



UNIVERSITY OF CALIFORNIA PRESS
JOURNALS + DIGITAL PUBLISHING



Academic Freedom and Palestine-Israel: The Case of Beyond Chutzpah

Source: *Journal of Palestine Studies*, Vol. 35, No. 2 (Winter 2006), pp. 85-99

Published by: [University of California Press](#) on behalf of the [Institute for Palestine Studies](#)

Stable URL: <http://www.jstor.org/stable/10.1525/jps.2006.35.2.85>

Accessed: 10/03/2015 16:00

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SPECIAL DOCUMENT FILE

ACADEMIC FREEDOM AND PALESTINE-ISRAEL: THE CASE OF *BEYOND CHUTZPAH*

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*During the past year JPS has devoted two Special Document Files (JPS 134 and 136) to academic freedom, specifically the campaign Campus Watch and other pro-Israel organizations orchestrated against Columbia University's Department of Middle Eastern and Asian Languages and Cultures (MEALAC). At stake was the issue of who decides how the Palestine-Israel conflict is to be taught in the academy—certified specialists or interested outside parties. Almost the same issue is addressed in the current Special Document File: who decides what university presses can publish on the Palestine-Israel conflict—certified specialists or interested outside parties? Specifically, the file focuses on the campaign waged by Harvard University law professor Alan Dershowitz to suppress publication of Norman Finkelstein's *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History. Finkelstein's study inventories how Dershowitz's best-selling book, The Case for Israel, misrepresented the documentary record and that the widely publicized allegation of a "new anti-Semitism" was contrived to deflect criticism of Israel.**

*This file covers only the controversy surrounding the publication of *Beyond Chutzpah*. The subsequent fate of the book poses equally troubling questions about the American intellectual culture. Since its release in late August, and despite massive pre-release publicity as well as the respectability conferred by University of California Press's imprint, *Beyond Chutzpah* has not received a single review in a mainstream U.S. publication. The fact that a legendary trial lawyer was unable to make good on his threat to sue the press for libel and*

that major Israeli and American academics provided powerful endorsements for the book, further attests to the accuracy of Finkelstein's findings. That his book is being ignored while The Case for Israel continues to be cited as a reference is a vivid illustration of what seems to be the growing gap between the facts on the Middle East as accepted by scholars and the representation of the Middle East situation to the wider public.

A. UNIVERSITY OF CALIFORNIA PRESS, STATEMENT ON THE PUBLICATION OF *BEYOND CHUTZPAH*, BERKELEY, 15 JULY 2005.

The following statement was released by the University of California Press in anticipation of the release of Norman G. Finkelstein's Beyond Chutzpah. This statement, as well as "Questions and answers about UC Press's decision to publish" Beyond Chutzpah, are available online at www.ucpress.edu.

The University of California Press is pleased to publish *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History* by Norman Finkelstein. Since 1893, UC Press has been especially well known for pioneering books on critical social and political issues. As one of the largest, most distinguished scholarly publishers in the world, we are respected for attracting authors whose work transcends traditional academic boundaries. We have built a reputation for publishing books that matter. We think this one does.

Beyond Chutzpah scrutinizes what Norman Finkelstein describes as "the proliferation of distortion masquerading as history" around the Israel-Palestine conflict. He questions this scholarship and asks why, in his view, it receives uncritical acclaim within the academy. To support his thesis, Finkelstein uses Alan Dershowitz's recent bestseller *The Case for Israel* as a springboard from which to investigate controversial human rights cases involving Israel over the last few decades. Sifting through thousands of pages of reports, and presenting the first accessible distillation of key human rights findings, Finkelstein argues that Dershowitz has misstated the facts. Most integral to this argument, Finkelstein claims that a long and lasting solution to the Israel-Palestine conflict will never be attained without a basis in truth.

Anticipating the publication of *Beyond Chutzpah*, Professor Alan Dershowitz launched a letter-writing campaign, targeting our Board of Directors, the UC Administration, and Governor Schwarzenegger. We take this seriously. We are confident in our processes of factual and scholarly review, a protocol we follow as one of the leading university presses and as a publisher of critical, incisive scholarship on politics, international studies, and domestic issues. We are also buttressed by enthusiastic reviews of this book from several scholars in Middle Eastern and Jewish Studies, who see this book as a critical work in the field.

B. ALAN M. DERSHOWITZ, LETTER TO NIELS HOOPER, ACQUISITIONS EDITOR OF THE UNIVERSITY OF CALIFORNIA PRESS, 19 NOVEMBER 2004.

The following letter is one of several that Alan Dershowitz sent to editors at the New Press, which was originally contracted to publish Beyond Chutzpah, and to

editors and lawyers at the University of California Press on the subject of Beyond Chutzpah. This letter and those addressed to the New Press are available on the Web site of Norman G. Finkelstein at www.normanfinkelstein.com.

