

Editor's note: This article is a follow-up to Menetrez's *Dershowitz v. Finkelstein: Who's Right and Who's Wrong?* <www.counterpunch.org/menetrez04302007.html>, which was published by CounterPunch in April 2007. A combined version of the two articles will form the epilogue to the paperback edition of Finkelstein's *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History*, forthcoming in 2008 from the University of California Press.

THE CASE AGAINST ALAN DERSHOWITZ

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In June 2007, DePaul University denied tenure to Norman Finkelstein, an assistant professor of political science. The decision ignited a firestorm of protest from DePaul students and faculty, as well as from faculty across the country and abroad. Finkelstein's department had voted 9-3 in favor of tenure, and a college-level committee unanimously joined that recommendation, 5-0. But the University Board on Promotion and Tenure (UBPT) voted 4-3 against tenure, and DePaul's president claimed to "find no compelling reasons to overturn the UBPT's decision."

The tenure denial was a great victory for Harvard Law School's Professor Alan Dershowitz, who had been campaigning vigorously against Finkelstein at least since the fall of 2006. The feud between Dershowitz and Finkelstein began when Finkelstein claimed that Dershowitz's book *The Case for Israel* (2003) was partially plagiarized and wholly false. Finkelstein eventually published his critique as part of a book of his own, entitled *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History* (2005). Dershowitz responded to Finkelstein's charges in his book *The Case for Peace* (2005).

In September 2006, as Finkelstein's tenure review got underway, Dershowitz sent a 7-page, single-spaced letter, plus 14 single-spaced pages of supporting materials, to the former chairman of Finkelstein's department, arguing that Finkelstein's "purported scholarship" consists of nothing but "ugly and false assertions" and "preposterous and discredited ad hominem attack[s]." Dershowitz sent a similar but even larger packet of materials—totaling over 60 pages—to a large but unknown number of members of DePaul's faculty and administration, including every professor at the law school.

Those basic facts about the dispute are now fairly well known. What is not so well known is that there is compelling evidence that Dershowitz himself committed academic misconduct both before and in the course of his intervention in Finkelstein's tenure case. I present that evidence below, along with some reflections on its ramifications for both DePaul and Harvard. In the end, this is not merely a story about two professors who dislike each other. It is a scandal implicating the leading institution of higher learning in the United States.

PLAGIARISM

In *Beyond Chutzpah*, Finkelstein argued that Dershowitz plagiarized a book called *From Time Immemorial*, by Joan Peters, by lifting several quotations and citations of primary sources directly from Peters' book without acknowledging that he found them there. (*Beyond Chutzpah*, p. 230) Dershowitz categorically denied the charge. He claimed that although he was led to some primary sources by seeing them cited in Peters' book, he always tried to check them before citing them. If he could not find a primary source himself, he cited Peters. If he was able to check the primary source, he cited it directly, without mentioning Peters. He argued that his failure to cite Peters in such circumstances is proper. (See *The Case for Peace*, p. 182)

Finkelstein's principal response was that Dershowitz's quotations and citations of primary sources (where Dershowitz did *not* cite Peters) contain obvious errors that Dershowitz would not have made if he had checked the primary sources himself, and that Dershowitz's errors are identical to Peters' errors concerning the same primary sources. (*Beyond Chutzpah*, pp. 230-231) Finkelstein inferred that Dershowitz copied the quotations and citations from Peters rather than checking the primary sources himself.

I have examined the texts relevant to one of the quotations implicated in Finkelstein's argument, and I see no reasonable alternative to the conclusion that Finkelstein is correct. The quotation is from Mark Twain's *The Innocents Abroad*. (See *Beyond Chutzpah*, p. 231) It appears on pages 23-24 of *The Case for Israel* and pages 159-160 of *From Time Immemorial*. Dershowitz's version of the quotation omits two of the sentences that Peters' version includes. Dershowitz also omits Peters' italics and adds a few errors that Peters did not make. Apart from those discrepancies, Peters' and Dershowitz's versions of the quotation are identical, character for character.

