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[www.brandeiscenter.com](http://www.brandeiscenter.com)  
BEFORE THE OHIO HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENT ACCOUNTABILITY AND OVERSIGHT  
HEARING ON H. B. NO. 476  
“FIGHTING ANTI-SEMITISM”  
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## Introduction

CHAIRMAN BROWN AND MEMBERS OF THE GOVERNMENT ACCOUNTABILITY AND OVERSIGHT COMMITTEE:

I am honored to appear before this committee. My name is Kenneth L. Marcus. I am the President and General Counsel of the Louis D. Brandeis Center for Human Rights Under Law, which I founded to advance the civil and human rights of the Jewish people and promote justice for all. Our primary focus is anti-Semitism in higher education, including the Boycotts, Divestment, and Sanctions movement (“BDS”). In addition, I am a former Staff Director of the U.S. Commission on Civil Rights, former head of the U.S. Department of Education’s Office for Civil Rights, and former General Deputy Assistant Secretary of Housing and Urban Development for Fair Housing and Equal Opportunity.

Over the last several years, I have closely studied the BDS in the course of my work as a human rights lawyer. In September, Oxford University Press published my latest book, *The Definition of Anti-Semitism*, which prominently addresses the extent to which BDS should be considered anti-Semitic.<sup>1</sup> In addition, I am counsel to the plaintiffs in the case of *Bronner v. Duggan*, which seeks to hold the American Studies Association liable for the BDS resolution that it adopted in violation of its own charter and the law of the District of Columbia.<sup>2</sup>

I commend this subcommittee for its attention to the BDS movement, and I am pleased to speak in support of H. B. No. 476 (Rep. Schuring) (“to enact section 9.75 of the Revised Code to prohibit a state agency from contracting with a company that is boycotting Israel or disinvesting from Israel”). This bill is a very important response to the anti-Semitic BDS movement. As I

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<sup>1</sup> Kenneth L. Marcus, *The Definition of Anti-Semitism* (Oxford University Press 2015). This testimony draws liberally from research previously presented in this book and in Kenneth L. Marcus, “Is BDS Anti-Semitic?,” which appears in Cary Nelson & Gabriel Noah Brahm, *The Case Against Academic Boycotts of Israel* (MLA Members for Scholars Rights/Wayne State University Press 2015).

<sup>2</sup> *Bronner et al v. Duggan et al*, Case No. 1:16-cv-00740 (D.D.C., Filed Apr. 20, 2016).

have found in my research, BDS is a hate movement and, as a matter of human rights, must be treated as such.

### **The Resurgence of Global Anti-Semitism**

In 2014, according to the Kantor Center for the Study of Contemporary European Jewry at Tel Aviv, there were 766 reported anti-Semitic incidents of violence, direct threats, and major acts of vandalism against Jews worldwide, representing an increase of approximately 38 percent from the year before.<sup>3</sup> This may be a considerable understatement. According to the European Union's Fundamental Rights Agency, 64% of European Jews who have experienced physical threats or violence do not report even serious incidents.

In the United States, anti-Semitism is a serious problem in higher education, as the U.S. Commission on Civil Rights has found. Last year, the Louis D. Brandeis Center and Trinity College co-published research showing that 54% of responding Jewish students on 55 campuses reported experiencing or witnessing anti-Semitism during the 2013-2014 academic year.<sup>4</sup> More recent research suggests that the problem may be getting worse. A 2015 Brandeis University study of over 1,000 Jewish college students revealed that nearly three-quarters had been exposed during the past year to anti-Semitic statements.<sup>5</sup>

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<sup>3</sup> Kantor Center for the Study of Contemporary European Jewry, *Antisemitism Worldwide 2014: General Analysis* (Tel Aviv University 2015).

<sup>4</sup> Barry A. Kosmin & Ariella Keysar, *National Demographic Survey of American Jewish College Students 2014: Anti-Semitism Report*, The Louis D. Brandeis Center for Human Rights Under Law & Trinity College (2015), available at <http://www.brandeiscenter.com/images/uploads/articleuploads/trinity-Anti-Semitism.pdf>.

