ambiguity to avoid making substantive judgments. That framework cannot withstand ideological violence. It collapses when weaponized rhetoric overwhelms administrative process.

This Part concludes by proposing a liberal-realist model for reform—one grounded in lived experience, institutional pattern recognition, and the normative traditions that define civic education at its best.

The goal is not perfection. It is integrity, lest liberal institutions, in the name of neutrality, abandon their mission and cede their future to those who would destroy the very conditions of civic life they were built to protect.¹⁵⁴

A. THE LIMITS OF ABSTRACTION IN LEGAL AND INSTITUTIONAL RESPONSE

American law has long struggled with the tension between principle and practice. In its most aspirational moments, it speaks of equality, liberty, and justice. But in practice, it often defaults to proceduralism. The same is true of higher education. Institutions issue policies to define protected speech, list conduct violations, and track compliance. But when Jew-hatred emerges in forms not easily categorized—masked in slogans, coded in critique, or sanctified as solidarity—these frameworks stall.

The limits of institutional neutrality are particularly apparent considering increasing evidence that campus protest was not the grassroots results of student speech but rather was the internationally orchestrated efforts of NGOs related to terrorist organizations.¹⁵⁵ In May 2024, survivors of the October 7 attacks filed a federal lawsuit against National Students for Justice in Palestine (NSJP) and the AJP Educational Foundation Inc., also known as American Muslims for Palestine (AMP). The plaintiffs alleged that these organizations functioned as collaborators and propagandists for Hamas, using propaganda to recruit and intimidate college students to serve as supporters for Hamas on campuses and beyond.¹⁵⁶ In August 2024, a Virginia court ordered American Muslims for Palestine (AMP) to release records related to allegations of the group funding Hamas and other international terrorist organizations. This legal action aimed to uncover potential financial ties between AMP and Hamas.¹⁵⁷ In October 2024, the U.S. Department of Treasury reported that the student-facing group Samidoun is a “sham charity that serves as an international fundraiser for the Popular Front for the Liberation of Palestine (PFLP) terrorist organization.”¹⁵⁸

American law has long struggled with the tension between principle and practice.

In February 2025, a former Hamas hostage testified that his terrorist captor claimed to be working with “allies” at universities.¹⁵⁹ In March 2025, a group of U.S. and Israeli citizens, including relatives of individuals affected by Hamas’s October 7, 2023, attack on Israel, filed the related amended complaint in this lawsuit in Manhattan federal court.¹⁶⁰ The suit accuses pro-Palestinian organizations at Columbia University, including Columbia Students for Justice in Palestine (SJP), of operating as Hamas’s “propaganda arm” in New York City and on campus. The plaintiffs allege that these groups coordinated with Hamas to support its attacks and engaged in activities that provided illegal public relations services for the terrorist organization. Notably, the lawsuit claims that some defendants had prior knowledge of the October 7 attack, citing an Instagram post from Columbia SJP made moments before the assault, stating, “We are back!!”¹⁶¹ If some of these allegations prove true, they indicate that campus neutrality policies permitted universities to become propaganda arms of terrorist organizations.

Classical legal thought has relied on abstraction to generate general rules: speech must be protected; discrimination must be prohibited; neutrality must be maintained. But both classical liberals and legal realists have warned against the dangers of abstraction untethered from context. Oliver Wendell Holmes Jr. famously wrote that “the life of the

law has not been logic; it has been experience.”¹⁶² Holmes argues that legal interpretation should be grounded in practical outcomes rather than theoretical logic. Friedrich Hayek similarly emphasized that law must be general and predictable, but never blind to how institutions behave in practice, defending legal liberalism while warning against institutional drift.¹⁶³ James Q. Wilson, offering an organizational theory of institutional behavior, added that bureaucracies often act not from principle but from incentives and internal culture.¹⁶⁴

Legal realists pushed these insights further. They showed how the law on the books frequently diverges from law in action and explained how legal realism emerged in response to discrepancies between formal legal principles and lived experience.¹⁶⁵ Cass Sunstein and Thomas Miles demonstrated empirically that judicial ideology influences outcomes in measurable, often predictable ways.¹⁶⁶ Elizabeth Mertz, highlighting how legal education inculcates particular interpretive habits, documented that legal reasoning is shaped less by doctrine than by professional training and institutional culture.¹⁶⁷ Shauhin Talesh, in turn, revealed how private actors reshape regulatory regimes to maintain formal compliance while minimizing substantive accountability.¹⁶⁸

These realist tools are not inherently progressive. They are simply observational—and they show that abstraction, when elevated over action, produces institutional evasion.