I have checked Peters' and Dershowitz's versions of the quotation against the 1996 Oxford University Press edition of *The Innocents Abroad*, which is the edition Dershowitz cited. Peters' version contains many errors, and Dershowitz's version reproduces every one of them. The errors are:

1. Line 1: The original Twain (p. 485) says "this valley[.]" Both Peters and Dershowitz change "this" to "the" but fail to signal that they have altered the original.
2. Line 4: In the original Twain (p. 485), there are commas before and after the word "hereabouts[.]" Both Peters and Dershowitz omit the commas but fail to signal the omission (e.g., by using empty brackets).
3. Line 5: In the original Twain (p. 508), the words "Come to Galilee for that" form an entire sentence, ending with a period. Both Peters and Dershowitz follow the word "that" with an ellipsis that is not preceded by a concluding period, but they fail to signal the omission of the period (e.g., by using empty brackets). This cannot be attributed to a stylistic choice to omit the concluding period when a complete sentence is followed by an ellipsis, because on several occasions (e.g., lines 9, 10, and 11) both Peters and Dershowitz include concluding periods followed by ellipses.

4. Line 8: In the original Twain (p. 508), the word “Capernaum” is followed by a semicolon. Both Peters and Dershowitz follow it with a colon but fail to signal that they have altered the original.
5. Line 9: The original Twain (p. 508) says “six funereal plumes of palms[.]” Both Peters and Dershowitz say “six funereal palms[.]” omitting the words “plumes of” but failing to signal the omission.
6. Line 9: In the original Twain (p. 508), the word “palms” is followed by a semicolon and thus does not conclude the sentence. Both Peters and Dershowitz omit the semicolon and the remainder of the sentence but place the ellipsis *after* the concluding period instead of *before* it.
7. Line 9: In the original Twain (pp. 508, 520), the sentence containing the phrase “six funereal plumes of palms” and the sentence beginning “We reached Tabor” are separated by 12 pages and numerous intervening paragraphs. Both Peters and Dershowitz separate those sentences by a single ellipsis and no paragraph break, thus representing that the sentences are part of a single paragraph. This cannot be attributed to a stylistic choice to omit all paragraph structure from the quote, because Peters and Dershowitz did not omit all paragraph structure—they include a paragraph break at lines 10 to 11.
8. Line 10: In the original Twain (p. 520), the words “We reached Tabor safely” are followed by a comma and thus are not an entire sentence. Both Peters and Dershowitz omit the comma and the remainder of the sentence but place the ellipsis after the concluding period instead of before it.
9. Line 10: In the original Twain (p. 520), the words “We never saw a human being on the whole route” are followed by a comma and thus are not an entire sentence. Both Peters and Dershowitz omit the comma and the remainder of the sentence but follow the word “route” with a period and no ellipsis, either before or after the period.
10. Lines 10-11: In the original Twain (pp. 520, 607), the sentence containing the phrase “never saw a human being on the whole route” and the sentence beginning “Nazareth is forlorn” are separated by 87 pages and numerous intervening paragraphs, and “Nazareth is forlorn” occurs in the middle of a paragraph, not at the beginning. Both Peters and Dershowitz separate those sentences with a single paragraph break and no ellipses, representing them as the end and beginning of consecutive paragraphs.
11. Line 11: In the original Twain (p. 607), the words “Nazareth is forlorn” are followed by a semicolon. Both Peters and Dershowitz change the semicolon to a period but fail to signal that they have altered the original.
12. Line 11: In the original Twain (p. 607), the word “accursed” is followed by a comma. Both Peters and Dershowitz omit the comma but fail to signal the omission.
13. Line 11: In the original Twain (p. 607), the word “ruin” is followed by a comma. Both Peters and Dershowitz omit the comma but fail to signal the omission.
14. Line 12: The original Twain (p. 607) says “to-day,” but both Peters and Dershowitz omit the hyphen. (In the original Twain, the hyphen is not merely breaking the word at the end of a line of text; the word appears in the middle of a line.)

