

# SYMPOSIUM: LAW VS. ANTISEMITISM

## RENEWING STUDY INTO THE OLDEST HATRED: INTRODUCTION TO THE LAW VS. ANTISEMITISM SYMPOSIUM

by  
*David Schraub\**

Antisemitism, it is sometimes said, is the world’s “oldest hatred.”<sup>1</sup> But in legal academia, at least, the study of antisemitism remains a nascent phenomenon.<sup>2</sup> When my colleagues Diane Kemker and Rob Katz inaugurated the Law vs. Antisemitism conference in 2022, it immediately became the largest American conference to ever have been dedicated to addressing that intersection. This year’s event, hosted at Lewis & Clark Law School as a fully in-person conference for the first time, built on that success, bringing in speakers and participants from across the nation and from five countries around the world. The event itself was invigorating, stimulating, and inspiring. But beyond its intellectual value, it was noteworthy to hear just how many individuals—presenters and attendees, academics and practitioners—expressed their gratitude that an event like this would even be held in the first place. While their appreciation was gratifying, the very fact that something as ordinary (in academia at least) as a conference could generate such heartfelt sentiments is itself suggestive of just how significant and longstanding the lack of attention to antisemitism has been.<sup>3</sup>

---

\* Assistant Professor of Law, Lewis & Clark Law School. In addition to all the participants in the Law vs. Antisemitism conference, I would like to thank my co-conveners Diane Kemker and Rob Katz, as well as Cordelia Addington, Talia Brumfield, Matt Clarkson, Catherine Mattecheck, Zach Nacev, and Sydney Padgett, who provided stellar volunteer assistance throughout the event.

<sup>1</sup> See, e.g., JOHN MANN, *ANTISEMITISM: THE OLDEST HATRED* (2015).

<sup>2</sup> See David Schraub, *White Jews: An Intersectional Approach*, 43 *ASS’N. JEWISH STUD. REV.* 379, 383 (2019) (noting how “[v]igorous theoretical accounts of how antisemitism currently manifests in Western societies lag behind the excellent work focused on other oppressions”).

<sup>3</sup> In 1948, just three years after the end of World War II, Sartre recounted the reaction he received when he, in one of his works:

The success of this event, no doubt, was in no small measure due to the *Lewis & Clark Law Review* agreeing to publish selected proceedings of that conference as part of a symposium issue—to our knowledge, the first ever symposium dedicated to law and antisemitism in a mainline American law journal. The pressing need for legal academic study into the historical and contemporary manifestations of antisemitism, paired with the relative paucity of outlets committed to covering the issue, had the predictable effect of producing far more excellent article submissions than could be feasibly published within a single issue.<sup>4</sup> While the surplus of excellent scholarship produced for and presented at the conference speaks to the clear appetite for more work in this field, we hope that the articles in this symposium provide a solid cross-section of approaches and perspectives that tackle some (though inevitably not all) of the myriad ways antisemitism and the law touch on each other.

It is a distinct feature of an antisemitism conference that the conference itself will almost inevitably become, to some degree, its own subject. A conference on antitrust will not be investigated for being a monopoly; a conference on torts will hopefully not experience any slip-and-falls. But hosting a conference on antisemitism means one inevitably encounters antisemitism, not just as an intellectual exercise but in a very grounded and concrete way. As an organizer, you'll receive questions not just on the usual matters of travel, meals, and scheduling, but also from disgruntled alumni who want to inquire about "Jewish domination of the media, international finance, and Hollywood."<sup>5</sup> Logistical organization includes thinking about transportation, and also includes meeting with campus police to find out if local hate groups are planning to disrupt the event, and arranging for a security presence "just in case."<sup>6</sup>

---

[W]ithout thinking about it particularly, and simply for the sake of completeness . . . wrote something or other about the sufferings of the prisoners of wars, the deportees, the political prisoners, and the Jews. Several Jews thanked [Sartre] in a most touching manner. How completely must they have felt themselves abandoned, to think of thanking an author for merely having written the word 'Jew' in an article!

JEAN-PAUL SARTRE, *ANTI-SEMITE AND JEW* 72 (George J. Becker trans., paperback ed. 1965) (1948).

<sup>4</sup> Fortunately, some pieces presented at the conference that could not be included in this issue either have or will be published in other outlets. These include Roberta R. Kwall, *The Role of Ghetto Art in Holocaust Education and Fighting Antisemitism*, 73 *DEPAUL L. REV.* 39 (2023); Micah Schwartzman & Richard Schragger, *Religious Freedom and Abortion*, 108 *IOWA L. REV.* 2299 (2023); and David Schraub, *Liberal Jews and Religious Liberty*, 98 *N.Y.U. L. REV.* 1556 (2023).