<sup>5</sup> Leonard Saxe, Theodore Sasson, Graham Wright & Shahar Hecht, *Antisemitism and the College Campus: Perceptions and Realities*, Brandeis University's Maurice and Marilyn Cohen Center for Modern Jewish Studies (2015), available at <http://www.brandeis.edu/cmjs/pdfs/birthright/AntisemitismCampus072715.pdf>.

## The History of BDS

I'd like to begin with very abbreviated history lesson. We've seen anti-Jewish boycotts since at least the 1700s. At the time of the Enlightenment, anti-Jewish boycotts emerged from resistance to the legal equality that Jews received in France, following the French revolution, and then spread throughout Western Europe. These sporadic efforts were later formalized and systematized in Germany. On April 1, 1933, the Nazis set the pattern for future anti-Jewish boycotts when they conducted, as their first nationwide action against Jews, a temporary boycott against Jewish businesses and professionals.<sup>6</sup> The Nazis justified this boycott as a response to the anti-German propaganda that Jewish people, as well as foreign journalists, were allegedly spreading in the international press. This ushered in the Nazi's nationwide campaign against the entire German Jewish population. Like the yellow star that Jews were later forced to wear, the Nazi boycott was the first systematic national socialist mechanism to strip Jews of the "normalization" that had come with emancipation. Poland also passed and adopted a number of measures throughout the 1930's to exclude Jews from various trades and professions and established a mass boycott of Jewish shops from 1936 to 1939.<sup>7</sup> The culmination of European anti-Jewish campaigns was the program of systematic extermination.

From 1933 to 1945, Nazi propagandists transmitted anti-Semitic propaganda to Arabs and Muslims in the Middle East and North Africa.<sup>8</sup> This included Arabic language shortwave radio programs broadcast seven days per week during this period, as well as millions of printed items.<sup>9</sup> Evidently, Nazi officials considered anti-Semitism and anti-Zionism to be the best means of entrance into Arab and

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<sup>6</sup> "Boycott of Jewish Businesses," *Holocaust Encyclopedia*, <http://www.ushmm.org/wlc/en/article.php?ModuleId=10005678> Although the boycott was officially called for three days, April 1-3, 1933, the boycott is generally associated with the events of April 1.

<sup>7</sup> Walter Laqueur, *The Changing Face of Anti-Semitism: From Ancient Times to the Present Day* (Oxford, U.K.: Oxford University Press, 2006), pp. 108-109.

<sup>8</sup> On the connections between Nazi propaganda and the modern ideologies of the Middle East, see Matthias Küntzel, *Jihad and Jew-Hatred: Islamism, Nazism, and the Roots of 9/11* (New York: Telos, 2009) (Colin Meade, trans.); Paul Berman, *The Flight of the Intellectuals*, New York: Melville House, 2011).

<sup>9</sup> Jeffrey Herf, *Nazi Propaganda for the Arab World* (New Haven: Yale University Press, 2009).

Muslim hearts and minds.<sup>10</sup>

In 1945, the newly-formed 22-nation Council of the Arab League called for an economic boycott of Jewish goods and services in the British controlled mandate territory of Palestine. Three years later, following the establishment of the Jewish State of Israel, the League formalized its boycott against the state of Israel, broadening it to include non-Israelis who maintain economic relations with Israel or who are perceived to support it.<sup>11</sup> Although formally a boycott of the State of Israel, the Arab League boycott has been, during at least some periods, also a more general boycott of Jews. Various examples in which Arab states canceled cultural events or rejected ambassadorial credentials based on Jewish rather than Israeli or Zionist connections.<sup>12</sup>

The anti-Jewish boycott movement was reinvigorated at the turn of the new millennium, as failed hopes in the Oslo Accord helped to fuel a Second Intifada and global animus against Israel. The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in late 2001 (Durban I) helped to re-launch the boycott movement on a new ideological basis. The main platform to criticize Israel and the U.S. was the NGO Forum, attended by 8,000 representatives from as many as 3,900 NGOs. The Durban Conference's "Meeting in Solidarity with the Palestinian People" yielded an NGO plan of action that called for "complete and total isolation of Israel as an apartheid state as in the case of South Africa which means the imposition of mandatory and comprehensive sanctions and embargoes, the full cessation of all links (diplomatic, economic, social, aid, military cooperation and training) between all states and Israel."<sup>13</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> Martin A. Weiss, Report, *Arab League Boycott of Israel*, (Washington, D.C.: Congressional Research Service, 2013), <http://www.fas.org/sgp/crs/mideast/RL33961.pdf>, p. 1.

