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Several experts said while Florida's executive order against campus antisemitism will be contested, it will likely survive a First Amendment challenge By Haley Cohen · October 26, 2023

DeSantis crackdown on pro-Hamas rallies

could be model for elected officials

lorida Gov. Ron DeSantis' order banning the group Students for Justice in



But several legal scholars who spoke to JI said the DeSantis action was designed to pass constitutional muster, while a leader of a pro-Israel campus group said it could become a model for elected officials to use against terrorist-sympathizing groups on campus across the country.

Dozens of national Jewish groups and campus organizations have called on universities to withdraw their recognition and funding for groups affiliated with National Students for Justice in Palestine (NSJP). Most of the group's chapters, which commonly go by the name Students for Justice in Palestine but have other names on some campuses, have celebrated or defended Hamas' Oct. 7 terrorist attack against Israel.

"Based on the National SJP's support of terrorism, in consultation with Governor

DeSantis, the student chapters must be deactivated," the state university system's chancellor, Ray Rodrigues, wrote in a memo on Tuesday to university leaders. The move marks the first time a state has outlawed SJP. There are active SJP chapters at two Florida schools: the University of Florida and the University of South Florida, DeSantis' press secretary, Jeremy Redfern, told Jewish

"A single standard must prevail on university campuses," Alan Dershowitz, a Harvard University Law School professor emeritus, said. "Student groups that support Hamas should be treated the way a student group that supported the Ku Klux Klan or supported the rape of women, or the killing of gays should be treated."

that their chapters are to be removed from campus immediately," Redfern said. The letter explains that it is a "felony under Florida law to knowingly provide material support ... to a designated foreign terrorist organization. These chapters exist under the headship of the National Students for Justice in Palestine, who distributed a toolkit identifying themselves as part of the Operation AlAqsa Flood [Hamas' name for their

"Governor DeSantis directed the Board of Governors to send notices to the [two schools]

"A single standard must prevail on university campuses," Dershowitz continued. "Student groups that support Hamas should be treated the way a student group that supported the Ku Klux Klan or supported the rape of women, or the killing of gays should be treated."

Dershowitz added that his own view is that all such groups should be permitted on

groups, then the same rule should apply to supporters of Hamas' rapes, murders and

campus. "But, if a school would not permit the Klan, Nazis, sexists or homophobes to form

Alan Dershowitz, a Harvard University Law School professor emeritus who has

represented high-profile clients such as O.J. Simpson, told JI the measure would likely

survive a First Amendment challenge as long as the university does not "apply a double

"But public universities cannot allow or disallow groups based on content," he said. "So if they are going to ban Nazis and the Klan they would have to ban Hamas supporters." He added that there should not be a distinction regarding students who are not U.S. citizens enjoying the rights and privileges of the First Amendment.

Dershowitz noted that he doesn't view SJP as "pro-Palestine." Rather, the groups' rallies

There hasn't been a single actual pro-Palestine demonstration. Has anybody seen a single

sign at any campus favoring a two-state solution? I have not. It's all 'Palestine will be free

are "pro-Hamas [and] anti-Israeli," he said. "If you're pro-Palestine, you're anti-Hamas.

A Harvard Law professor from 1964 until 2013, Dershowitz said he is not surprised by the large number of student organizations that quickly declared their support for Hamas, particularly at Harvard, where a group of 31 student organizations published a letter on social media claiming Israel is "entirely responsible" for Hamas terrorists' murder of Israelis.

"How the challenge comes out will very much depend on what

[language] comes out," said Marc Stern, chief legal officer at the

American Jewish Committee. "There are arguments, which are

Jews' are disruptive and beyond the pale. With more political

significant, that would allow colleges to say [statements like] 'kill the

[statements] the courts will have a tougher time." "Harvard has a long history of student bigotry, starting with many student groups that supported the Nazis and Hitler in the 1930s," he said. "Students tend to support, often, the most radical extremes, whether they be positive or negative, right or left." He added that he was not satisfied by Harvard President Claudine Gay's response. "I wanted President Gay to make the same response she would have made to groups that

supported raping, beheading, Nazis and [homophobes]. She should have made the [same]

response. I don't believe she made the same response."

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litigation around DeSantis' ban of SJP. "How the challenge comes out will very much depend on what [language] comes out. There are arguments, which are significant, that would allow colleges to say [statements like] 'kill the Jews' are disruptive and beyond the pale. With more political [statements] the courts will have a tougher time."

Stern noted that questions surrounding First Amendment rights are "interesting and not

unimportant" but also can be "a distraction" to the issue of university administrations

Marc Stern, chief legal officer at the American Jewish Committee, expects there to be

"University presidents are not prohibited by the First Amendment from speaking out strongly against the 'kill the Jews' stuff we're seeing from SJP," Stern told JI. "Imagine on our modern campuses somebody saying white men have the right to rape

women of color. There would be outrage. Hamas does it and there's not a peep. Before

getting lost in the First Amendment debate, the question is where has everybody been?