Dear Mr. Hooper:

I have just been advised that you are planning to publish a book by Norman Finkelstein containing false and defamatory information about me. The book, entitled *Beyond Chutzpah* (an obvious reference to my book *Chutzpah*), claims to expose “spurious scholarship” and mendaciousness on my part. This Letter is to put you on notice that Finkelstein has repeatedly and deliberately distorted the facts in describing my writings. I am enclosing, as an attachment to this letter, a draft of an article I am publishing which summarizes Finkelstein’s distortions, as well as the letters I previously wrote to the publisher who was originally supposed to be publishing his book. I don’t know whether Finkelstein showed you this correspondence before you agreed to publish the book, but you are now on notice as to its contents.

I have no desire to prevent publication of anything, but I do insist that anything published about me be factually correct. Finkelstein has a long documented track record of publishing malicious falsehoods about me (as well as about others who write favorably about Israel or about compensation for Holocaust survivors). I am not speaking about differences of opinion, but rather, as the attached material clearly proves, demonstrably false statements of fact that no one can possibly dispute. He claims to quote material, but he makes up words and phrases in the allegedly quoted material. He makes up facts from whole cloth. In a recent speech in Canada, which has even tougher defamation laws than the United States’ Finkelstein repeatedly alleged facts about me (and others) which are entirely false, including the claim that I did not even write *The Case for Israel*. (I don’t type or use a computer, so that the entire manuscript of my book was written by me by hand. I wrote every single word of the text.) I note that in your advertisement, you say that Finkelstein’s book will be “available worldwide.” Finkelstein’s book, as presently written, contains defamatory material that is actionable not only in America, but in many other countries in which this book will be distributed. I suggest that you check with lawyers in those countries as well as with American lawyers, in deciding the nature of the fact checking process that you are obligated to undertake, especially in light of Finkelstein’s documented history of defamation against me.

Because of this extensive track record, which is easily accessible to you, you are under a professional, moral and legal obligation to check every single claim he makes about me for its accuracy. This check must be completely independent of Finkelstein. In the past he has hired fact-checkers (including a man named Rohit Goel) who simply does his bidding and provides no independent check on Finkelstein’s willful and malicious distortions. In one case his fact checker willfully misrepresented himself as my research assistant to Dr. Michael Baden, in an effort to persuade Baden to change something he had written. You are on notice of this as well.

You are also on notice of Finkelstein’s demonstrated personal malice toward me. Although he has stated he never engages in *ad hominem*s and that his criticism of me is purely academic, he has publicly called me an “imbecile,” a “raving maniac,” a “shyster,” “evil,” a “pathological fraudster,” and a “Nazi” comparable to “Adolph Eichmann.” When

criticized for analogizing Jews to Nazis (he never analogizes them to Stalinists or even Mussolini fascists—only Nazis), Finkelstein has said: “Nazis never like to hear they’re being Nazis.”

I am confident that when you read the entire file that I am sending you, you will agree that you have a heavy burden to check independently every defamatory statement Finkelstein makes. As of this time, no fact checker has called me (other than the notorious Rohit Goel, who acknowledged that he works for Finkelstein, and is anything but independent). Please advise me as to what steps you are taking to assure that you are not knowingly publishing defamatory material.

I want to emphasize once again that I am not interested in stopping the publication of anything Finkelstein seeks to write, since everything he writes further discredits him and his publishers among serious people. Finkelstein’s book *The Holocaust Industry* was devastated by the *New York Times* reviewer who called it “indecent,” “juvenile,” “stupid,” “reckless,” “ruthless,” “irrational,” and “insidious.” I fully anticipate similar reactions to this book. My sole interest is in assuring a fair process for checking the accuracy of defamatory statements he has made in the past and seems intent on repeating in this book. I await your reply.

Sincerely yours,
Alan Dershowitz

C. AVI SHLAIM, CONFIDENTIAL PEER REVIEW OF *BEYOND CHUTZPAH* FOR THE UNIVERSITY OF CALIFORNIA PRESS, 9 FEBRUARY 2005.

Avi Shlaim, noted Israeli historian (author of, among other works, Collusion across the Jordan [Columbia University Press, 1988] and The Iron Wall [W. W. Norton, 1999]) and long-time professor of international relations at St. Antony’s College, Oxford University, was one of the eight scholars asked by the University of California Press to review Finkelstein’s book. This confidential review was made available by Professor Shlaim.

I strongly recommend this book for publication by California University Press. I read the entire text but only glanced at the appendixes and notes.

Norman Finkelstein is no stranger to controversy. This book is vintage Finkelstein. On display are all the sterling qualities for which he has become famous: erudition, originality, spark, meticulous attention to detail, intellectual integrity, courage, and formidable forensic skills.

Finkelstein has a most impressive track record in exposing spurious American-Jewish scholarship on the Arab-Israeli conflict. He established his credentials when he was still a doctoral student with a savage review article of Joan Peters, *From Time Immemorial* (1984). This book set out to prove the Zionist claim that Palestine was “a land without a people for a people without a land.” It received a long list of endorsements from prominent American Jews. Finkelstein demonstrated conclusively that the book was preposterous and worthless. His evidence was irrefutable and his case against Peters was unanswerable.

The present book is a frontal attack on more recent books and articles by American Jews about Israel that are written in the tradition of “my country right or wrong”

except that they vehemently refuse to admit any wrong on the part of Israel. Finkelstein places this literature under an uncompromising lens, highlighting the biases, distortions, misquotations, selective use of evidence, fabrications, and downright dishonesty of the authors. As the subtitle indicates, Finkelstein places particular emphasis on the misuse of history and on the use of the Holocaust and anti-Semitism to confer upon Israel moral immunity against criticism.