<sup>12</sup> Bernard Lewis, *Semites & Anti-Semites* (New York: W.W. Norton, 1986), p. 224-226.

<sup>13</sup> Alan Baker and Adam Shay, "Manipulation and Deception: The Anti-Israel 'BDS' Campaign (Boycott, Divestment, and Sanctions), *Jerusalem Issue Briefs, Vol. 12, No. 2* <http://jcpc.org/article/manipulation-and-deception-the-anti-israel-bds-campaign-boycott-divestment-and-sanctions/#sthash.y5wtaqkC.dpuf>

This was followed by numerous calls to boycott or divest from Israel.<sup>14</sup> By October 2002, more than 50 university campuses were circulating divestment petitions.<sup>15</sup> In July 2005, over 100 Palestinian organizations issued the “Palestinian Civil Society Calls for Boycott, Divestment and Sanctions against Israel Until it Complies with International Law and Universal Principles of Human Rights.”<sup>16</sup> This “Call” was justified on Israel’s supposed history of ethnic cleansing and racial discrimination. Its three explicit objectives were to end Israel’s “occupation and colonization” of “all Arab lands” (presumably including all pre-1967 lands, although BDS leadership has equivocated on this), recognizing the equal fundamental rights of Israel’s Arab-Palestinian citizens, and promoting a proposed Palestinian right of return to their former homes and properties.<sup>17</sup>

Like Hitler’s Nazi boycott, the Durban I and Palestinian Call formalized, systematized, and attempted to justify the sporadic individual boycotts and anti-Jewish attacks that preceded them. The primary strategy of BDS leadership is to reject Israel’s “normalization,” defined as the treatment of Israel as a ‘normal’ state with which business as usual can be conducted.<sup>18</sup> Despite the ugly history of anti-Jewish boycotts, the BDS movement appears at face value to be based on human rights objectives rather than racial, ethnic or religious bigotry. Naturally, these demands are framed in terms of the Palestinian narrative.

### **Why BDS is Anti-Semitic**

Aside from its anti-Semitic roots, BDS has been characterized as “anti-Semitic” within the definitions used by the U.S. Department of State and the former European

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<sup>14</sup> Harold Brackman, *Boycott Divestment Sanctions (BDS) Against Israel: An Anti-Semitic, Anti-Peace Poison Pill* (Los Angeles: Simon Wiesenthal Center 2013), p. 9.

<sup>15</sup> Mitchell G. Bard and Jeff Dawson, Report, *Israel and the Campus: The Real Story* (Chevy Chase, MD: The American-Israeli Cooperative Enterprise, 2012), p. 16.

<sup>16</sup> Brackman, p. 9.

<sup>17</sup> Palestinian Civil Society Calls for Boycott, Divestment and Sanctions against Israel Until it Complies with International Law and Universal Principles of Human Rights (Jul. 9, 2005), <http://www.bdsmovement.net/call>.

<sup>18</sup> Palestinian Campaign for the Academic and Cultural Boycott (PACBI), “Israel’s Exceptionalism: Normalizing the Abnormal,” PACBI Web Site posting (Oct. 31, 2011), <http://www.pacbi.org/etemplate.php?id=1749>

Union Monitoring Committee (EUMC) on Racism & Xenophobia's Working Definition of Antisemitism. The State Department's definition and the EUMC definition were based on the framework of Natan Sharansky's "3-D test." According to this test, anti-Israel hostility may be anti-Semitic if it (1) **d**emonizes Israel, (2) **d**elegitimizes the Jewish state, or (3) applies **d**ouble standards.<sup>19</sup> For example, the Statement of Jewish Organizations on Boycott, Divestment and Sanctions (BDS) Campaigns Against Israel argues that the campaign is anti-Semitic on the grounds that it "demonizes Israel or its leaders, denies Israel the right to defend its citizens or seeks to denigrate Israel's right to exist."<sup>20</sup> Sharansky's test is brilliant as a short-hand guide even if it lacks the rigor required for either practical or academic purposes.<sup>21</sup>

