

New moves to curb criticism of Israel in US and Canada

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New legislation in the US threatens to conflate campus criticism of Israel with anti-Semitism.

A number of new initiatives to curtail freedom of speech by conflating opposition to Israeli crimes with anti-Semitism are underway in the United States and Canada.

The Canadian Parliamentary Coalition to Combat Anti-Semitism (CPCCA) issued a report in early July recommending the adoption of strict new standards defining anti-Semitism and the types of speech and campus activities that would violate them. Its report urged the Canadian government to adopt the European Union Monitoring Centre on Racism and Xenophobia's definition of anti-Semitism ("[Report on the Inquiry Panel](#)," 7 July 2011 [PDF]). That definition suggests that any questioning of whether Israel has the right to exist as a state that privileges Jews over people of other religions or ethnic backgrounds amounts to anti-Semitism.

Though the Canadian group is not linked to the Ottawa government, it has 22 parliamentarians as members. Activities it deems as anti-Semitic and, therefore, calls to be banned, include events such as the Israeli Apartheid Week that was founded in Toronto and now takes place on college campuses internationally every March.

The Canadian report is just the latest attempt at stifling public discourse about Israel. Free speech and the unimpeded exchange of ideas are also under attack on America's college campuses. Pro-Israel supporters have targeted federal funding for academic institutions, including support for research and academic conferences, under the pretext that criticism of Israel is "hate speech."

Federal authorities from the Office of Civil Rights with the US Department of Education are investigating charges of anti-Semitism against the University of California Santa Cruz, as well as at other institutions within the California university system, according to published reports. These are the first investigations taking place since Title VI of the Civil Rights Act was re-interpreted in October 2010, allowing Jewish students, as members of a religious group, to claim discrimination under a provision that previously applied only to racial and ethnic bigotry.

A "dear colleague" letter issued by the Office of Civil Rights in October 2010 said that discrimination against a student who is a member of a religious group violates Title VI when the discrimination is based on the group's "actual or perceived shared ancestry or ethnic characteristics ... or when it is based upon the student's actual or perceived citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity," David Thomas, a US Department of Education spokesman, explained by email.

Bowing to the Zionist lobby

Major pro-Israel organizations such as the Zionist Organization of America and the Anti-Defamation League have lobbied for this re-interpretation for years. Title VI now can be applied to Jewish students who claim universities create hostile campus environments if they allow pro-Palestinian events or even class lectures critical of Israeli policies.

In other words, since Israel bills itself as a Jewish state, of which all Jews everywhere are automatic citizens, Jewish students can file complaints of anti-Semitism and discrimination based upon their perceived ethnicity and citizenship or residency in a country that has a “dominant religion.”

Dr. Hatem Bazian, a Palestinian-American professor of Near Eastern and Ethnic Studies at the University of California, Berkeley, who founded the Students for Justice in Palestine (SJP) there in 2001, takes issue with the amended understanding of Title VI. While he agrees that Jewish students, as well as Muslim students, should be protected from discrimination based on their religious identity under Title VI, he believes the reinterpretation is actually being used to silence debate about Israel.

“Attempts to silence opposition to the illegal Israeli occupation and policies is un-American and amounts to political and academic censorship,” Bazian said via email. (Bazian is also the chairman of American Muslims for Palestine, the organization with which this writer is employed).

The Title VI reinterpretation and the subsequent case against Santa Cruz is part of a growing trend of stifling of protected political speech on college campuses. Several lecturers and professors have been censured and even denied tenure because they openly criticized Israeli policies or advocated for Palestinian rights.

Perhaps the most widely publicized cases are those of former DePaul University professor Norman Finkelstein and North Carolina State University professor Terri Ginsberg, both of whom were not given tenure because of their open criticism of Israeli policies in 2007 and 2008, respectively. Ginsberg initiated legal action against North Carolina State and her case is currently on appeal.

Freedom of information denied

The new interpretation has rejuvenated a 29-page complaint brought against the University of California Santa Cruz in June 2009 by lecturer Tammi Rossman-Benjamin, the contents of which have been kept secret by the Department of Education and university officials.

On 13 April, American Muslims for Palestine filed a Freedom of Information Act (FOIA) request for the complaint with the San Francisco Office of Civil Rights. Federal authorities declined the request on 22 April, saying that supplying the complaint would “constitute an unwarranted invasion of personal privacy” and that it could “reasonably be expected to interfere with enforcement proceedings,” both of which are listed as exemptions under the federal FOIA statute.

What is so troubling in the University of California Santa Cruz investigation is that the amended interpretation is being applied retroactively to Rossman-Benjamin’s complaint, which she filed more than one year before the October 2010 “dear colleague” letter. No one

contacted from the university or the Department of Education would discuss how an institution can be held liable for something that was not considered to be a violation at the time it occurred.