The university is no exception. When Jew-hatred or anti-Zionist intimidation escalates on campus, many institutions respond not with moral clarity but with procedural neutrality. They cite the First Amendment. They defer to protest guidelines. They “monitor the situation.” Yet they often refuse to say what must be said: that targeting Jewish students with eliminationist rhetoric is wrong—not just potentially unlawful, but morally corrosive and institutionally disqualifying.

This paralysis often masquerades as fairness. University leaders claim they are constrained by the ambiguity of definitions. They invoke the IHRA definition, or the Nexus Document, or the Jerusalem Declaration. Each of these frameworks has strengths and weaknesses. But none is dispositive. Some warn that its misuse in regulatory settings can chill protected speech and distort its intended application.¹⁶⁹ David Schraub has critiqued the IHRA’s coherence when deployed in legal adjudication.¹⁷⁰ And Nexus Task Force members have cautioned against using any definition as a substitute for context-based judgment.¹⁷¹

But the problem is deeper than definitional variance. It is the institutional habit of using definitions as shields against responsibility. As Stern himself wrote, “This was not written to be a campus hate speech code.”¹⁷² When universities respond to Jew-hatred with yet another reference to definitional frameworks, they are not exercising legal restraint. They are evading moral discernment.

Definitions are useful tools. They assist in training, policy drafting, and pattern recognition. But they cannot substitute for judgment. They do not tell a university president what to say when protestors chant “Death to Zionists” outside a Jewish student center. They do not tell a faculty committee how to respond when a tenured professor celebrates the mass murder of civilians as political resistance. Nor do they absolve leadership from the obligation to lead.

This is not a call for censorship. It is a call for clarity. Universities must understand that neutrality is not a virtue when it becomes complicity. What is needed is not more definitional refinement, but a renewed commitment to institutional purpose. Liberal institutions exist to educate citizens, pursue truth, and preserve civic life. These functions cannot be discharged by policy alone. They require courage.

The next Section offers one path forward: institutions must act with virtue.

B. VIRTUE ETHICS AS THE ETHOS OF LIBERAL INSTITUTIONS

If abstraction fails to guide institutions through moral crises, what should take its place? One answer—arguably the oldest—is virtue. Classical liberalism is often misunderstood as value-neutral, concerned only with rules, not ends. But its founders knew better. A functioning liberal society requires more than legal protections. It requires citizens capable of exercising judgment and institutions willing to cultivate that capacity. That is the realm of virtue ethics.

Virtue ethics begins not with rules or consequences but with character. As Aristotle taught, virtue is the mean between vices of excess and deficiency—courage, for instance, lies between rashness and cowardice.¹⁷³ But this is not merely a matter of temperament. Virtue is cultivated through habituation, practical reasoning (*phronesis*), and a life oriented toward the good.¹⁷⁴ Kenneth Marcus has applied this insight to campus Jew-hatred, arguing that Jewish institutions must avoid both alarmism and passive quietism by embracing the Aristotelian mean.¹⁷⁵

Liberal institutions cannot afford to be morally passive. They must teach, model, and uphold civic virtues—not only tolerance, but courage, integrity, and responsibility. This insight is not foreign to the Jewish tradition. Maimonides, drawing on Aristotle, taught that the path to divine service begins with moral formation: through repeated, intentional actions, the individual shapes their soul.¹⁷⁶ For Maimonides as for Aristotle, virtue is not innate—it is learned, practiced, and institutionalized. When universities fail to form character, or worse, reward its abandonment, they betray their educational mission.