<sup>5</sup> This is a verbatim quote from an email I received after the conference was publicly announced.

<sup>6</sup> Some form of security presence at Jewish events is so normalized for me that I almost forgot how abnormal it might seem for our non-Jewish volunteers. I did my best to simultaneously communicate why such precautions were necessary while also emphasizing that we had no specific reason to assume there would be any threat or disruption. All of our volunteers handled the

At the risk of being too much of an apple-polisher, there was some perhaps unsurprising thematic resonance between these experiences and the contributions in this symposium. The possibility of antisemitic violence always lurks in the background of any prominent Jewish-themed proceeding; a risk that has only been underscored by the massacres in Poway and Pittsburgh. Such attacks—and the fear they leave in their wake—terrorize Jewish populations. J. Richard Broughton accordingly explores the degree to which anti-terrorism law can be leveraged to more fully capture the specific harms of and injuries caused by antisemitic violence.<sup>7</sup> While not all forms of antisemitism are appropriately encompassed by the terrorism label, certain cases do seem to fit the mold and should be treated as distinct.

Antisemitic stereotyping—in particular, the assumption that Jews, even in their most vulnerable states, embody power, domination, and control—has a long and ignoble history, and the United States has not been immune. Felice Batlan excavates the history of the 1948 Displaced Persons Act and how it instantiated anti-Jewish discrimination seemingly at the precise moment when such sentiments had been decisively discredited by Nazism.<sup>8</sup> In spite of our (somewhat self-serving) national narrative which contrasted European antisemitism with American integration and tolerance, the Displaced Persons Act carried a wellspring of antisemitic sentiment that was obsessed with the notion that undeserving Jews who already supposedly possessed so much would gain a claim on the American bounty. The juxtaposition of material Jewish deprivation (the subjects of the Displaced Persons Act were Holocaust survivors) alongside imagined Jewish domination surely has relevance to contemporary tensions that pit continued Jewish marginality against an assumption that Jews enjoy plentiful (perhaps over-plentiful) legislative and social protection.<sup>9</sup>

Yet it is true that law can be the site of Jewish inclusion as much as exclusion. Dalia T. Mitchell renarrates several pivotal milestones in the history of the development of corporate law to demonstrate how they reflect Jewish efforts to secure inclusion and opportunity in fields that historically were bastions of WASP power and exclusion.<sup>10</sup> Jews, it turns out, are omnipresent in this history—as litigants, shareholders, and judges—and in each of these roles had to carefully navigate legal principles, business interests, community ethics, and social stereotypes. The development of law, far from being a purely austere process of deductive principles, is far

---

situation with exceptional professionalism, and fortunately we experienced no problems during the event itself.

<sup>7</sup> J. Richard Broughton, *Antisemitic Terrorism*, 27 LEWIS & CLARK L. REV. 1105 (2024).

<sup>8</sup> Felice Batlan, *The Displaced Persons Act of 1948 and Home-Grown Antisemitism*, 27 LEWIS & CLARK L. REV. 1057 (2024).

<sup>9</sup> See Schraub, *supra* note 2, at 391–92 (“To the extent Jews are even recognized as marginalized, they are taken as a model of legislative and social protection—the out-group that’s in.”).

<sup>10</sup> Dalia T. Mitchell, *Asking the Jewish Question: The Import of Jewish History to Corporate Law*, 27 LEWIS & CLARK L. REV. 1293 (2024).

more dependent on these contingent and identity-laden characteristics than many would care to admit.

One hotly debated facet of contemporary discussions on antisemitism is the seemingly threshold question “what is the definition of antisemitism?” The so-called IHRA working definition (named for the International Holocaust Remembrance Association, which adopted it in 2016) is by far the definition with the widest rate of adoption.<sup>11</sup> However, the IHRA definition has come into controversy based on claims that it is too vague and may censor legally protected speech or conduct.<sup>12</sup> One response to such concerns has been to cite language in the IHRA document itself which holds that the IHRA definition is “non-legally binding.”<sup>13</sup> However, Kenneth Marcus, a prominent public proponent of IHRA, argues that this language is obsolete, and that it is no longer accurate to refer to IHRA as not legally binding.<sup>14</sup> While it was true that the International Holocaust Remembrance Association had no authority to generate legally binding obligations on member states, many state and federal statutes and regulations now of their own accord incorporate IHRA at

---

<sup>11</sup> See *What Is Antisemitism?*, INT’L HOLOCAUST REMEMBRANCE ALL., <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism> (last visited Nov. 17, 2023) (“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”). In May 2023, the Biden administration released a comprehensive “national strategy . . . to counter antisemitism” which noted that the United States “has embraced” IHRA. It also “welcomes and embraces” the Nexus definition, *see infra* note 12, and “notes other such efforts” at defining antisemitism. THE WHITE HOUSE, THE U.S. NATIONAL STRATEGY TO COUNTER ANTISEMITISM 13 (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>.