“[The Office of Civil Rights] received the UC-Santa Cruz complaint ... on 25 June 2009,” Thomas wrote in an email to American Muslims for Palestine. “On 7 March 2011, OCR formally notified the university and the complainant that OCR was opening for investigation the allegations that a hostile environment existed for Jewish students at the university in 2009 in violation of Title VI and that the university had notice of the hostile environment but did not have a process to adequately respond to hostile environment complaints.”

Thomas failed to respond to American Muslims for Palestine’s direct question about how the new interpretation could be applied retroactively, though it was posed three times in three separate emails on 13 and 15 April.

Jim Burns, a University of California Santa Cruz spokesman, also would not address that issue and instead referred it back to the Department of Education’s civil rights office. He did tell American Muslims for Palestine in an email, however, that the Office of Civil Rights is reviewing a complaint that “speech on campus that is critical of Israel creates a hostile environment for Jewish students.”

“We believe that [the Office of Civil Rights’] investigation will ultimately conclude that [the University of California Santa Cruz] diligently enforces laws, policies and practices that protect our students’ civil rights. But we also believe that our review of the matter with OCR will provide us with an opportunity to examine our relevant policies and practices to ensure that is the case,” he added.

If federal investigators find a university to be in violation of Title VI and the institution does not remedy the situation satisfactorily it could lose federal funding. This is a worst-case scenario to be sure, but it is one that seemingly threatens the open exchange of ideas on college campuses.

“While some of the recent allegations ... might well raise a claim under Title VI, many others simply seek to silence anti-Israel discourse and speakers. This approach is not only unwarranted under Title VI, it is dangerous,” Cary Nelson, president of the American Association of University Presidents (AAUP), and Kenneth Stern of the American Jewish Committee, wrote recently in an open letter on AAUP’s website.

“The purpose of a university is to have students wrestle with ideas with which they may disagree, or even better, may make them uncomfortable. To censor ideas is to diminish education, and to treat students as fragile recipients of ‘knowledge,’ rather than young critical thinkers,” they added.

American Muslims for Palestine’s Hatem Bazian said the implications of the re-interpretation go far beyond free speech in the classroom and at extra-curricular events. Funding for scholarly research and academic conferences that bring up “legitimate criticism of Israel” may be at stake, he said.

“The new interpretation will directly, first and foremost, impact those who administer Title VI funding, and they for sure will be more hesitant and will engage in self-censorship in funding research or activities that are critical of Israel,” Bazian said.

Indeed, the Anti-Defamation League was one of 12 national organizations that urged the Department of Education to amend its Title VI interpretation. It may have just been a co-signer in that battle but the ADL has taken the lead in many high-profile cases to stifle free speech and public debate in its hundred-year history.

In March, the ADL, along with the American Jewish Committee and the Bay Area Jewish Community Relations Council, protested an academic conference at the UC Hastings College of the Law in March entitled “Litigating Palestine: Can Courts Secure Palestinian Rights?” Their protest was so effective the university board voted to remove its name and endorsement for the event and it prevented university Chancellor Frank Wu from making opening remarks.

Challenging Israel on campus

Writing about the incident in the *San Francisco Chronicle*, [Cecilie Surasky](#), deputy director of [Jewish Voice for Peace](#), stated that “Perhaps for the first time in US history, there is an aggressive challenge to a one-sided narrative that covers up or justifies ongoing Israeli repression of Palestinians” (“[Pressure on law conference threatens free speech](#),” 21 April 2011).

Surasky added, “The center of that challenge is on campuses, which is why those who have traditionally adopted knee-jerk defenses of Israeli policies are attempting to stigmatize or shut down alternative viewpoints.”

The same threats of losing federal funding because of an “anti-Semitic and hostile environment” are being leveled at Rutgers University in New Jersey, thanks in large part to a 15-page letter written to the university by Zionist Organization of America President Morton Klein, and copied to the state’s governor, its US senators and representatives and other officials.

These recent moves, according to Surasky, “suggest that legitimate criticism of Israeli policy is being conflated with anti-Semitism. If this is allowed to happen, then serious debate on Israel’s illegal actions in the Palestinian territories will be shut down.”

Rossman-Benjamin’s complaint against University of California Santa Cruz could very well be a test case under the new interpretation of Title VI. The reinterpretation, when viewed against the backdrop of professors being censured or denied tenure because of their political views, could have an adverse affect on the free exchange of ideas on college campuses at a time when debate and concrete examinations of US foreign policy in the Middle East is needed more than ever.

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