15. Line 15: The original Twain (p. 607) says “Saviour’s[.]” Both Peters and Dershowitz omit the letter “u” but fail to signal the omission.
16. Lines 16-17: In the original Twain (p. 607), no punctuation follows the word “sang[.]” and there are no quotation marks around the phrase “Peace on earth, good will to men[.]” Both Peters and Dershowitz follow “sang” with a comma and place quotation marks before “Peace” and after “men” but fail to signal that they have altered the original.
17. Line 17: In the original Twain (p. 607), the words “living creature” are followed by a comma and thus do not end the sentence in which they appear. Both Peters and Dershowitz omit the comma and the remainder of the sentence but place the ellipsis after the concluding period instead of before it.
18. Line 18: The original Twain (p. 608) says “Chorazin[.]” Both Peters and Dershowitz omit the letter “a,” spelling the word “Chorzin[.]” but fail to signal the omission.
19. Line 19: In the original Twain (p. 608), no punctuation follows the word “them[.]” Both Peters and Dershowitz erroneously follow “them” with a comma but fail to signal that they have altered the original.
20. Line 20: The original Twain (p. 608) says “Saviour’s[.]” Both Peters and Dershowitz omit the letter “u” but fail to signal the omission.

Line numbers refer to the lines of the Twain quote as it appears on pages 23-24 of *The Case for Israel* (2003 hardback edition), numbering the lines of the quote consecutively and without interruption from line 1 on page 23 to line 21 on page 24. It is possible that errors 6, 8, and 17 are the result of typesetting conventions that Peters’ and Dershowitz’s publishers may have followed. To my knowledge, none of the other identical errors can be so explained.

In addition, both Peters and Dershowitz (in the original hardback edition of *The Case for Israel*) cited the same pages of Twain (i.e., pages 349, 366, 375, and 441-442) as their source for the quotation. (*The Case for Israel* (2003 hardback edition), p. 246, n. 5; *From Time Immemorial*, p. 485, nn. 131, 133, 134) But those page citations are incorrect, both for the 1881 London edition of Twain, which Peters cited, and for the 1996 Oxford edition, which Dershowitz cited. In fact, none of the quoted text appears on any of the cited pages in either edition of *The Innocents Abroad*. In the 2004 paperback edition of *The Case for Israel*, Dershowitz corrected this error by citing the proper pages of the 1996 Oxford edition (i.e., pages 485, 508, 520, and 607-608), but he made no changes in the text of the quotation. (*The Case for Israel* (2004 paperback edition), pp. 23-24, 246, n. 5)

The cumulative weight of these identical errors strikes me as considerable. I do not see how Dershowitz could, purely by coincidence, have precisely reproduced all of Peters’ errors if he was working from the original Twain. Rather, the only reasonable inference seems to be that he copied the quotation from Peters. But Dershowitz does not cite Peters as his source for the quotation. He cites only Twain.

Dershowitz has never, to my knowledge, responded to Finkelstein's argument concerning the identical errors in *The Case for Israel* and *From Time Immemorial*. With respect to the Twain quote, for example, he has said only that it cannot be seriously suggested that he did not find the quote on his own, because he claims that he can prove he has been quoting *The Innocents Abroad* in debates since the 1970s, long before Peters' book was published. (See *The Case for Peace*, pp. 182, 232, n. 106) (The only "proof" Dershowitz has ever identified is his appearance in a televised debate on PBS' *The Advocates* in 1970. I obtained a transcript of the debate and found that Dershowitz never quoted a word of, or even mentioned, Twain. I also asked Dershowitz if he had any other "proof" besides his appearance on *The Advocates*, but he refused to respond.)

Regardless of how long Dershowitz has been quoting Twain, however, I see no way of avoiding the inference that Dershowitz copied *The Case for Israel*'s Twain quotation directly from *From Time Immemorial*, not from the original source. I likewise see no way of avoiding the inference that, having copied the quotation from Peters, Dershowitz never checked it against the original source, because he failed to correct a single one of Peters' 20 errors (including the omission of 87 pages of text without an ellipsis). Moreover, Dershowitz himself, rather than a research assistant, must have personally copied the quotation from Peters, because Dershowitz has insisted, in both his September 2006 letter to the former chairman of Finkelstein's department and elsewhere, that he wrote every word of the text of *The Case for Israel* by hand. (See *The Case for Peace*, p. 181)