Above all, the book is a devastating indictment of Alan Dershowitz, *The Case for Israel* (2003). Finkelstein seems to have read everything that Dershowitz has ever said or written on the subject and related matters such as the role of the advocate. Finkelstein exposes Dershowitz beyond any reasonable doubt as a liar, a bigot, a racist, a plagiarist (from Joan Peters!), and an out-and-out opportunist. Dershowitz's lies and fabrications are nailed down one by one, systematically and comprehensively. By the time Finkelstein has finished, nothing is left of Dershowitz's reputation as a scholar or of the spurious case he built up for Israel. In my 34 years as an academic, I have never come across a more thorough and comprehensive demolition job.

Beyond Chutzpah does not make a substantive contribution to the study of the Arab-Israeli conflict. It is part of the war of the American Jews about Israel and the Arabs. Here lies its real contribution to scholarship. It is a strident polemic but also a brilliantly illuminating study of the lengths to which some American Jews would go to present Israel in a favorable light. I find Finkelstein's case against his opponents completely persuasive and indeed compelling. His book is a landmark in the exposition of spurious scholarship on the Middle East. I recommend it very enthusiastically for publication.

**D. JON WIENER, "GIVING CHUTZPAH NEW MEANING," *NATION*,
11 JULY 2005.**

The following article by Jon Wiener, professor of history at University of California, Irvine, is available online at www.thenation.com.

What do you do when somebody wants to publish a book that says you're completely wrong? If you're Alan Dershowitz, the prominent Harvard law professor, and the book is Norman Finkelstein's *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History*, you write the governor of California and suggest that he intervene with the publisher—because the publisher is the University of California Press, which conceivably might be subject to the power of the governor.

Schwarzenegger, showing unusual wisdom, declined to act. The governor's legal affairs secretary wrote Dershowitz, "You have asked for the Governor's assistance in preventing the publication of this book," but "he is not inclined to otherwise exert influence in this case because of the clear, academic freedom issue it presents." In a phone interview Dershowitz denied writing to the Governor, declaring, "My letter to the Governor doesn't exist." But when pressed on the issue, he said, "It was not a letter. It was a polite note."

Old-timers in publishing said they'd never heard of another case where somebody tried to get a governor to intervene in the publication of a book. "I think it's a first," said Andre Schiffrin, managing director at Pantheon Books for twenty-eight years and

then founder and director of the New Press. Lynne Withey, director of the University of California Press, where she has been for nineteen years, said, "I've never heard of such a case in California."

But if you're Alan Dershowitz, you don't stop when the governor declines. You try to get the president of the University of California to intervene with the press. You get a prominent law firm to send threatening letters to the counsel to the university regents, to the university provost, to seventeen directors of the press and to nineteen members of the press's faculty editorial committee. A typical letter, from Dershowitz's attorney Rory Millson of Cravath, Swaine, and Moore, describes "the press's decision to publish this book" as "wholly illegitimate" and "part of a conspiracy to defame" Dershowitz. It concludes, "The only way to extricate yourself is immediately to terminate all professional contact with this full-time malicious defamer." Dershowitz's own letter to members of the faculty editorial committee calls on them to "reconsider your decision" to recommend publication of the book.

Why would a prominent First Amendment advocate take such an action? Dershowitz told *Publishers Weekly* that "my goal has never been to stop publication of this book." He told me in an e-mail, "I want Finkelstein's book to be published, so that it can be demolished in the court of public opinion." He told *Publishers Weekly* his only purpose in writing the people at the University of California Press was "to eliminate as many of the demonstrable falsehoods as possible" from the book before it was published. Everyone knows who Alan Dershowitz is—the famed Harvard professor, part of the O.J. Simpson defense team, author of the number-one bestseller *Chutzpab*, portrayed by Ron Silver in the film *Reversal of Fortune*, about his successful defense of accused wife-murderer Klaus von Bülow. He's also one of the most outspoken defenders of Israel, especially in his 2003 book *The Case for Israel*; it reached number twelve on the *New York Times* bestseller list. That's the book Finkelstein challenges in *Beyond Chutzpab*.

Norman Finkelstein is not so famous. The son of Holocaust survivors, he is an assistant professor of political science at DePaul University in Chicago. He's the often embattled author of several books, of which the best known is *The Holocaust Industry: Reflections on the Exploitation of Jewish Suffering*—an exposé of what he calls "the blackmail of Swiss banks." It was originally published by Verso in 2000, with an expanded second edition in 2003, and has been translated into seventeen languages. The book was reviewed in the *New York Times Book Review* by the distinguished Holocaust historian Omer Bartov, who holds a chair at Brown University; he wrote that the book "is filled with precisely the kind of shrill hyperbole that Finkelstein rightly deplores in much of the current media hype over the Holocaust; it is brimming with the same indifference to historical facts, inner contradictions, strident politics and dubious contextualizations; and it oozes with the same smug sense of moral and intellectual superiority." (A positive review, written by Neve Gordon, appeared in these pages on 13 November 2000.)