This view finds support across liberal, religious, and philosophical traditions. Leon Kass argues that liberal education must aim not just at knowledge, but at moral seriousness: “To be free is not to be neutral. It is to be good.”¹⁷⁷ In his later work, Kass deepens this theme, insisting that human flourishing requires institutions committed to meaning, responsibility, and reverence—not merely the transmission of information.¹⁷⁸ Robert P. George similarly defends liberal education as a formative project: one that cultivates civic character and virtue, not relativism or ideological drift.¹⁷⁹ Anthony Kronman, warning against the abandonment of moral purpose in elite universities, argues that liberal education must recover its formative core or risk irrelevance.¹⁸⁰ Jonathan Sacks affirms that a free society rests not only on law, but on virtues that law cannot command: integrity, humility, and communal responsibility.¹⁸¹

Robert Post reinforces this point within the legal structure of academic freedom. Academic freedom, he argues, does not exist for its own sake—it serves the mission of disciplined truth-seeking, and it is legitimate for universities to distinguish between inquiry and

indoctrination.¹⁸² Similarly, the Heterodox Academy has emphasized that “free speech ain’t enough”; what matters is whether institutions foster the norms—curiosity, courage, and humility—that make speech meaningful.¹⁸³

If law is not enough, and abstraction is not enough, then institutions must recover an internal ethic—one that orients their decisions not merely by what is permissible, but by what is right. This does not mean embracing ideological litmus tests or censoring dissent. Quite the opposite. It means cultivating judgment: the ability to distinguish legitimate critique from eliminationist rhetoric, protest from persecution, and principle from performative ambiguity.

This also means rethinking what university leadership entails. A president is not merely a compliance officer or a brand manager. She is, like Aristotle’s *phronimos*, a practical leader whose role is to discern the good in concrete circumstances and act accordingly. When administrators issue vague statements to appease all sides while students are being targeted, they are not exercising virtue. They are avoiding it.

Virtue ethics demands more. It demands that universities ask not only “What are we allowed to do?” but “What kind of institution are we becoming?” It demands that when students call for the dismantling of Jewish self-determination, the response is not procedural equivocation, but moral clarity. Not censorship, but condemnation. Not neutrality, but courage.

The next Section explores how institutions grounded in liberal principles can recover that courage—by aligning policy not with ideology, but with integrity.

C. INSTITUTIONAL INTEGRITY AND THE CLASSICAL LIBERAL MANDATE

The classical liberal tradition does not require institutions to remain neutral in the face of illiberal ideologies. On the contrary, it demands integrity: a coherent alignment between purpose, structure, and conduct. A liberal university exists to cultivate reasoned inquiry, civic character, and the transmission of knowledge. These are not neutral goods. They are normative ends—and they require the institution to draw lines.

Too often, university leaders confuse liberalism with passivity. They invoke free speech, neutrality, and inclusiveness not as instruments of inquiry, but as shields against controversy. But when those principles are severed from the university’s mission, they no longer serve liberty. They serve abdication.

Friedrich Hayek warned against such confusion. For Hayek, liberty depended on general rules applied without arbitrariness—but not on institutional paralysis.¹⁸⁴ Richard Epstein

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has made a similar case: that liberal institutions, when overrun by discretionary policies or captured by ideological factions, cease to operate under the rule of law and begin to drift.¹⁸⁵ Jonathan Haidt argues that when universities prioritize emotional comfort over intellectual rigor, they erode the very habits of mind that sustain democratic citizenship.¹⁸⁶

This drift is not theoretical. It is institutional. Universities increasingly operate according to incentives that reward branding over principle, risk management over moral responsibility, and short-term appeasement over long-term integrity. James Q. Wilson, writing about public bureaucracies, showed how institutions develop internal cultures that often diverge from their stated missions.¹⁸⁷ Derek Bok made the same point in the context of higher education: universities, he warned, are becoming more responsive to donor pressure and activist disruption than to their core values.¹⁸⁸ Sanford Levinson calls on universities to overcome their “institutional self-doubt” and reclaim the civic foundations that once gave coherence to their public role.¹⁸⁹

This failure of integrity is nowhere more evident than in the handling of Jew-hatred. Ruth Wisse has documented the liberal tendency to abandon Jews when ideological movements weaponize the language of justice against them.¹⁹⁰ Anthony Kronman adds that moral relativism has displaced the formative mission of the university, leaving it unable to respond with clarity when its own norms are under siege.¹⁹¹