COVERUP

Dershowitz knew about Finkelstein's identical errors argument long before he wrote his September 2006 letter. Finkelstein first raised the issue in an exchange with Dershowitz that was published in *The Harvard Crimson* on October 3, 2003. Alexander Cockburn, expressly relying upon Finkelstein, raised the issue again in an exchange with Dershowitz that was published on October 27, 2003, in *The Nation* magazine. Dershowitz responded to Cockburn in *The Nation*'s December 15, 2003, issue, but he never addressed the identical errors argument. Dershowitz did, however, correct some of the errors Finkelstein had pointed out, including the page citations for the Twain quote, in the paperback edition of *The Case for Israel*, which was published in August 2004. (See *The Case for Israel* (2003 hardback edition) pp. 20, 245, n. 16; *The Case for Israel* (2004 paperback edition) pp. 20, 246, n. 16) Finkelstein also included the identical errors argument in *Beyond Chutzpah* (see, e.g., pp. 230-231), which was published in August 2005. And the materials Dershowitz distributed to DePaul's faculty and administration made clear that he had carefully scrutinized *Beyond Chutzpah* in its entirety. For all of these reasons, there seems to be no room for doubt that Dershowitz knew about Finkelstein's identical errors argument for years before he sent his letter to DePaul in September 2006.

As I noted in the previous section, however, Dershowitz has never responded to the argument. In fact, to my knowledge, he has never acknowledged that Finkelstein made such an argument. Instead, Dershowitz has sought to portray the entire plagiarism

controversy as a dispute about citation style. In *The Case for Peace*, he contended that Finkelstein’s charge of plagiarism was merely that Dershowitz should have cited Peters for every source that he first encountered in Peters’ book, rather than citing her for only those sources he did not independently check himself. (See p. 182 [“*This* became the charge of plagiarism—that I cited some quotations to their *original* sources rather than all of them to the *secondary* source in which I first came across them.”]) Dershowitz took a similar approach in his September 2006 letter, stating with respect to the plagiarism controversy that “much of it turns on the definition of plagiarism: whether it is proper to find a quotation in one source, check it against the original source, and cite to the original, rather than the secondary, source.”

Dershowitz’s characterizations of the dispute are demonstrably incorrect. The identical errors argument, which lies at the heart of Finkelstein’s case, shows that the plagiarism charge is not a technical matter about citation style or about the definition of plagiarism. Rather, it is factual dispute about whether Dershowitz copied primary source material directly from Peters without citing Peters and without checking the primary source himself. Again, Dershowitz has known this since the fall of 2003. It thus appears that Dershowitz’s strategy from the start has been to pretend that this factual dispute does not exist and to hope that no one will notice.

Dershowitz claims that he personally asked Harvard to investigate Finkelstein’s plagiarism charges. (*The Case for Peace*, p. 233, n. 113) Dershowitz has also stated unequivocally that Harvard did investigate and reject the charges in their entirety. In his letter to the former chair of Finkelstein’s department, Dershowitz wrote that he “was completely cleared of that charge [i.e., plagiarism] by an independent Harvard University investigation.” (See also *The Case for Peace*, pp. 183 [“Finkelstein was furious that Harvard cleared me of his entirely false and politically motivated charges of plagiarism.”], 184, 233, n. 113) In *Beyond Chutzpah*, Finkelstein likewise reported that the director of Harvard Law School’s office of communications informed him that Harvard “looked into the charges against Dershowitz and ‘found that no plagiarism had occurred.’” (p. 254)

Neither Dershowitz nor Harvard, however, has identified the specific issues or arguments that Harvard allegedly investigated and rejected. In particular, neither of them has ever said whether Harvard investigated the identical errors issue.

In order to obtain a definitive answer to that question, I emailed Harvard Law School’s associate dean for academic affairs, Catherine Claypoole, with a copy to Dershowitz. After describing the background, I asked, “When Harvard looked into the plagiarism charges against Professor Dershowitz, did Harvard investigate the issue of allegedly identical errors in *From Time Immemorial* and *The Case for Israel*?” A staff assistant forwarded my message to the law school’s communications office.

While I was waiting to hear from the administration, I began receiving heated and not entirely coherent responses from Dershowitz. The most noteworthy feature of Dershowitz’s replies is that despite repeated opportunities to answer my question about

whether Harvard had investigated the identical errors issue, he never did. He did not even say that he *believed* they had investigated it. Rather, he stuck to his previous pattern of refusing to acknowledge that the issue even existed, and he repeated his claim that he had been quoting some of the relevant primary sources long before Peters' book was published.