Finkelstein's *Holocaust Industry*, however, has some prominent supporters, and not only leftists like Noam Chomsky and Alexander Cockburn. Most significant is Raul Hilberg, the semi-official dean of Holocaust studies and author of the classic *The Destruction of the European Jews*, who wrote of *The Holocaust Industry*, "I would now

say in retrospect that he was actually conservative, moderate, and that his conclusions are trustworthy. . . . I am by no means the only one who, in the coming months or years, will totally agree with Finkelstein's breakthrough."

Dershowitz did not see the manuscript for *Beyond Chutzpah* before writing his letters, which were based instead on statements Finkelstein had made in interviews and lectures. Dershowitz's attorney objected first of all to Finkelstein's statements that Dershowitz "almost certainly didn't write [*The Case for Israel*], and perhaps didn't even read it prior to publication." He also objected to the charge that Dershowitz is guilty of plagiarism—more on that later—and that "every substantive sentence" in the Dershowitz book "is fraudulent." Finkelstein has been telling this to anyone who will listen, and wrote as much in an e-mail to me: "I devote some 200 pages to documenting that *every substantive fact in the book is a flat-out lie*." (Emphasis in original.)

Now that the "uncorrected pages" of *Beyond Chutzpah* are being sent out to reviewers, it's possible to see what Finkelstein's book actually says. (Disclosure: A senior editor of the *Nation* served as a freelance editor of *Beyond Chutzpah*.) The claim that Dershowitz didn't write *The Case for Israel* has been removed—the UC Press explained in a statement accompanying review copies that "Professor Finkelstein's only claim on the issue was speculative. He wondered why Alan Dershowitz, in recorded appearances after his book was published, seemed to know so little about the contents of his own book. We felt this weakened the argument and distracted from the central issues of the book. Finkelstein agreed."

But the rest of the claims Dershowitz and his attorney railed against are still there: *Beyond Chutzpah* describes Dershowitz's *Case for Israel* as "among the most spectacular academic frauds ever published on the Israel-Palestine conflict." In Dershowitz's book, "It's difficult to find a single claim . . . that's not either based on mangling a reputable source or referencing a preposterous one, or simply pulled out of the air." He charges that Dershowitz "plagiarizes large swaths" of his book from Joan Peters's *From Time Immemorial*, whose scholarship Finkelstein had debunked in an earlier book. The introduction concludes by calling *The Case for Israel* "rubbish."

The body of *Beyond Chutzpah* shows Finkelstein to be an indefatigable researcher with a forensic ability to take apart other people's arguments. The core of the book challenges Dershowitz's defense of Israel's human rights record by citing the findings of mainstream groups, including Amnesty International, the Israeli human rights organization B'Tselem, and Human Rights Watch.

The most important part of the book examines Israel's treatment of Palestinian civilians during the second intifada, which began in September 2000. Since then Israel has killed three Palestinians for every Israeli killed. Dershowitz tries to defend this ratio, writing that "when only innocent civilians are counted, significantly more Israelis than Palestinians have been killed." But Finkelstein cites Amnesty International's conclusion that "the vast majority of those killed and injured on both sides have been unarmed civilians and bystanders." That means Israel has killed something like three times as many unarmed civilians and bystanders as Palestinians have.

Dershowitz has a second argument: While Palestinian terrorists have targeted Israeli civilians intentionally, the killing of Palestinian civilians by the Israel Defense Forces is "unintended," "inadvertent" and "caused accidentally," because the IDF follows

international law, which requires the protection of civilian noncombatants. For example, Dershowitz writes, the IDF tries to use rubber bullets “and aims at the legs whenever possible” in a policy designed to “reduce fatalities.” But Finkelstein’s evidence to the contrary is convincing: Amnesty International reported in 2001 that “the overwhelming majority of cases of unlawful killings and injuries in Israel and the occupied territories have been committed by the IDF using excessive force.” Amnesty cited the use of “helicopters in punitive rocket attacks where there was no imminent danger to life.” As for the rubber bullets, Amnesty reported in 2002 that the IDF “regularly” used them against demonstrators who were children “at distances considerably closer than the minimum permitted range . . . and the pattern of injury indicates that IDF practice has not been to aim at the legs of demonstrators, as the majority of injuries suffered by children from rubber-coated bullets are to the upper body and the head.”

Another of Dershowitz’s examples of Israeli protection of Palestinian civilians concerns Hamas leader Salah Shehadeh. Dershowitz writes that on several occasions, the army passed up opportunities to attack him “because he was with his wife or children.” But in July 2002 an Israeli F-16 dropped a one-ton bomb on Shehadeh’s apartment building in Gaza City, killing Shehadeh and fourteen Palestinian civilians, nine of whom were children.

Most of *Beyond Chutzpah* consists of these kinds of juxtapositions—arguments by Dershowitz on Israeli practices of torture, assassinations, treatment of Palestinian children, and water and land rights, refuted by documentation from human rights organizations. The cumulative effect is a devastating portrait of widespread Israeli violations of human rights principles and international law.