Based on empirical research, sociologist Sina Arnold has identified five distinct double standards employed by American progressives in their criticisms of Israel:

- The "double standard of *salience*," by which Israel's conflicts garner vastly more public attention than other comparable international disputes;
- The "double standard of *state foundation*," by which Israel's establishment is characterized as violent and hostile, while violence in the early history of other nations is downplayed;
- The "double standard of *state formation*," by which Israel's political arrangements are portrayed as archaic while similar structures are not;

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<sup>19</sup> Natan Sharansky, "Anti-Semitism in 3D," *Jerusalem Post*, 23 February 2004, <http://www.foiwa.org.au/sites/default/files/pdf/Anti-Semitism-in-3D.pdf>; Natan Sharansky, "3D Test of Anti-Semitism: Demonization, Double Standards, Delegitimization," *Jewish Political Studies Review*, 16:3-4 (Fall 2004), <http://jcpa.org/phas/phas-sharansky-f04.htm>.

<sup>20</sup> Statement of Jewish Organizations on Boycott, Divestment and Sanctions (BDS) Campaigns Against Israel (Feb. 2011), <http://www.jewishvirtuallibrary.org/jsource/IsraelonCampusReport2012.pdf>

<sup>21</sup> Kenneth L. Marcus, *Anti-Zionism as Racism: Campus Anti-Semitism and the Civil Rights Act of 1964*, 15 William & Mary Bill of Rights Journal 837 (February 2007).

- The “double standard of *self-understanding*,” which criticizes Israel’s ethno-religious characteristics while disregarding similar characteristics among other states; and, finally,
- The “double standard of *self-determination*, which recognizes a right of self-government for Palestinians but not necessarily for Israelis or, alternatively, which recognizes the validity of Palestinian feelings of frustration or anger under the present political circumstances while declining to recognize the validity of such feelings among Israelis.<sup>22</sup>

The difficulty with applying these definitions is that they establish presumptions rather than bright-line tests. Sharansky’s test yields important presumptions, but it is often not dispositive. For this reason, it is important to examine underlying principles to confirm that BDS does indeed meet the definition of “anti-Semitism.”

There are four grounds on which anti-Israel hostility may properly be considered anti-Semitic, which are known as the *Intentionality*, *Tacitness*, *Memetics*, and *Jewish Trait* principles.

In brief, hostility to Israel is anti-Semitic when it is based on:

- (i) conscious hostility toward Jews (Intentionality),
- (ii) unconscious hostility toward Jews (Tacitness),
- (iii) transmission of negatively coded cultural myths, images or stereotypes (Mimesis), or
- (iv) irrational ethnic trait discrimination (Jewish traits).

In other words, the BDS movement is anti-Semitic to the extent that its proponents are consciously motivated by anti-Jewish bigotry, driven by unconscious anti-Semitism, immersed in

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<sup>22</sup> Sina Arnold, “Antisemitism and the Contemporary American Left: An Uneasy Relationship,” seminar paper delivered at “Deciphering the ‘New’ Antisemitism, April 2014, Institute for Contemporary Antisemitism, Indiana University at Bloomington.

a climate of opinion that is increasingly hostile to Jewish people, or engaged in irrational ethnic trait discrimination.

The *Intentionality Principle* provides that critics of Israel sometimes consciously use as Israel as a pretext to express anti-Jewish animus. There seems to be widespread agreement that conscious antipathy to Jews fuels at least some of the growth of the BDS movement. There can be little question of anti-Jewish animus, for example, when BDS activists call Jewish American college students “kike” and “dirty Jew” or spit on them for wearing a Star of David necklace.<sup>23</sup> Similarly, it is unquestionable anti-Semitic for BDS activists to engage in or support Holocaust denial, as some have done.<sup>24</sup> These are unquestionably anti-Semitic. There is scarce agreement however on how widespread this phenomenon may be. Unquestionably however much support for BDS is not based on any such conscious hostility to Jews.

