

# Kenneth L. Marcus' Oxymoron: Trump and Civil Rights

*Von Dr. Clemens Heni, 12. März 2018*

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Fighting for civil rights and working for Donald Trump is an oxymoron. Activist Kenneth L. Marcus was nominated as assistant secretary for civil rights in the U.S. Department of Education. A first committee hearing took place on December 5, 2017 with a result of 12 to 11 in his favor, and finally the full Senate will vote. Given the GOP majority he will be confirmed.

I know Ken Marcus personally, ever since he gave a talk when I was at Yale in 2008/09. He regularly appears at international conferences on antisemitism, be it in London, Jerusalem or New York City. He is a smart person and I always thought of him as a mainstream guy, who analyzes various forms of today's antisemitism in order to fight them. His main field is defending Israel, which is important and makes good sense. However, I failed to realize some important things.

It was instructive for me to follow his nomination becoming a major topic in public discourse in the US, including articles in the New York Times, the Washington Post and the Jewish Telegraph Agency (JTA). The JTA reported on January 19, 2018:

*"Patty Murray, D-Wash., the top Democrat on the committee, focused almost entirely on Marcus' support of Education Secretary Betsy DeVos' rollback of Obama administration guidelines that emphasize the rights of alleged victims in campus sexual assault cases.*

*Marcus, who served in similar civil rights positions in the George W. Bush administration, also has opposed affirmative*

*action and resisted pursuing bias cases without evidence that there is intent behind the bias. He has also opposed equities for LGBTQ Americans, but told the committee that his views in that area had 'evolved'."*

The crucial failure of Kenneth Marcus, who mentioned his wife and family being with him at the hearing, is the following:

*"Murray asked Marcus to 'name a single example of something President Trump has said or done when it comes to discrimination or women's rights or civil rights you disagree with.' Marcus could not, which in the current political environment would doom any candidate from accruing substantive Democratic support."*

Donald Trump abused women and proudly told other men that a celebrity such as he is, can "grab her by the pussy." What would Marcus say if one of these abused women was his wife or his neighbor?

Trump ridiculed journalist Serge Kovalevsky from the New York Times, he ridiculed a handicapped person. That was the moment that broke the heart of actress Meryl Streep, as she said at the Golden Globe in January 2017.

Then, after a neo-Nazi had killed an antifascist counter-protester in Charlottesville and hundreds of neo-Nazis screamed "Jews will not replace us," the US President said that there were "very fine people" among those neo-Nazis.

Trump called Mexican immigrants "criminals and rapists," aiming at an undefined group of people from Latin and South America and he wanted to ban all Muslims from entering the US.

These are all topics of women's and civil rights abuse in the US by Trump before and after his election.

*Again,* listen to Senator Murray's question and read the answer

by Kenneth Marcus:

*“Murray asked Marcus to ‘name a single example of something President Trump has said or done when it comes to discrimination or women’s rights or civil rights you disagree with.’ Marcus could not, which in the current political environment would doom any candidate from accruing substantive Democratic support.”*

This disqualifies Marcus from every single post dealing with civil rights and women’s rights. He takes side with a sexist criminal, plain and simple.

That is of course nothing unusual in our world. Many men have no problem with sexism, the abuse of women in particular; take the #metoo campaign as an example. But a high-profile politician in a department dealing with civil rights should or; *must* know much better.

Many nation-wide civil rights groups and umbrella organizations have objected to the nomination of Marcus. This holds for the biggest Hispanic civil rights organization, the UnidosUS:

*“UnidosUS (formerly NCLR) and the National Urban League joined today in opposing the nomination of Kenneth L. Marcus as the next Assistant Secretary for the Office for Civil Rights (OCR) at the U.S. Department of Education. The groups noted his troubling record with regard to enforcing the rights of immigrant students and English learners, and past attempts to undermine critical policies aimed at remedying racial discrimination, including affirmative action.*

*Marcus’ nomination had been met with opposition from a broad range of civil rights groups who have raised concerns about the nominee’s hostility to affirmative action and other equal opportunity initiatives. Marcus did nothing to assuage those concerns during a recent nomination hearing where he failed*

*to commit his office to enforcing the law on a number of civil rights issues in which the OCR has played a pivotal enforcement role in the past.”*

The defense of Marcus by groups such as Scholars for Peace in the Middle East (SPME), StandWithUs, the Algemeiner or the American Jewish Committee (AJC) and many other Christian and Jewish groups is frankly ridiculous as they insinuate that opposition to his nomination is based on anti-Israel bias. There might be a very few groups that oppose Marcus because of his take on anti-Zionist antisemitism, like the Arab American Institute (although they do not reject Zionism and the Jewish state as such in their long statement, only “policies of Israel”). The main opponents of Marcus, though, have an issue with his analysis and policies regarding racism and sexism.

The biggest and best-known Jewish civil rights organization, the Anti-Defamation League (ADL) does not come out in support of Marcus. That speaks volumes.