Finkelstein has won support for his book from leading scholars, whose statements appear in the book’s publicity materials: Baruch Kimmerling, who holds a chair in sociology at Hebrew University of Jerusalem, and whose book on Palestinian history was published by Harvard University Press, calls *Beyond Chutzpah* “the most comprehensive, systematic and well documented work of its kind.” Sara Roy of the Center for Middle Eastern Studies at Harvard, whose book on political Islam in Palestine has just been published by Princeton University Press, calls *Beyond Chutzpah* “a vigorous, intelligent, succinct and powerfully argued analysis.” Avi Shlaim, professor of international relations at Oxford, calls it a work of “erudition, originality, spark, [and] meticulous attention to detail.” Daniel Boyarin, professor of Near Eastern studies at UC Berkeley, calls the book “accurate, well-written, and devastatingly important.”

The argument about plagiarism, which has figured prominently in the pre-publication controversy over the book, has been relegated to an appendix. Finkelstein’s evidence has already been presented in these pages by Alexander Cockburn and debated by Dershowitz in letters exchanges with Cockburn [13 October, 27 October, and 15 December 2003]; thus it can be summarized here briefly. In the Dershowitz book, twenty-two out of fifty-two quotations and endnotes in the first two chapters “match almost exactly” material quoted in Joan Peters’s *From Time Immemorial*—including the placement of ellipses in quotations. *Beyond Chutzpah* has an eleven-page chart comparing these quotations. They are virtually identical. But Dershowitz never acknowledges Peters as the source for these quotations; instead, he cites the original sources that appear in Peters’s footnotes.

The official policy on plagiarism at Harvard, where Dershowitz teaches, is clear on this issue: "Plagiarism is passing off a source's information, ideas, or words as your own by omitting to cite them." Dershowitz in an e-mail made three arguments in his defense: first, for three of the quotations in question, "I have incontrovertible evidence that I was using those quotations in the 1970s in debates," and thus "I did not originally find them in the Peters book." Second, although he did not cite Peters for the quotations listed by Finkelstein, he did cite her as the source of "at least eight" others. As to why he failed to cite Peters for the quotations in question, Dershowitz acknowledges that he found them originally in Peters, but "I then went to the Harvard library, read them, and cited them in the original," without indicating that he found them first in the Peters book—a citation practice that he (and some of his defenders) regards as proper.

But Finkelstein somehow obtained a copy of the uncorrected page proofs of *The Case for Israel* containing some devastating footnotes, which he reproduces in *Beyond Chutzpah*—including one that says "Holly Beth: cite sources on pp. 160, 485, 486 fns 141-145." Holly Beth Billington is credited on Dershowitz's acknowledgments page as one of his research assistants; the pages to which he refers her are from Peters's book. The note doesn't tell Holly Beth that Dershowitz is going to the Harvard library to check the original sources, nor does it tell Holly Beth that she should go to the library to check; it says she should "cite" them—copy the citations from Peters into his footnote, presumably to give readers the impression that he consulted the original source. That's not plagiarism in the sense of failing to put in quotation marks the words of somebody else, and the Harvard administration has taken no action in response to Finkelstein's charge. But it's clearly dishonest for Dershowitz to have passed off another scholar's research as his own.

The Finkelstein book was originally under contract to the New Press, and Dershowitz claims he succeeded in persuading the New Press to drop it. He told me in an e-mail that after he wrote the New Press pointing out "numerous factual inaccuracies in Finkelstein's manuscript, New Press cancelled it's [*sic*] contract with him." New Press publisher Colin Robinson says that's not true: "We did not cancel the agreement to publish Norman's book and never wanted to do so." Finkelstein said the same thing in an e-mail: "I was the one who pulled out of the contract when publication was delayed due to Dershowitz's letters. In fact, Colin urged me to reconsider the decision and stay with New Press."

Now, despite Dershowitz's best efforts, UC Press is publishing the book—to the great credit of director Withey and history editor Niels Hooper. The book is appearing in August rather than June—because, according to the press statement, "editing and production took longer than we hoped." Hooper explained that California published the book not as part of a personal feud between Finkelstein and Dershowitz but because the chapters on human rights "show what is going on in the occupied territories and Israel." Dershowitz is relevant as a prominent defender of Israeli policies and practices. Will Dershowitz now sue for libel in federal court in Boston, or in London, where the law makes it easier for libel plaintiffs to win—as his attorney at Cravath, Swaine and Moore has threatened? That would be another shameful act by a man who claims to be a defender of free speech.

**E. ALAN M. DERSHOWITZ AND JON WIENER, "TSURIS OVER
CHUTZPAH," *NATION*, 29 AUGUST 2005.**

The following exchange of letters, prompted by Jon Wiener's article "Giving Chutzpah New Meaning" in the 11 July 2005 issue of the Nation, is available online at www.thenation.com.

Cambridge, Mass.

Jon Wiener's screed ["Giving Chutzpah New Meaning," 11 July 2005] is based on a misrepresentation of my correspondence. I wrote to the directors of the University of California Press (with a copy and cover note to the Governor) emphasizing that "I have no interest in censoring or suppressing [Norman] Finkelstein's freedom of expression." In a further letter, I made it clear that "I am not trying to get the Governor to prevent the publication of Finkelstein's book." The purpose of my letters was to encourage the UCP to give "serious consideration" to its decision to publish a defamatory lie (that I did not write *The Case for Israel*).