Ten days after emailing Dean Claypoole, I still had heard nothing from the communications office, so I contacted its director, Mike Armini. Less than one hour later, he sent me the following message: "Hello Mr. Menetrez. I don't have anything more to add other than what I said a couple of years ago. The accusations made by Professor Finkelstein were investigated by Harvard University and it was determined that plagiarism did not occur. This has been widely reported. We do not plan to provide any further detail on this matter. Are you writing for a specific publication?" In reply, I asked whether Armini was declining to confirm or deny that Harvard investigated the identical errors issue. He did not respond. I sent two more follow-up inquiries but never heard from him again.

Having failed to obtain an answer from the law school's administration, I wrote to Dershowitz and posed the same question I had originally directed to the academic affairs office. In the course of the long and peculiar correspondence that ensued, Dershowitz again repeated his claim that he has been quoting Twain since the 1970s, which is of course irrelevant to my question about the scope of Harvard's investigation. He also echoed Armini's general claim that Harvard investigated all of Finkelstein's allegations. But Dershowitz kept to his longstanding pattern of refusing to acknowledge that Finkelstein's allegations include the identical errors argument, so his claim that Harvard investigated all of Finkelstein's allegations is, in this context, meaningless.

Like Armini, Dershowitz never specifically confirmed that Harvard investigated Finkelstein's identical errors argument. Nor did he even claim that he *believed*, perhaps mistakenly, that Harvard investigated it. Nor did he express surprise or disquiet at Armini's failure to confirm that Harvard investigated the argument. And at certain points he actually feigned ignorance of the entire matter, asking me for specific examples of allegedly identical errors even after I had referred him to the Finkelstein and Cockburn articles mentioned above, which contain specific examples.

One of Dershowitz's messages did appear to yield one new piece of potentially relevant information, but the appearance was quickly dispelled. While still failing to acknowledge that the identical errors argument had ever been made *by Finkelstein*, Dershowitz did nonetheless refer to the argument at one point: He claimed that he had brought the argument to the attention of Harvard's administration some time before I emailed Dean Claypoole in August 2007. He did not, however, say exactly *when* he did it. In response, I asked him to identify any members of the administration whom he had told about the argument *before Harvard conducted its investigation*. He refused.

Incidentally, Dershowitz could easily have alerted Harvard's administration to the plagiarism charges without telling them about the identical errors argument, because

when Finkelstein (in a September 24, 2003, debate with Dershowitz on the radio program *Democracy Now!*) and Cockburn (in a column in the October 13, 2003, issue of *The Nation*) first accused Dershowitz of plagiarism, neither of them mentioned the identical errors argument. If Harvard's investigators read only the debate transcript and Cockburn's column of October 13, 2003, they would never have encountered the identical errors issue at all. But again, Dershowitz knew about the issue no later than December 2003, and probably as early as October 3, 2003.

Once my correspondence with Dershowitz was concluded, I forwarded all of it to Harvard's administration, to give them an opportunity to comment on it if they wished. I received no response.

The failure of both Harvard and Dershowitz to provide a straight answer to my question about whether Harvard investigated Finkelstein's identical errors argument, despite my persistent inquiries spanning nearly one month, strongly suggests that Harvard did not investigate the argument and that Dershowitz has known it all along. There is no other plausible interpretation of their refusal to answer my question, or of Dershowitz's continuing refusal to acknowledge that the argument has been central to Finkelstein's charge of plagiarism ever since October 2003.

Moreover, putting aside my email correspondence with Harvard and Dershowitz, I believe the evidence concerning the Twain quote independently establishes that Harvard did not know about the identical errors argument before conducting its investigation, because I take for granted that the Harvard administration is neither hopelessly corrupt nor intellectually incompetent. If the administration had known about the argument, they would have investigated it, because they are not corrupt. If they had investigated it, they would have found the same massive evidence that I found, because they are not incompetent. And if they had found that massive evidence, they would not have cleared Dershowitz, because they are not corrupt.

Nor could Harvard have missed the fact that copying the Twain quote from Peters without citing Peters would be a straightforward violation of Harvard's own standards for student writing. (See *Beyond Chutzpah*, p. 254) Harvard's pamphlet *Writing with Sources: A Guide for Students* (1998) states: "QUOTING OR CITING A PASSAGE YOU FOUND QUOTED OR CITED BY ANOTHER SCHOLAR: when you haven't actually read the original source, cite the passage as 'quoted in' or 'cited in' that scholar—both to credit that person for finding the quoted passage or cited text, and to protect yourself in case he or she has misquoted or misrepresented . . ." (Section 2.1) No honest and competent investigation by Harvard would have held Dershowitz to a lower standard than Harvard sets for its freshmen.