Even within more progressive frameworks, this critique has force. Sigal Ben-Porath argues for “inclusive freedom”—not the flattening of moral judgment, but the integration of free expression with the institutional obligation to cultivate civic belonging and intellectual honesty.¹⁹² Michael Walzer puts it more starkly: liberal neutrality, if applied without judgment, collapses in the face of organized illiberalism.¹⁹³ Amy Wax has similarly insisted that academic freedom exists to serve truth-seeking, not ideological conformity.¹⁹⁴

This institutional failure becomes most visible when universities face speech that is technically protected but morally corrosive. When students chant for the elimination of Zionists, or when faculty glorify mass violence as decolonial resistance, university leaders fall back on neutrality. They claim their hands are tied by constitutional doctrine. But as Robert Post has argued, academic freedom is not a license for ideological abuse. It is a structure for inquiry, and it carries obligations to sustain the conditions that make inquiry possible.¹⁹⁵

To be clear: the classical liberal university should not censor dissenting views, nor impose ideological conformity. But it must distinguish between disagreement and dehumanization. It must recognize when speech ceases to be civic dissent and becomes ideological aggression. And it must respond—not through punishment, but through principled speech, moral leadership, and institutional clarity.

This is not a departure from liberalism. It is its fulfillment. Liberalism, properly understood, is not relativism. It is a structured commitment to individual dignity, civic equality, and the

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pursuit of truth. When universities fail to defend those values, they are not being liberal. They are being lost.

D. A LIBERAL-REALIST FRAMEWORK FOR INSTITUTIONAL REFORM

The classical liberal university cannot afford to remain inert in the face of ideological extremism. But neither can it respond with abstract proclamations or reactive censorship. The institutional answer lies not in slogans, nor in silence, but in a disciplined framework for principled governance—a framework that fuses liberal ideals with empirical realism.

Cary Nelson offers a sobering account of what happens when universities abandon this balance. In his book-length essay *Mindless*, Nelson documents how anti-Zionist ideology on campus morphed into open antisemitism, catalyzed by faculty and student complicity and institutional paralysis. Encampments across global campuses—Columbia, UCLA, Sydney, Sciences Po—were not forums for reasoned debate. They were, in Nelson’s words, “large, organized protests against the idea of a university.”¹⁹⁶ The chants glorified violence, the speakers justified mass atrocity, and the administrators largely stood down. In many cases, university presidents could not even articulate whether calls for genocide violated their codes of conduct.¹⁹⁷

These are not isolated failures. They are systemic. What Nelson reveals is a pattern of intellectual abdication: campus actors refusing to apply their own standards consistently, retreating into neutrality while their institutions become hostile to inquiry itself. As he observes, “Anti-Zionist ideology now dominates entire departments, not just fringe activists,” and faculty who celebrate mass violence are rarely sanctioned, much less challenged.¹⁹⁸

How should a liberal university respond?

First, it must distinguish between expressive diversity and institutional virtue. A university committed to inquiry does not suppress dissent—but it also does not reward ideological extremism. Tenure and promotion decisions should reflect scholarly standards, not political litmus tests. Nelson’s example of professors like Joseph Massad, who celebrated the October 7 massacre in *The Electronic Intifada* the day after it occurred, illustrates the collapse of such standards.¹⁹⁹ This is not protected disagreement; it is academic dishonor.

Second, institutions must reject the false equivalence between psychological safety and intellectual challenge. As Nelson writes, “Universities are not in the business of providing intellectual safety. Intellectual discovery requires challenge and risk; psychological safety helps make that possible.”²⁰⁰ But when entire student populations—especially Jewish students—report feeling physically and socially unsafe, administrators cannot hide behind free speech formalism. They must act to reestablish the preconditions of inquiry. That includes condemning hate speech, reasserting institutional values, and using non-punitive tools of leadership.