My letter was stimulated by an e-mail Finkelstein sent to the dean of Harvard Law School stating that he was "completing a manuscript for the University of California Press" that will "demonstrate that [Dershowitz] almost certainly didn't write the book, and perhaps didn't even read it prior to publication." Finkelstein has gone even further, asserting that I didn't write any of my books: "[Dershowitz] has come to the point where he's had so many people write so many of his books. . . . it's sort of like a Hallmark line for Nazis. . . . they churn them out so fast that he has now reached a point where he doesn't even read them." (This was after he compared me to Adolf Eichmann.)

Finkelstein knows that I wrote every word of the text of *The Case for Israel* by hand (I do not type, and I sent my handwritten manuscript to his publisher). He also knows that Harvard—after an investigation, which I sought—dismissed his absurd charges of plagiarism. Indeed, I was awarded a "dean's prize" for "exceptional scholarship" for a subsequent book. Neither the First Amendment nor academic freedom protects knowing falsehoods, as the Supreme Court said in *New York Times v. Sullivan* and as Finkelstein knows, since he threatened to sue the *Washington Post* in 2002 for calling him a "Holocaust revisionist."

The other purpose of my letter was to inform UCP what Professor Peter Novick, whose work stimulated Finkelstein's book on the Holocaust, had said about Finkelstein's reliability as a scholar: "As concerns particular assertions made by Finkelstein . . . the appropriate response is not (exhilarating) 'debate' but (tedious) examination of his footnotes. Such an examination reveals that many of those assertions are pure invention. [. . .] No facts alleged by Finkelstein should be assumed to be really facts, no quotation in his book should be assumed to be accurate, without taking the time to carefully compare his claims with the sources he cites."

Novick also concluded that the book, with its concoction of an international Jewish conspiracy, is a "twenty-first-century updating of *The Protocols of the Elders of Zion*" and a piece of "trash."

I questioned whether a university press should be lending its imprimatur to a sequel to what the *Times* also characterized as "a novel variation on the anti-Semitic forgery,

“The Protocols of the Elders of Zion,’ which warned of a Jewish conspiracy to take over the world.”

I wrote the UCP that “Finkelstein will have no difficulty having his defamatory bigotry published by the kind of publisher who specializes in this kind of material and whose imprimatur will not be misused by Finkelstein.” Imagine if a university press were contemplating the publication of a racist, homophobic, or sexist book. Many of Finkelstein’s supporters would be demanding that it be censored in the name of “speech codes” and “political correctness.”

In my sequel to *The Case for Israel*, titled *The Case for Peace*—to be published in September—I demolish Finkelstein’s claims, proving that he has made up quotes and facts. Finkelstein himself acknowledges that he has never been to Israel, knows “very little about Israel” and conducts no original research or interviews. It certainly shows in his work. I challenge *Nation* readers to read my book and then judge.

ALAN DERSHOWITZ

Cambridge, Mass.

It is one thing for Jon Wiener to launch a tendentious attack against Alan Dershowitz. Professor Dershowitz thoroughly deals with the Wiener-Finkelstein line of argumentation in his forthcoming book, *The Case for Peace*. It is another matter altogether for Wiener to insinuate—without any substantiation at all—that Professor Dershowitz’s research assistants are guilty of academic dishonesty. We are deeply offended by Wiener’s implications that we would not check the original sources cited in Professor Dershowitz’s books. For as long as any of us can remember, the standard operating procedure in Professor Dershowitz’s office has always been for us to check out or request the original sources from the Harvard libraries.

It was journalistically inappropriate for Wiener not to interview any of Professor Dershowitz’s research assistants, who would have firsthand knowledge of what his instructions to “cite” a source actually mean.

HOLLY BETH BILLINGTON (*research assistant 2002-2004*)

ALEXANDER J. BLENKINSOPP (*2004-2005*)

ERIC CITRON (*2003-2004*)

C. WALLACE DeWITT (*2004-2005*)

AARON VOLOJ DESSAUER (*2004-2005*)

MITCH WEBBER (*2005*)

Wiener Replies

What Alan Dershowitz did had previously been unthinkable: ask a governor—in this case, Arnold Schwarzenegger—to intervene with a publisher’s decision to publish a book—in this case, the University of California Press’s decision to publish a book by Norman Finkelstein criticizing Dershowitz. The governor, to his credit, refused. His office replied to Dershowitz, “You have asked for the Governor’s assistance in preventing the publication of this book,” but “he is not inclined to otherwise exert influence in this case because of the clear, academic freedom issue it presents.” Thus the star of *The Terminator* sought to teach a lesson about academic freedom to a Harvard law professor.

Dershowitz now quotes from what he says is a “further letter” to the governor explaining that he didn’t really mean what he said in his original letter. When I interviewed him, I asked for a copy of this “further letter,” but he refused to let me see one—which made me and my editors wonder whether it was real.