The *Tacitness Principle* provides that other critics of Israel, who may not be consciously aware that they harbor negative attitudes towards Jews, nevertheless denigrate Israel to express unconscious resentment of Jews. It is well established in the psychological literature that white Americans harbor far more prejudice toward minority groups than they are willing to admit even to themselves. This is true for anti-Semitism but it also applies to anti-black racism and other forms of bias.<sup>25</sup> In North America and Western Europe, such prejudice often repressed, because it is socially stigmatized.<sup>26</sup> In an important Rutgers University study of college students,

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<sup>23</sup> These examples are drawn from reports that Jewish university students have recently made to attorneys at my organization, the Louis D. Brandeis Center for Human Rights Under Law ([www.brandeiscenter.com](http://www.brandeiscenter.com)).

<sup>24</sup> Hannah Weisfeld, “When BDS And Anti-Semitism Meet,” *The Daily Beast* (Dec. 14, 2012), <http://www.thedailybeast.com/articles/2012/12/14/when-bds-and-anti-semitism-meet.html>. It should be noted that the Palestine Solidarity Campaign issued a statement in opposition to the incident that Weisfeld reported.

<sup>25</sup> Steven K. Baum, *Antisemitism Explained* (Lanham, MD: University Press of America, 2012), pp. 160-161.

<sup>26</sup> *Ibid.*

researchers confirmed that hostility to Israel often reflects unconscious anti-Semitism.<sup>27</sup> This is consistent with the results of a prior Yale study that had found a strong correlation between anti-Semitism and hostility towards Israel among 5,000 people in ten European countries.<sup>28</sup> A smaller study, which examined the attitudes of Arab Muslims, Arab Christians, and non-Arab Muslims in the United States and Canada, similarly found a high statistical correlation between anti-Semitism and anti-Israeli sentiment.<sup>29</sup> A 2004 German study found that 90 percent of Germans who criticized Israel also endorsed anti-Semitic statements.<sup>30</sup> Unfortunately, no studies specifically examine the incidence of unconscious anti-Semitic views among members of the BDS movement. Based on the existing research, however, it is fair to extrapolate that unconscious anti-Semitism is substantially higher among BDS advocates than among the general population. At the same time, the empirical studies also confirm that some virulent critics of Israel are not motivated by anti-Semitism, whether consciously or unconsciously.

The *Memetics Principle* provides that some hostility to Israel is anti-Semitic in the sense that arises from a climate of opinion that is hostile to Jews, regardless of the conscious or unconscious beliefs of individual speakers. Whether BDS advocates are aware of it, either consciously or unconsciously, they often spread anti-Jewish stereotypes, images and myths. For example, BDS advocates within Protestant church groups sometimes equate Palestinians

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<sup>27</sup> Florette Cohen, Lee Jussim, Gautam Bhasin, and Elizabeth Salib, "The Modern Anti-Semitism Israel Model: An Empirical Relationship Between Modern Anti-Semitism and Opposition to Israel," *Conflict & Communication Online* 10:1 (2011); Florette Cohen, Lee Jussim, Kent D. Harber, and Gautam Bhasin, "Modern Anti-Semitism and Anti-Israel Attitudes," *Journal of Personality and Social Psychology* 97 (2009): 290-306.

<sup>28</sup> Edward H. Kaplan and Charles A. Small, "Anti-Israel Sentiment Predicts Anti-Semitism in Europe," *Journal of Conflict Resolution* 50 (2006): 548-61.

<sup>29</sup> Steven K. Baum and Masato Nakazaw, "Antisemitism and Anti-Israeli Senteiment," *Journal of Religion & Society* 9 (2007) 1:9; Steven K. Baum, "Christian and Muslim Antisemitism," *Journal of Contemporary Religion* 23 (2009): 77-86.