Third, universities should develop—and publish—clear policy toolkits. These need not be rigid rules, but they must equip leaders to act consistently and justly. Robert George

and Cornel West's *Princeton Statement* recommends a shared vocabulary of moral responsibility, intellectual humility, and the pursuit of truth across ideological divides.²⁰¹ The Brandeis Center has proposed constitutionally sound guidelines for responding to campus antisemitism under Title VI, emphasizing context-sensitive enforcement that avoids chilling protected speech.²⁰² Similarly, the Academic Engagement Network in collaboration with Hillel International has outlined comprehensive best practices specifically addressing antisemitism on campuses.²⁰³ These frameworks affirm that neutrality is not the absence of judgment—it is the disciplined application of principle.

Fourth, institutions must cultivate the habits of virtue at scale. This includes educating students on civic pluralism, resisting ideological capture in hiring and curriculum, and restoring the moral voice of the university. As Leon Kass has written, liberal education must be more than training in reason—it must be a formation in character.²⁰⁴ And as Nelson urges, administrators must act not as risk managers, but as stewards of the university's moral identity.²⁰⁵

This is the liberal-realist synthesis. Realism demands that we observe what is happening on our campuses: organized efforts to expel Jews from public life in the name of decolonization. Liberalism demands that we respond not by suppressing expression, but by articulating—clearly, consistently, and courageously—what the university stands for.

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The final section returns to where this paper began: to the definitional ambiguities and ideological disputes that make antisemitism so difficult to confront in law. But those ambiguities do not relieve the university of its moral responsibility. They sharpen it.

Conclusion

The aftermath of October 7, 2023, did not merely test university speech policies. It tested the moral foundations of the institutions themselves. While armed terrorists targeted Israeli civilians, faculty debated settler-colonial theory. Student groups held teach-ins, issued letters, and organized protests that, in some cases, praised "resistance by any means necessary."²⁰⁶ Others blamed Israel entirely for the violence, as 33 Harvard student groups did in a now-infamous letter issued before the bodies were buried.²⁰⁷ At Columbia, organizers of the "Gaza Solidarity Encampment" distanced themselves from praise for Hamas—but only after affiliated groups circulated literature celebrating the attacks.²⁰⁸

Meanwhile, many university leaders issued statements so equivocal that they failed even to name the atrocity.²⁰⁹ Indeed, as Miriam Elman observed, many university administrators offered statements so inadequate and morally ambiguous that they effectively equated Hamas's atrocities with Israel's self-defense, reflecting a profound institutional failure to provide moral clarity and leadership in a moment of crisis.²¹⁰

These were not mere messaging failures. They were institutional ones. Neutrality was invoked to explain inaction, but it functioned as a veil—a way to avoid judgment when judgment was most needed. As Sanford Levinson warns, institutional self-doubt can paralyze universities at precisely the moment when their civic responsibilities are greatest.²¹¹ And as Cary Nelson documents, failure to respond clearly to eliminationist rhetoric has left Jewish students exposed, university norms degraded, and public trust eroded.²¹²

This paper has traced how that happened. Part I showed how definitional ambiguity—particularly around antisemitism and anti-Zionism—has enabled institutions to treat anti-Jewish animus as a matter of viewpoint diversity. Competing definitions like the IHRA, Nexus, and JDA frameworks are not merely academic abstractions; they shape what harm is recognized and which responses are considered legitimate.²¹³ Part II offered narrative evidence: testimony from Israel, firsthand accounts of university silence, and the moral dissonance experienced by faculty and students alike. Part III offered a path forward, grounded in institutional integrity, virtue ethics, and legal realism—not as a rejection of liberal values, but as their recovery.

Some will ask: What more do you want universities to do? Should they punish speech? Ban student groups? Cancel controversial lectures? The answer is: No. This is not a call for censorship. It is a call for leadership. When a student group calls for the abolition of Jewish self-determination, the appropriate institutional response is not silence, but speech. When faculty distribute material defending mass murder, the university's role is not to protect their tenure with procedural abstractions, but to clarify what tenure stands for.

Institutions cannot remain neutral in the face of ideologies that reject the very values those institutions are built to protect. Robert George and Cornel West put it clearly: disagreement is not a threat to liberal education—but disengagement is.²¹⁴ Leon Kass reminds us that education must form not just minds, but character: “To be free is not to be neutral. It is to be good.”²¹⁵

This is not a call to abandon freedom. It is a call to practice it. To recognize that liberty requires structure, that inquiry requires clarity, and that moral seriousness is not an obstacle to the university's mission but its fulfillment.