Dershowitz says he didn’t want to prevent UC Press from publishing the book in question, but other letters show this isn’t true. He had his lawyers send belligerent letters to dozens of people who might have power to block the book. For example, a letter from Dershowitz’s attorney Rory Millson of Cravath, Swaine, and Moore was sent to Lynne Withey, director of the UC Press, declaring that “the press’s decision to publish this book” was “wholly illegitimate” and “part of a conspiracy to defame” Dershowitz. It concludes, “The only way to extricate yourself is immediately to terminate all professional contact with this full-time malicious defamer.”

The UC Press decided to publish Finkelstein’s book after a demanding review process. The manuscript was sent out for peer review by six leading scholars in the field; then publication was recommended by a committee of twenty UC faculty members. This manuscript was also reviewed by several libel attorneys. Dershowitz apparently hasn’t seen the forthcoming book, but nevertheless he’s sure the dozens of people who reviewed it for the press are wrong. But even if he’s right about that, seeking to stop its publication is a violation of the author’s freedom of speech and a challenge to the academic freedom of the University of California. The appropriate response to speech that is wrong is not to silence it but to argue against it—because nobody has a monopoly on the truth, not even Alan Dershowitz.

But all this is not really about Alan Dershowitz. It’s about Israel. Norman Finkelstein’s book, *Beyond Chutzpah*, which I’ve read in galley form, is harshly critical of Dershowitz’s book *The Case for Israel*, taking on his defense of Israel’s occupation of the West Bank and Gaza. Finkelstein challenges Dershowitz by citing mainstream groups like Amnesty International, the Israeli human rights organization B’Tselem, and Human Rights Watch. The book is a series of juxtapositions—arguments by Dershowitz on Israeli practices of torture, assassinations, treatment of Palestinian children, and water and land rights, followed by refutations from human rights organizations. The cumulative effect is a devastating portrait of widespread Israeli violations of human rights principles and international law.

Dershowitz leaves it to his student research assistants to respond to charges of academic dishonesty. Finkelstein argued that Dershowitz lifted twenty footnotes in his book *The Case for Israel* from another book (Joan Peters’s *From Time Immemorial*), without indicating that’s where he found them. According to the definition of plagiarism at Harvard, where Dershowitz teaches, plagiarism is not just quoting someone without attribution—it is “passing off a source’s information, ideas, or words as your own by omitting to cite them.”

My article quoted Dershowitz’s instructions to Holly Beth Billington: “Holly Beth: cite sources on pp. 160, 485, 486 fns 141–145.” He was referring to footnotes in Joan Peters’s book—thus claiming Peters’s research as his own work. That would make him guilty of academic dishonesty. When I asked Dershowitz about this, he said, “I went to the Harvard library,” found and read the original sources—which made it OK, he said, not to run a footnote that included the phrase “cited in Peters.” Now Billington et al. say

they are the ones who went to the library—not Dershowitz himself. If they are right, that makes his statement to me untrue.

Billington et al. say I should have asked them about this. But I don't need to interview Holly Beth to find out what "cite" means; that's in the dictionary—and it's different from "go to the library and check."

JON WIENER

F. JENNIFER HOWARD, "CALIF. PRESS WILL PUBLISH CONTROVERSIAL BOOK ON ISRAEL," *CHRONICLE OF HIGHER EDUCATION*, 22 JULY 2005 (EXCERPTS).

The following article, excerpted here, originally appeared on page A1 of Chronicle of Higher Education 51, no. 46 (22 July 2005) and is available in full online at www.chronicle.com. Richard Byrne contributed to this article.

The University of California Press announced this month that it would proceed with the publication of a controversial book by Norman G. Finkelstein, an assistant professor of political science at DePaul University, that attacks some pro-Israel scholarship on the continuing conflict between Israelis and Palestinians.

The press will release *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History*, next month, despite the threat of legal action by one of the chief targets of the book, the Harvard University law professor Alan M. Dershowitz.

The wrangling over the book has put Lynne Withey, director of the press, to a highly public test of the resolve she publicly expressed last month in remarks to the Association of American University Presses. In her first speech as president of the association, Ms. Withey called on members to continue publishing on controversial topics despite "a political culture that seems bent on suppressing information."

The fight over *Beyond Chutzpah* has embroiled the press in a pitched battle between Mr. Finkelstein and Mr. Dershowitz, himself the author of many books, including *Chutzpah* (Little, Brown) and *The Case for Israel* (John Wiley and Sons). But it is also a case study in how hard it can be for an academic press to publish a book that deals with such charged material. . . .

But just as the book was poised to go to press in late June, lawyers for the university abruptly halted publication to take another look at it. At issue were the specific charges and the definition of plagiarism, including Mr. Finkelstein's claim that Mr. Dershowitz had lifted portions of *The Case for Israel* (2003) from Joan Peters's 1984 *From Time Immemorial: The Origins of the Arab-Jewish Conflict Over Palestine* (Harper and Row). . . .

Shelf Lives

The 11th-hour delay was far from the first hurdle that *Beyond Chutzpah* had to clear on its road to publication. Mr. Finkelstein had originally planned to publish the work with the New Press, an independent commercial house, but under pressure from Mr. Dershowitz and his lawyers, the press delayed publication in order to review the plagiarism charges. That decision bumped the projected publication date from the spring of 2005 to the fall of 2005.