<sup>30</sup> Günther Jikeli, "Discrimination Against Muslims and Antisemitic Views Among Young Muslims in Europe," *Papers on Antisemitism and Racism* (Feb. 2013), p. 15, note 63, <http://www.kantorcenter.tau.ac.il/sites/default/files/jikeli.pdf>, citing Andreas Zick and Beate Küpper, "Traditioneller Und Moderner Antisemitismus" Bundeszentrale für politische Bildung, November 28, 2006, <http://www.bpb.de/politik/extremismus/antisemitismus/37967/traditioneller-und-moderner-antisemitismus?p=all>.

with Jesus Christ's suffering, *e.g.*, referring to the so-called "Israeli government crucifixion system."<sup>31</sup> Such tropes may be understood as a revival of the anti-Semitic deicidal accusation that Jews killed Jesus. Even Judith Butler acknowledges that some criticisms of Israel "do employ anti-Semitic rhetoric and argument and so must be opposed absolutely and unequivocally."<sup>32</sup> In some cases, the cultural transmission of these memes colors the social environment in substantial ways. Bernard Harrison, the English philosopher, has cogently explained that anti-Semitism often permeates what he calls the "climate of opinion," even when those most in its thrall are be unaware of its influence. In Harrison's writing, a climate of opinion is not the work of an individual mind, either conscious or unconscious. Rather, it is formed from a "multitude of spoken and written items – books, articles, news items, ... lectures, stories, in-jokes, stray remarks – of equally multitudinous authorship."<sup>33</sup> Individual speakers buy into it, rather than developing it themselves. When enough people in a subculture buy into a climate of opinion, that climate becomes dominant in the subculture.<sup>34</sup>

Finally, the *Jewish Trait Principle* provides that certain forms of hostility towards Israel are anti-Semitic in the sense that they cause foreseeable harm to Jews based on a trait that is central to Jewish identity. Regardless of intent, bias, or mimetics, some abuse of Israel by the BDS campaign is profoundly offensive to Jews because of the intimate relationship between a person's Jewish identity and that person's sense of attachment to Israel. Indeed, for many Jews, a commitment to Israel is so intrinsic to their religious belief as to be the paradigmatic case of a characteristic that a people should not be required to change. For those Jews who embrace Israel as a part of their Jewish identity, the commitment may be of multi-generational duration, shared

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<sup>31</sup> NGO Monitor, "Antisemitic Ideology," [http://www.ngo-monitor.org/article/antisemitic\\_theology](http://www.ngo-monitor.org/article/antisemitic_theology).

<sup>32</sup> Judith Butler, *Parting Ways: Jewishness and the Critique of Zionism* (New York: Columbia University Press, 2012), p. 116.

<sup>33</sup> Bernard Harrison, *The Resurgence of Antisemitism* (Lanham, MD: Rowman & Littlefield, 2006), p. 108.

<sup>34</sup> *Ibid.*

historically by many members of the group, inscribed centrally in the group's common literature and tradition, and pervasive of the culture. The *Jewish Traits* argument provides that a sense of connectedness to Israel is of such fundamental importance that Jewish persons should not be required to disavow it. This does not imply that all Jews share this sense, nor even that all Jews should share it. Moreover, it certainly does not imply that Jews (or others) are precluded from criticizing Israeli policy. People often most vigorously criticize those to whom they feel closest, including family members.

Moreover, the BDS movement has anti-Semitic impacts that are more direct. According to the AMCHA Initiative's recent report, for example, BDS was a major factor in students' reported experiences of anti-Jewish hostility on college campuses nationwide.<sup>35</sup> AMCHA polled 113 U.S. schools and found that 56% of schools with evidence of BDS activity had 1 or more incidents that targeted Jewish students for harm, and 95% of schools with BDS activity had 1 or more incidents of anti-Semitic expression. By contrast, at schools with no evidence of BDS activity, only 23% had incidents targeting Jewish students for harm, and only 33% had anti-Semitic expression. Schools with *more* incidents of BDS activity tended to have *more* incidents that targeted Jewish students for harm, and *more* incidents of anti-Semitic expression.<sup>36</sup>

The presence of faculty support for BDS also strongly correlates with the overall number of anti-Semitic incidents on campus. 81% of schools with 1 or more faculty members who endorsed the academic boycott of Israel had 1 or more incidents of anti-Semitic activity, whereas only 17% of schools with no faculty boycotters had incidents of anti-Semitic activity. 100% of the 33 schools with 10 or more faculty boycotters had one or more incidents of anti-Semitic activity. Additionally, 62% of schools with faculty boycotters showed evidence of BDS activity, whereas only 11% of schools with no faculty

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<sup>35</sup> AMCHA Initiative, "Report on Antisemitic Activity in 2015 at U.S. Colleges and Universities With the Largest Jewish Undergraduate Populations," <http://www.amchainitiative.org/wp-content/uploads/2016/03/Antisemitic-Activity-at-U.S.-Colleges-and-Universities-with-Jewish-Populations-2015-Full-Report.pdf>

<sup>36</sup> *Ibid*, p. 8.

boycotters showed evidence of BDS activity. Furthermore, schools with *more* faculty boycotters tended to have *more* incidents of overall anti-Semitic activity and BDS activity.