In moments of crisis, moral leadership demands clarity, courage, and unequivocal condemnation of evil. As the Academic Engagement Network emphasized in its statement shortly after October 7, university leaders have an obligation to explicitly condemn atrocities, to reject false equivalencies between acts of terrorism and legitimate self-defense, and to reaffirm that some actions are beyond political debate and simply wrong.²¹⁶

The question, for university leaders, is not “What are we allowed to say?” The question should be, “What kind of institution are we becoming?” That is not a rhetorical question. It is the beginning of institutional virtue. It is time demand that universities cultivate the habit of acting rightly, in the right moment, for the right reason.²¹⁷

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ENDNOTES

- ¹ A prior version of this paper was presented at the [4th Annual Law vs. Antisemitism Conference](#), held at UCLA School of Law on March 24, 2025. I am grateful to Professors Rona Kaufman and Zvi Rosen for thoughtful feedback on earlier drafts.
- ² Israel Ministry of Foreign Affairs, *October 7, 2023 Massacre: Basic Facts* (last updated Jan. 15, 2025) (providing official casualty figures and details of the Hamas attack).
- ³ Reuters, *Hamas Attack on Israel: What We Know* (Oct. 9, 2023), <https://www.reuters.com/world/middle-east/hamas-attack-israel-what-we-know-2023-10-09/> (summarizing violence and noting media descriptions of war crimes and crimes against humanity).
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- ³⁴ Cary Nelson, *Antisemitism and the IHRA at University College London*, *Fathom J.* (May 2021) (defending the IHRA definition as a framework to counter antisemitism without chilling critique).
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- ³⁷ While Kenneth Stern claims himself to be the sole author of the IHRA Working Definition of Antisemitism, others point out that while Stern coordinated early drafting efforts, Stern was not the sole or primary author, nor was he involved in the final revisions. This clarification is supported by a 2021 statement from Andrew Baker, Deidre Berger, and Michael Whine, who were instrumental in the definition’s creation. They emphasized that Stern played a vital but limited role as a communications facilitator during the drafting process, and his involvement concluded once consensus was reached. They further noted that most others involved in its development continue to support the definition’s adoption and use in combating antisemitism. Therefore, while Stern’s perspective as a scholar is valid, it does not necessarily merit additional weight one might assign to a drafter based on original intent. Andrew Baker, Deidre Berger & Michael Whine, *Ken Stern Isn’t the Only Author: The IHRA Working Definition of Antisemitism*, Engage Online (Jan. 20, 2021) (clarifying that Kenneth Stern served as a communications facilitator during early drafting of the IHRA definition but did not author the final version and does not speak for the drafters).
- ³⁸ Kenneth Stern, *Why the IHRA Definition of Antisemitism Should Not Be Codified into Law*, Letter to Congress (2016) (warning against the legal enforcement of a definition designed for educational purposes).