Some [university] presidents called people out. Most have avoided doing so and that leads

to a moral ambiguity that has no place on a college campus, and it leaves Jewish students

Stern said the argument that university administration that criticize conduct as antisemitic equates to denying Palestinians freedom of speech is "constitutional gibberish" and "nonsense that needs to be called out." "The fact that a university official criticizes speech is entirely how we expect doctrines of freedom of speech to work. The answer to speech is more speech."

Hina Shamsi, director of the American Civil Liberties Union National Security Project, told

On Oct. 12, "Day of Resistance" events to celebrate the attack on Israel were planned by

the University of Arizona and the University of California Los Angeles. Some of the

groups, at schools including Georgetown University and University of California San

Diego, described their events as vigils for the Palestinian "martyrs" killed during the raid

local SJP chapters at more than a dozen universities, including the University of Virginia,

JI that "the governor's actions are transparently unconstitutional."

the "toolkit," which has since been removed from the internet.

The Florida university system said its SJP ban is based on a "toolkit," issued by the national organization to chapters ahead of the "Day of Resistance." JI obtained a copy of

The seven-page kit referred to Hamas' massacre of 1,400 Israelis on Oct. 7 as "the

out against the type of incitement of violence that has been a hallmark of SJP," said Mark Rotenberg, vice president and general counsel of Hillel International. "In too many instances SJP's behavior targeting Jewish students creates an unsafe environment."

"Today, we witness a historic win for the Palestinian resistance: across land, air, and sea,

our people have broken down the artificial barriers of the Zionist entity, taking with it the

facade of an impenetrable settler colony and reminding each of us that total return and

liberation to Palestine is near," it said. "As the Palestinian student movement, we have an

"We believe it is long overdue for universities to stand up and speak

unshakable responsibility to join the call for mass mobilization. National liberation is near-glory to our resistance, to our martyrs, and to our steadfast people." SJP, in conjunction with other groups, led more than a dozen "Walkout for Gaza" rallies on Wednesday, including at The Ohio State University, Columbia University and Howard University. At the Graduate Center of the City University of New York, hundreds of protesters walked out of class at 3:30 p.m. holding signs and chanting "From Palestine to Mexico, all the walls have got to go!" In Denver, the walkout ended with a protest at the

Golda Meir House Museum. During the walkout at Cooper Union in New York, Jewish

Mark Rotenberg, vice president and general counsel of Hillel International, said public

"We will see how those limitations are interpreted in this situation," he said. "We believe it

is long overdue for universities to stand up and speak out against the type of incitement of

violence that has been a hallmark of SJP. In too many instances SJP's behavior targeting

students were barricaded in the library as protestors pounded on the door.

universities have different limitations to private institutions.

Jewish students creates an unsafe environment."

justify them, including SJP, is complicit."

that detailed incidents with the group since Oct. 7.

Rotenberg said individual campuses "need to make a decision based on what their SJP has been doing" when deciding whether to emulate Florida's decision. "There are a number of things academic universities have to do to fulfill their academic mission, inclusion for all students and to comply with U.S. civil rights laws," Rotenberg continued. "Those steps include protecting Jewish students and Jewish identifying facilities, preventing official units of departments of the university from bullying and marginalizing Jewish students, and students who identify with Israel, and to speak out

about organizations who are glorifying Hamas' massacre. It needs to be remembered and

Jacob Baime, CEO of Israel on Campus Coalition, said DeSantis' move should "absolutely"

be a model for universities nationwide. "These were evil acts, and anyone who tries to

called out that SJP called the slaughter of Jewish civilians 'a historic win."

support ISIS-style terrorists, universities have failed," he wrote. "SJP's response to the massacre of Jewish families reveals a violent, genocidal ideology spreading on campus. Universities must act decisively to protect all students. Thank you, @RonDeSantis, for standing up."

Baime said SJP chapters openly supporting Hamas' attacks "cross the line from free

speech to incitement and endorsing terrorism." He shared with JI a list compiled by ICC

Included in the list of seven incidents is an SJP protest at the University of North Carolina

where a protester yelled "all of us are Hamas." During the Harvard Palestine Solidarity

Baime applauded the ban in a tweet. "When students are indoctrinated to hate Israel and

Committee's "Die-in," an Israeli student at Harvard Business School reported being pushed and shoved as he attempted to film the protest, according to the list. KC Johnson, a history professor at Brooklyn College and the Graduate Center of CUNY,

opposed the ban, noting in a tweet that the "precedent could be used against Zionist

exception" and "it's important for outsiders to see these protests to understand the

It is not clear whether DeSantis, who is seeking the Republican Party's presidential nomination, consulted with members of the Jewish community before imposing the ban. A spokesperson for the Republican Jewish Coalition declined to comment on the matter.

DeSantis said last week that if elected president, he would revoke the visas of any foreign

students "out there praising Hamas." On Wednesday, presidential hopeful Sen. Tim Scott

(R-SC) also called for deportation of foreign students attending American colleges who are

Johnson added that SJP should be allowed to continue because "there's no 1A hate speech

"encouraging Jewish genocide." Jewish Insider's Washington correspondent Gabby Deutch contributed reporting. **Featured Stories**

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