Frustrated by the delay, Mr. Finkelstein took the project to the University of California Press and its history editor, Niels Hooper, with whom he had worked when Mr. Hooper was at Verso, an independent press based in London and New York. California engaged six outside reviewers, instead of the standard two, to complete the peer-review process. Some of the six are in the United States, others in Israel; their identities have not been disclosed. "Our peer review is confidential," Ms. Withey says.

The press's editorial committee, which is made up of 20 faculty members from the University of California's nine campuses, also had to sign off on the decision to publish, as it does with all the press's titles. Because of the sensitive nature of the material and the risk of a libel action, Ms. Withey alerted the press's Board of Directors as well.

"It was more a matter of sharing information than asking for permission," Ms. Withey says. *Beyond Chutzpah* was then dispatched to lawyers for review. In addition to consulting its in-house counsel, the University of California retained several outside lawyers, including American and British legal experts, to examine the manuscript.

Mr. Hooper, the book's editor, describes the vetting and editing of the book as "a very arduous process because of Dershowitz's threats. We had to be very, very careful. We know how meticulously opponents of this book will go through this." At his old house, Verso, he says, it was much easier to put out controversial books.

Representatives of the human-rights groups cited in the book reviewed the manuscript, too. "Every comma, every full stop" in the book has been checked, Mr. Hooper says.

All in all, the manuscript went through some 15 drafts in the past eight months, says Mr. Finkelstein.

Letters and the Law

The University of California Press gave Mr. Finkelstein a contract in October 2004. Mr. Hooper says he first heard from Mr. Dershowitz in November, when the Harvard professor forwarded him a package of letters he had sent to the New Press when *Beyond Chutzpah* was under contract there. "I heard from him first, before we even cataloged the book," Mr. Hooper says. According to Ms. Withey and reports elsewhere, letters to the press's board, university administrators, and the governor of California followed.

In late May, as publication drew nearer, Mr. Dershowitz's letters to university officials as well as the press's defense of its decision to publish *Beyond Chutzpah* dominated news accounts about the book in *The New York Times* and *Publishers Weekly*. Mr. Dershowitz denies that he sought to block the book's publication. In an e-mail message to *The Chronicle*, he wrote, "In my letters I specifically said: 'I have no interest in censoring or suppressing Finkelstein's freedom of expression. . . .' In a further letter, I made it clear that 'I am not trying to get the governor to prevent the publication of Finkelstein's book. . . .' I did say that I believed it was inappropriate for a university press to publish the bigoted falsehoods in which Finkelstein specializes."

In Mr. Dershowitz's view, "University presses should have higher standards of accuracy and scholarship than other presses." The book and the statement that the press sent out with galleys about academic freedom being under assault "were clearly designed to garner publicity," he says. In a forthcoming book, *The Case for Peace*

(John Wiley and Sons), Mr. Dershowitz devotes a chapter—"A Case Study in Hate and Intimidation"—to disputing Mr. Finkelstein's allegations.

Would he have sued the California press if it had allowed publication to proceed without further changes in Mr. Finkelstein's manuscript? Although Mr. Dershowitz's letters have not been made public, it is clear that the press and its lawyers considered legal action from him a clear and present danger. "The threat to the press was real," says Mr. Hooper.

The final changes in *Beyond Chutzpab* focused on specific phrases concerning plagiarism and how to define it. "There was a question about how to raise the issue of plagiarism without incurring very costly litigation," Mr. Finkelstein says. "What they asked me to do, and what I agreed to do, was provide the Harvard definition of plagiarism and reiterate my own findings in the appendix and let readers judge for themselves."

In the body of the book, the word "plagiarizes" has been replaced with such phrases as "lifts from" or "appropriates from without attribution," the author says. An appendix now refers readers to the definition of plagiarism laid out in Harvard University's *Writing with Sources: A Guide for Students*. . . .

The final negotiations took place among the lawyers, the press, and representatives of the author. (Mr. Finkelstein did not engage lawyers during the last round of talks with the press. Instead he relied on two mediators he describes as "interlocutors": a Palestinian, whose identity he would not disclose, and Roane Carey, a senior editor at the *Nation*, who also served as a freelance editor for *Beyond Chutzpab*.)

The university administration agrees that its role was limited. "The press has a general charge to publish books of scholarly interest," says Julius M. Zelmanowitz, a senior vice provost at the University of California. "Within that, the press has a good deal of autonomy." He was brought in late in the process, he says, to help in the three-way negotiation among author, press, and lawyers, but otherwise the university did not intervene. . . .

Ms. Withey says that at the press itself, "people were very, very upset" about the possibility that California would not finally publish the book. When the announcement came down that an agreement with the author had been reached, she says, "there was lots of cheering here." . . .

Several people interviewed for this article, including Mr. Finkelstein; Mr. Hooper, the editor; and Mr. Zelmanowitz, the vice provost, expressed concern that the bad blood between Mr. Finkelstein and Mr. Dershowitz would continue to get more attention than the book's analysis of the scholarship on Israel's human rights record. Those arguments should "not be overshadowed by what seems to be an intense personal dispute between these two people," Mr. Zelmanowitz says.

"We all feel here it's a very important book, and it's about how limited the discussion is on Israel in this country," Mr. Hooper says. "The difficulty in publishing it demonstrates how difficult it is."