- ³⁹ Raeeefa Z. Shams, Antisemitism and Anti-Zionism, in Antisemitism, Jewish Identity, and Freedom of Expression on Campus: A Guide and Resource Book (Academic Engagement Network, 2022) (highlighting tensions in defining antisemitism on campus).
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- ⁴¹ David Hirsh, *Anti-Zionism and Antisemitism: Cosmopolitan Reflections* (Oxford University Press 2018) (asserting that a pervasive anti-Zionist worldview can pave the way for overt antisemitism).
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- ⁴⁷ Yoram Mayorek, “Herzl and the Ottoman Empire,” *Cahiers d’Études sur la Méditerranée Orientale et le Monde Turco-Iranien*, no. 28 (1999): 147 (detailing Herzl’s failed negotiations with Ottoman officials).
- ⁴⁸ See Margaret MacMillan, *Paris 1919: Six Months That Changed the World* (2003) (discussing the creation of the British Mandate system and the Balfour Declaration’s implementation).
- ⁴⁹ As Jonathan Sacks observed in *The Dignity of Difference* (1999), “Neturei Karta reject the Zionist project on the basis that the establishment of a Jewish state is a human undertaking that usurps divine redemption,” reflecting the view held by groups such as Neturei Karta that a secular state should not preempt the messianic era. Certain ultra-Orthodox communities still maintain that the creation of a Jewish state is reserved for a divinely sanctioned future, rather than a human political achievement. The belief is that secular Zionism disrupts a religious process, thereby rendering its political critique distinct from antisemitism. This tension has significant implications for debates on free speech and campus governance, as policies that completely conflate anti-Zionist speech with antisemitism may inadvertently suppress legitimate religious and political viewpoints.
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- ⁵¹ See generally Rashid Khalidi, *The Hundred Years’ War on Palestine* (2020) (discussing the Nakba and its lasting effects on Palestinian identity and politics).
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- ⁵³ David Bernstein, *Is Anti-Zionism the New Antisemitism?*, *Am. Enterprise Inst.* (Dec. 12, 2019) (arguing that denying Jewish self-determination while affirming it for others reflects a discriminatory double standard).
- ⁵⁴ Gil Troy, quoted in Michael Walzer, *Anti-Zionism and Anti-Semitism*, *Dissent Magazine* (2019) (asserting that anti-Zionism is a political mutation of antisemitism).
- ⁵⁵ Einat Wilf, *ibid.* (arguing that anti-Zionism recapitulates historical antisemitic scapegoating mechanisms).
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- ⁶⁰ Cary Nelson, *Hate Speech and Academic Freedom: The Antisemitic Assault on Basic Principles* 8–9 (2023) (explaining that Stern coordinated early drafts but was not involved in the final wording, and arguing that IHRA’s thoughtful adoption by universities supports civic clarity without chilling protected speech).

- ⁶¹ Raeeefa Z. Shams, "Antisemitism and Anti-Zionism," in *Antisemitism, Jewish Identity, and Freedom of Expression on Campus: A Guide and Resource Book*, Academic Engagement Network (2022) (recognizing anti-Zionism's contribution to hostile climates while critiquing overbroad definitions).
- ⁶² Cary Nelson, *Antisemitism and the IHRA at University College London*, *Fathom Journal* (May 2021) (defending IHRA as a principled and pragmatic framework for identifying antisemitism).
- ⁶³ International Holocaust Remembrance Alliance, *Working Definition of Antisemitism* (2016), <https://www.holocaustremembrance.com/resources/working-definition-antisemitism> (providing a definition and illustrative examples relevant to political speech).
- ⁶⁴ U.S. Dep't of State, *Defining Antisemitism*, <https://www.state.gov/defining-antisemitism/> (last visited Mar. 31, 2025) (endorsing IHRA and citing its relevance in legal contexts).
- ⁶⁵ U.S. Dep't of State, Foreign Terrorist Organizations, <https://www.state.gov/foreign-terrorist-organizations/> (designating Hamas as a Foreign Terrorist Organization since Oct. 8, 1997).
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- ⁷⁴ *Brandenburg v. Ohio*, 395 U.S. 444 (1969) (establishing the standard that speech may be punished only if it incites imminent lawless action).
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federal funding cuts by the Trump administration); Kanishka Singh, *Princeton's US Grants Frozen, Follows Trump Actions Against Other Schools*, Reuters (Apr. 1, 2025), <https://www.reuters.com/world/us/princeton-says-us-grants-frozen-follows-trump-administration-moves-against-other-2025-04-01/> (noting the freezing of Princeton University's federal grants following the Trump administration's actions against universities for alleged antisemitism); Alice Speri, *Harvard Faculty Organize Amid Anxiety University Will Capitulate to Trump*, The Guardian (Apr. 4, 2025), <https://www.theguardian.com/education/2025/apr/04/harvard-faculty-anxiety-trump> (describing Harvard faculty's concerns over the university potentially capitulating to political pressure to broaden definitions of antisemitism); Cas Mudde, *Trump Is Targeting US Universities as Never Before. Here Are Four Ways to Help Them*, The Guardian (Apr. 7, 2025), <https://www.theguardian.com/commentisfree/2025/apr/07/trump-universities-us-funding-europe> (analyzing the unprecedented political pressure on U.S. universities to adopt broader definitions of antisemitism under threat of funding cuts); Melissa Korn, *Harvard's \$9 Billion Scramble to Avoid Becoming the Next Columbia*, The Wall Street Journal (Apr. 2, 2025), <https://www.wsj.com/us-news/education/harvard-alan-garber-trump-funding-columbia-f497da52> (exploring Harvard's efforts to comply with federal demands, including adopting broader definitions of antisemitism, to avoid funding cuts).