### **Conclusion**

There are many reasons to oppose BDS, but none is more serious than the core bigotry of this movement. The pre-Nazi, Nazi, Arab League and BDS boycotts all share common elements: they seek to deny Jewish legitimacy or normalcy as a punishment for supposed Jewish transgressions. The BDS campaign, like its Nazi predecessor, rationalized and justified sporadic efforts that had preceded it. To be sure, these various campaigns began at very different times, places and cultures. Nevertheless, one should understand these boycotts, like other campaigns against Jewish people, as a repetitive series of incidents that serve the same underlying function, *e.g.*, a low-risk expression of anxieties about modernity's destabilizing tendencies. This is as true of the Arab League Boycott and the Palestinian BDS Call as it was for their Nazi antecedent. The fact that the contemporary BDS movement is dressed up in the language of human rights does not differentiate it so radically from its predecessors, which also used the rhetoric of their respective times to establish the common theme.

The pervasive use of such double standards suggests that something other than mere political criticism is at play in BDS. One must acknowledge that there may be non-discriminatory explanations for the application of double-standards in some circumstances. In the last analysis, however, the BDS campaign is anti-Semitic, as its predecessors were, because some of its proponents act out of conscious hostility to the Jewish people; others act from unconscious or tacit disdain for Jews; and still others operate out of a climate of opinion that contains elements that are hostile to Jews and serve as the conduits through whom anti-Jewish tropes and memes are communicated; while all of them work to sustain a movement that attacks the commitment to Israel that is central to the identity of the Jewish people as a whole and has direct negative

consequences for many Jews, especially on American college campuses. This does not imply that all or even most of BDS' proponents are anti-Semites. That is a different question. Based on the best available empirical research, it appears that some of Israel's critics are not motivated by prejudice. Rather, they oppose Israel's actions for legitimately non-discriminatory reasons. Their reasons may be good or bad, convincing or unconvincing, logical or illogical. But they are not anti-Semitic.

Nevertheless, it ought to give them pause to realize that, for whatever reasons, they are participating in a boycott that has deeply unsavory roots and ramifications. It is not coincidental that the world's only Jewish state is subjected to greater scrutiny and pressure than most of the world's other nations. Nor is it coincidental that current efforts to boycott the Jewish State resemble in nearly constant efforts that have been made to boycott Jewish businesses since well before Israel's establishment. The historical record is clear that many and perhaps all of these efforts have been based, in no small part, on the basest forms of human bigotry. Some BDS advocates may be ignorant of this history, but this only makes them unwitting agents in a process by which hatred articulates itself across time. Moreover, they are allying themselves with people who consciously seek to undermine Israel for reasons of sheer bigotry.

The aptest metaphor may be to the poll tax. Poll taxes were implicit pre-conditions on the exercise of the ability to vote. Like boycott resolutions, poll taxes were sometimes described in race-neutral terms. Nevertheless, these taxes emerged in the late nineteenth century American South as part of the Jim Crow laws. Some white Southerners intentionally adopted poll taxes to disenfranchise African Americans; others purported to support the tax for race-neutral reasons, such as revenue-raising, but were at least unconsciously prejudiced against blacks; still others acted upon and reinforced a racist climate of opinion, regardless of their personal mental states; and all of them acted to sustain a system that disenfranchised black voters. Under these circumstances, it would be possible to describe the poll tax as a neutral revenue-raising scheme

and to emphasize the pure motives on which some of its proponents acted. One might even abhor the false or exaggerated claims of discrimination that have been made against some of these proponents. But this would miss the point of the taxes, which were a peculiarly effective means of marginalizing and delegitimizing an entire people. The institution was racist, through and through, whether all of its supporters were themselves racists or not. The same may be said of BDS.