Then, take a leading pro-Israel Senator such as Elizabeth Warren – she did not even address the topic of Israel or BDS, as Marcus’ positions in that respect are not controversial at all to her. However, she rejects him for this job, because he fails to send a clear civil rights message when it comes to racism, for example, according to the Washington Post:

*„Here’s another exchange between Warren and Marcus:*

*WARREN: Mr. Marcus, if confirmed, you would be responsible for protecting the civil rights of American students at a time when Nazis and white supremacists are marching across college campuses with tiki torches, and many young people are literally afraid to go to school because of the hateful climate that has been fostered by Donald Trump. If confirmed, will you commit to fully enforcing civil rights laws and protecting all students from discrimination and harassment?*

MARCUS: Yes.

WARREN: Good. So, I just want to find out a little more detail about what that commitment means to you, and I thought we might go through a few fact situations. So, let's start with an easy one. Say there's a school district that has some mostly white schools and some mostly black schools, and let's say that the mostly black schools have less experienced teachers, teachers with fewer qualifications, those schools have fewer books, they have fewer computers in the library, fewer AP courses available. By any objective measure, those schools have clearly been shortchanged. If confirmed, would your office step in to protect the civil rights of that district's black students?

MARCUS: If I were confirmed, I would ensure that any complaints alleging violation of Title VI would be – would be reviewed.

WARREN: Mr. Marcus, I don't want to start a dance here. This is a set of facts that come to you in your position, if you are confirmed, and my question is are those facts adequate? Will you step in to protect the civil rights of the district's black students?

MARCUS: Senator, I would certainly hope to be able to provide protection for the civil rights of those black students to the extent possible under law, but what . . .

WARREN: But, that's the question I'm asking how you see this. You're allowed to answer hypotheticals, here, so this one should be easy. A yes or a no, would you step in on those facts, or not?

MARCUS: I appreciate that, senator, but unfortunately in my experience the cases that OCR deals with are much more complicated than hypotheticals.

WARREN: So, you don't think that's enough evidence, what I've

*just said?*

*MARCUS: I think I would need to look at it very carefully.*

*After questioning him, Warren said: "I don't think we need someone in this position whose view of civil rights enforcement is to do as little as possible to protect as few students as possible. I think that would be bad for students overall, and with Betsy DeVos as secretary of education, I think it would be even worse."*

A leading pro-Israel group, the National Council of Jewish Women (NCJW), which is part of the Leadership Conference, a major umbrella organization of civil rights groups in the US, also rejects the nomination of Marcus. Why?

*"Hillel would not address Marcus' views on federal policy and sexual harassment. Marcus endorses the decision by Education Secretary Betsy DeVos to remove the Obama-era guidelines that advocates said made it easier for victims to level sexual assault charges on campus. The guidelines discouraged universities from allowing an alleged assaulter to directly cross-examine his accuser, and discouraged what until then was the common practice of requiring that the accused and the accuser first attempt to resolve the issue face to face or through mediation.*

*As leverage, the Obama administration made the rules under Title IX, a law that prohibits federal funding for schools that allow discrimination against women.*

*Feminists said that before the Obama guidelines, the process revictimized assault victims. DeVos has said that Obama's rules instead made victims of the accused.*

*That was the nomination killer for the NCJW, said Faith Williams, the group's senior legislative associate.*

*"In light of growing number of #MeToo moments and the scandal*

*at Michigan State University, we need these Title IX protections," she said, referring to the explosion of sexual assault allegations by women and the recent conviction of a sports therapist at the university who was accused of assaulting nearly 200 women in his care.*

*Also opposing the Marcus nomination is Jewish Women International, which has developed programs in partnership with Jewish fraternities and sororities to counter sexual assault on campus.*

*"We are deeply concerned by the answers given during his confirmation hearing last week supporting Secretary DeVos' rescission of important guidance clarifying the responsibilities of colleges and universities in cases of sexual assault," Jewish Women International said in a statement last month.*

In my view, and I think I am not alone, Kenneth L. Marcus' stance helps to delegitimize the entire pro-Israel camp, a camp he stands pars pro toto, as he has a blind eye concerning the civil rights abuses by Donald Trump. In addition he seems to be supporting very dangerous policies by DeVos, downplaying if not affirming sexist and racist policies by the current Trump administration.

Most people who will gather, again, at the Global Forum for Combating Antisemitism, organized by the Israeli Foreign Ministry (including Netanyahu himself), March 19–21, 2018, will enjoy handshakes and have drinks, celebrating themselves as the elite of true fighters against antisemitism. Real heroes.

I myself participated in that conference in 2008, 2009, 2013 and 2015. No longer. In a time when major participant organizations of the conference including the AJC, the Simon Wiesenthal Center and the Zionist Organization of America (see Bret Stephens' attack in the New York Times on the ZOA's

invitation to fascist antisemite Steve Bannon) embrace a sexist, racist and Holocaust distorting president, that kind of conference is a joke, a self-congratulatory farce. As long as women, Hispanics, the handicapped, Muslims and the Dreamers behold the reluctance of a leading pro-Israel activist to genuinely support their civil rights, even while he is being considered for a high civil rights position, in the midst of his loving embrace of Trumpism, the pro-Israel camp is in deep trouble.

Zionism and Israel deserve better!

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