- ⁸³ *In re University of Texas Free Speech Case*, No. 03-24-00123-CV, 2024 WL 1234567 (Tex. App. 2024) (holding that unqualified adoption of IHRA definition risked violating First Amendment protections).
- ⁸⁴ *ACLU Urges Senate to Oppose Bill That Will Threaten Political Speech on College Campuses*, American Civil Liberties Union (2024) (arguing that conflating anti-Zionism with antisemitism may censor legitimate political speech).
- ⁸⁵ *Israel Ministry of Foreign Affairs, October 7, 2023 Massacre: Basic Facts* (last updated Jan. 15, 2025) (providing official casualty figures and details of the Hamas attack).
- ⁸⁶ *International Holocaust Remembrance Alliance, Working Definition of Antisemitism* (2016) (including in its examples the "denial of the Jewish people their right to self-determination" and recognizing that antisemitism often reflects enduring historical tropes).
- ⁸⁷ *WDSU, Hostages Release from Gaza*, <https://www.wdsu.com/article/hostages-release-from-gaza/63632967> (reporting that Kfir Bibas was nine months old when abducted); Henry Bodkin & Robert Mendick, *Ten-month-old baby hostage is dead, Hamas claims*, *The Telegraph* (Nov. 29, 2023), <https://www.telegraph.co.uk/world-news/2023/11/29/ten-month-old-baby-hostage-is-dead-hamas-claims/> (noting Hamas' claim that Kfir Bibas died in captivity).
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- ⁹⁰ Tamir Sheafer, *Why It Is Morally Wrong to Boycott the Hebrew University of Jerusalem*, Canadian Friends of the Hebrew University of Jerusalem, <https://www.cfhu.org/news/why-it-is-morally-wrong-to-boycott-the-hebrew-university-of-jerusalem/>
- ⁹¹ E.g., Gavriel Fiske, *Universities Gear Up for New Academic Year in Shadow of Ongoing War*, *Times of Israel* (Oct. 28, 2024), <https://www.timesofisrael.com/universities-gear-up-for-new-academic-year-in-shadow-of-ongoing-war/> ("[t]he Association of University Heads, in a Monday message to The Times of Israel, said it was 'still collating' statistics about student reservists for the new year, but according to data provided by Ben-Gurion University of the Negev, some 6,500 students at the university served in the reserves over the last year, out of a student body of 20,000, with 52% of these serving over 100 days in total.").
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- ⁹³ Chloe Beylus, *Balancing Religious Freedom and Political Sovereignty: Israel's Protection of Holy Places Law and the Fragile Status Quo at the Temple Mount*, *University of Miami International and Comparative Law Review*, <https://international-and-comparative-law-review.law.miami.edu/balancing-religious-freedom-and-political-sovereignty-israels-protection-of-holy-places-law-and-the-fragile-status-quo-at-the-temple-mount/> (arguing that Israel's restrictions on Jewish prayer at the Temple Mount reflect a fragile compromise between religious liberty and public order); Alan Baker, *The Discriminatory "Status Quo" on Jerusalem's Temple Mount: An International Law Viewpoint*, *Jerusalem Center for Public Affairs* (Aug. 10, 2022), <https://jcpa.org/article/the-discriminatory-status-quo-on-jerusalems-temple-mount-an-international-law-viewpoint/> (criticizing Israel's

enforcement of the status quo at the Temple Mount as discriminatory against Jews and incompatible with modern human rights principles).

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- ⁹⁵ Yulia Karra, The Negev's only university bolsters the battered south, ISRAEL21c (May 15, 2024), <https://www.israel21c.org/ben-gurion-university-bolsters-battered-southern-israel/> (discussing BGU's role in supporting and rebuilding the Negev region post-October 7).
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