Harvard Law School's guidelines for student writing do not expressly address this specific issue, but the guidelines are at least as demanding as those spelled out in *Writing with Sources*. The law school guidelines provide that "[a]ll work submitted by a student for any academic or non-academic exercise is expected to be the student's own work. In the preparation of their work, students should always take great care to distinguish their

own ideas and knowledge from information derived from sources.” The guidelines go on to state that “[t]he responsibility for learning the proper forms of citation lies with the individual student. Quotations must be properly placed within quotation marks and must be fully cited.” Finally, under the guidelines, “[s]tudents who submit work that is not their own without clear attribution of all sources, even if inadvertently, will be subject to disciplinary action.”

If Harvard never investigated the identical errors issue and Dershowitz has always known that, and if I am also right that Finkelstein’s charge concerning the Twain quote is sound, then Dershowitz has committed academic misconduct on several levels. First, he plagiarized the Twain quotation from Peters without citing her, just as Finkelstein originally alleged.

Second, Dershowitz made repeated and public misrepresentations about that misconduct, characterizing Finkelstein’s plagiarism charges as politically motivated and wholly lacking in merit. See, for example, *The Case for Peace*: “[T]here was no plagiarism.” (p. 182) “Finkelstein’s claim of plagiarism against me is laughable.” (p. 182) “Finkelstein, of course, knows that his politically motivated accusations against me are complete fabrications” (p. 184)

Third, in his September 2006 letter to the former chairman of Finkelstein’s department, Dershowitz deliberately attempted to deceive the DePaul faculty concerning the merits of Finkelstein’s then-pending tenure case by falsely claiming that Harvard had independently investigated Finkelstein’s plagiarism charges—which Dershowitz knew included the identical errors issue—and “completely cleared” him. In so doing, Dershowitz threw the full institutional weight of Harvard University behind his efforts to cover up his own misconduct, which Finkelstein had exposed.

DELIBERATE MISREPRESENTATION

At the end of the fourth paragraph of his September 2006 letter, Dershowitz addressed Finkelstein’s discussion of Dershowitz’s proposal that Israel should destroy entire Palestinian villages in response to Palestinian terrorist attacks. In *Beyond Chutzpah*, Finkelstein wrote that Dershowitz

advocates not only individual house demolitions but also “the destruction of a small village which has been used as a base for terrorist operations” after each Palestinian attack. “The response will be automatic.” Such massive destruction, he concludes, will further the “noble causes” of reducing terrorism and promoting peace. . . . It is hard to make out any difference between the policy Dershowitz advocates and the Nazi destruction of Lidice [a Czech village destroyed by the Nazis in retaliation for the assassination of a Nazi officer], for which he expresses abhorrence—except that Jews, not Germans, would be implementing it.

(*Beyond Chutzpah*, pp. 175-176) Finkelstein cited Dershowitz's March 11, 2002, column in the *Jerusalem Post* as his source for the quotations concerning the "automatic" destruction of entire villages. (*Beyond Chutzpah*, p. 175, n. 19) I have checked the quotations myself, and they are accurate—Dershowitz did propose the destruction of entire villages, just as Finkelstein claimed.

In his September 2006 letter, Dershowitz criticized Finkelstein for

his oft-maid [sic] claim, found on page 176 of *Beyond Chutzpah*, that "It is hard to make out any difference between the policy Dershowitz advocates and the Nazi destruction of Lidice, for which he expresses abhorrence—except that Jews, not Germans, would be implementing it." The trouble is that *the policy and passage Finkelstein quotes actually says*, "[Israel] would then publicly declare precisely how it will respond in the event of another terrorist act, such as by destroying empty houses in a particular village that has been used as a base for terrorists, and naming that village in advance." In Finkelstein's world, "destroying empty houses" in order to deter terrorism is the equivalent of genocide.

(Emphasis added) Dershowitz developed the same argument at greater length in the packet of materials he sent to DePaul's faculty and administration.

Dershowitz's quotation concerning "destroying empty houses," however, comes from his book *Why Terrorism Works* (2002) and does not appear in his *Jerusalem Post* column. It is therefore not true that "the policy and passage Finkelstein quotes actually says" what Dershowitz claims it says. Finkelstein accurately quoted the policy and passage from the *Jerusalem Post* column, which proposed the destruction of entire villages and said nothing about destroying only empty houses. Finkelstein cited the *Jerusalem Post* as his source for the quotation. The language Finkelstein quoted does not appear in *Why Terrorism Works*. It is consequently unmistakable that Finkelstein was quoting (and comparing to Lidice) the *Jerusalem Post* proposal concerning the destruction of entire villages, not the *Why Terrorism Works* proposal concerning the destruction of only empty houses.

The problem here is not merely that Dershowitz is wrong. Everyone makes mistakes. What makes Dershowitz's charge appear to be an instance of academic misconduct is that there appears to be no way that Dershowitz could have honestly (but mistakenly) believed that Finkelstein was quoting, and comparing to Lidice, the *Why Terrorism Works* proposal concerning empty houses, rather than the *Jerusalem Post* proposal concerning entire villages. Dershowitz purported to be correcting the record concerning the "policy and passage Finkelstein quotes[.]" Dershowitz therefore must have looked at Finkelstein's citation to see what passage Finkelstein claimed (correctly) to be quoting. And finding that Finkelstein claimed (correctly) to be quoting the *Jerusalem Post*, Dershowitz quoted something from *Why Terrorism Works* and claimed (falsely) that that's what the passage Finkelstein quoted really said. That is not a mistake. It appears to be a deliberate misrepresentation.

It also bears emphasis that this misrepresentation appears in the fourth paragraph of Dershowitz's 4,000-word letter. Thus, even readers who lacked the patience to read the whole letter, or who might be inclined to dismiss Dershowitz as biased, would likely be misled. Any reader who assumed that Dershowitz would not brazenly misrepresent the contents of his own or Finkelstein's writings would be left thinking, "Well, that *is* pretty bad—Finkelstein accused Dershowitz of proposing the destruction of entire villages, when Dershowitz was talking about only empty houses."

If this was not an honest mistake by Dershowitz, but rather a deliberate misrepresentation, then it would seem to constitute academic misconduct. It would be a deliberate attempt to deceive the DePaul faculty concerning the merits of a pending tenure case.

THE DAMAGE DONE

It would be wrong to dismiss the dispute between Dershowitz and Finkelstein as merely a personal squabble between two professors. Rather, the affair should be of institutional concern for both DePaul and Harvard. The institutional concern for DePaul is self-evident: The injection of deliberately deceptive material into a pending tenure case is an extremely serious matter because it has the potential to undermine the integrity of the university's promotion decisions.

That concern is particularly acute in this case because it appears that Dershowitz's deceptions not only had the potential to influence Finkelstein's tenure review process but also that they did in fact play a decisive role. Recall that Dershowitz did not just send a 7-page letter—together with 14 pages of supporting materials—to the former chair of DePaul's political science department. He also sent a similar but more extensive packet of materials to a large proportion of DePaul's faculty and administration, including every professor in the law school. And although DePaul's Faculty Governance Council received assurances that "the integrity of the [tenure review] process would be protected" from Dershowitz's interference, the council's chairman, Gil Gott, states that, to his knowledge, "no specific protections were introduced to remedy already-existing problems, such as any lingering false impressions that Alan Dershowitz's packet may have created in the minds of faculty members or administrators who served on or influenced decision-making bodies in the case." (*Chronicle of Higher Education*, June 12, 2007)

DePaul's president has claimed nonetheless that Finkelstein's tenure review process "maintained its independence" from the lobbying efforts of "outside interests." But there is good evidence that Dershowitz's campaign did undermine the process, because the university's stated basis for denying tenure to Finkelstein appears to be transparently pretextual. According to the president, the UBPT voted against Finkelstein because his "scholarship does not meet DePaul's tenure standards." The UBPT based that judgment on its determination that Finkelstein's writings might not "contribute[] to the public

discourse on sensitive societal issues” because of Finkelstein’s alleged “inflammatory style” and use of “personal attacks.”

Here are some of the relevant facts: Finkelstein has published five books, one of them co-authored. Four were published before DePaul hired him as a tenure-track assistant professor. Some of those four were reissued in expanded editions while he was at DePaul. His fifth book, *Beyond Chutzpah*, was published while he was at DePaul, and it was published by a more prestigious university press than any of his previous works. *Beyond Chutzpah* does not differ materially in style or the use of “personal attacks” from Finkelstein’s previous books, and, to my knowledge, not even Dershowitz has ever claimed that it does. If anything, *Beyond Chutzpah* strikes me as more moderate in tone than its predecessors.

Tenure-track faculty are given annual reviews evaluating their performance in all areas relevant to eligibility for tenure. Finkelstein’s annual reviews at DePaul expressed nothing but enthusiasm about his scholarship. Even the annual review dealing with his manuscript for *Beyond Chutzpah* contained not a word of criticism of Finkelstein’s scholarship.

DePaul’s stated grounds for denying Finkelstein tenure consequently seem impossible to take seriously. The style of his first four books cannot have disqualified him from receiving tenure, because they were already in print when DePaul hired him into a tenure-track position. Thus, those books must have made him a promising candidate for tenure, not the reverse. If those books nonetheless contained flaws that Finkelstein needed to avoid in his subsequent work in order to get tenure, then his annual reviews would have said so. In fact, they said nothing of the sort. And *Beyond Chutzpah*, which (1) was issued by a more prestigious academic press than anything Finkelstein had published before, (2) contained nothing new in terms of “inflammatory style” or “personal attacks,” and (3) received not a word of criticism from his department in his annual review, can only have strengthened his case for tenure.

I conclude that the president’s claim—that Finkelstein’s scholarship does not meet DePaul’s standards for tenure—cannot be true. And even the UBPT conceded that “[b]y all accounts” Finkelstein is “an excellent teacher, popular with his students and effective in the classroom.” It follows that there must be some other explanation for why Finkelstein was denied tenure. Dershowitz’s campaign seems the most likely candidate.

HARVARD’S ROLE

All of these considerations serve to heighten the institutional concerns for Harvard. First, both plagiarism and deliberate misrepresentation of a professor’s work, particularly in the context of a pending tenure case, are matters of academic integrity, and Harvard presumably takes such matters very seriously.

Second, because of Dershowitz’s repeated but apparently false claim that Harvard “completely cleared” him of Finkelstein’s charges, Harvard has been made an unwitting

accomplice in Dershowitz's wrongdoing. If my analysis is sound, then Dershowitz deliberately deceived DePaul not only about the plagiarism itself but also about the investigation that Harvard allegedly conducted. He used his purported acquittal by Harvard to bolster his own false claim of innocence, which in turn supported his claims that Finkelstein's charges were "politically motivated" and "complete fabrications."

Now that Dershowitz's misrepresentations have been exposed, Harvard cannot permit them to go uncorrected. If someone were revealed as falsely claiming to be a Harvard professor, perhaps making speeches or writing letters of recommendation in Harvard's name, Harvard would never stand for it—the university would issue an official statement setting the record straight. Dershowitz's deceptions are no less serious. He has sought to sabotage Finkelstein's tenure case on the basis of an official exoneration by Harvard that, on one of Finkelstein's central allegations, apparently never took place.

I do not mean to be suggesting whether, or in what way, Harvard should discipline Dershowitz for the misconduct I have described. How Harvard addresses misbehavior by its faculty members is Harvard's business, not mine. But this is not just between Harvard and Dershowitz, or between Dershowitz and Finkelstein. Rather, Harvard has a moral obligation to Finkelstein to acknowledge, at a bare minimum, that it has never completely cleared Dershowitz of Finkelstein's plagiarism charges, because it has never rejected Finkelstein's argument concerning the identical errors in *The Case for Israel* and *From Time Immemorial*.

As of this writing, Dershowitz appears to have succeeded in protecting his own career by destroying Finkelstein's. It is now probably too late to remedy all of the harm that Dershowitz's conduct has caused, both to the review of Finkelstein's tenure application and to public perceptions of Finkelstein and his work. But some sort of acknowledgement or apology by Harvard concerning Dershowitz's wrongdoing might go some distance toward clearing the air and making amends.

Frank J. Menetrez received his PhD in philosophy and JD from UCLA. This essay is drawn from his epilogue to the paperback edition of Norman G. Finkelstein's *Beyond Chutzpah: On the Misuse of Anti-Semitism and the Abuse of History*, forthcoming from the University of California Press. He can be reached at frankmenetrez@yahoo.com.