<sup>12</sup> In recent years, at least two significant additional definitions of antisemitism have emerged. The first is the “Nexus” definition of antisemitism, which presents itself as a complement to and expansion upon the IHRA definition. *The Nexus Document*, NEXUS TASK FORCE, <https://www.israelandantisemitism.com/the-nexus-document> (last visited Nov. 17, 2023) (“Antisemitism consists of anti-Jewish beliefs, attitudes, actions or systemic conditions. It includes negative beliefs and feelings about Jews, hostile behavior directed against Jews (because they are Jews), and conditions that discriminate against Jews and significantly impede their ability to participate as equals in political, religious, cultural, economic, or social life.”). The second is the “Jerusalem Declaration on Antisemitism,” which is more overtly antagonistic towards the IHRA definition and offers itself as a replacement. *The Jerusalem Declaration on Antisemitism*, JDA (Mar. 25, 2021), <https://jerusalemdeclaration.org> (“Antisemitism is discrimination, prejudice, hostility or violence against Jews as Jews (or Jewish institutions as Jewish).”). All three documents include guidelines and illustrative examples to help refine their meaning.

<sup>13</sup> INT’L HOLOCAUST REMEMBRANCE ALL., *supra* note 11 (providing information “[a]bout the IHRA *non-legally binding* working definition of antisemitism”) (emphasis added).

<sup>14</sup> Kenneth L. Marcus, *The Legally Binding Character of the International Holocaust Remembrance Alliance Working Definition of Anti-Semitism*, 27 LEWIS & CLARK L. REV. 1265 (2024).

least as a source of guidance regarding the contours of antisemitism. By encoding IHRA into these statutory and regulatory frameworks, Marcus argues that IHRA has become “legally binding” to whatever extent a government or agency has mandated its use.

Debates over IHRA and its application are related to broader controversies sweeping through American academia and society relating to free speech and the risk of squelching unpopular or controversial ideas—particularly those which touch on matters of discrimination and inequality. State and local governments increasingly are removing or censoring “controversial” books and educational resources which tackle questions of systemic oppression and injustice. As Lili Levi observes, Jews, while not the immediate target of such laws, have not been immune from their effects.<sup>15</sup> Even as some of these laws nominally present themselves in part as means of combating antisemitism in academic and educational spaces, Jewish organizations have reacted with alarm upon witnessing resources dedicated to combating antisemitism, particularly those concentrating on Holocaust education, increasingly swept up as part of broader bans on so-called “Critical Race Theory.”<sup>16</sup> Unfortunately, many highly-touted government initiatives that purport to fight antisemitism are highly politicized and structured to advance partisan political goals which are often divorced from, or even antipathetic to, the actual needs and desires of the Jewish community they supposedly “protect.”

To be sure, the contention that Critical Race Theory and related theories may be connected to antisemitism has a long pedigree.<sup>17</sup> Addressing these allegations, Diane Kemker argues that the attempt to discredit Critical Race Theory as antisemitic is in fact an effort to preserve a posture of white innocence in the face of

---

<sup>15</sup> Lili Levi, *Politicizing Antisemitism Amid Today's Educational Culture Wars*, 27 LEWIS & CLARK L. REV. 1185 (2024).

<sup>16</sup> “So-called” because the materials targeted by these legislative initiatives often have no connection to the actual academic discipline of Critical Race Theory. The laws by design are meant to sweep more broadly to censor all manner of discussion and debate on issues related to oppression and inequity. This false conflation is intentional; indeed, it is boasted about by proponents of the maneuver. See Laura Meckler & Josh Dawsey, *Republicans, Spurred by an Unlikely Figure, See Political Promise in Targeting Critical Race Theory*, WASH. POST (June 21, 2021, 6:22 PM), <https://www.washingtonpost.com/education/2021/06/19/critical-race-theory-rufo-republicans> (quoting Christopher Rufo, a primary architect of “anti-CRT” initiatives, who wrote on Twitter, “We have successfully frozen their brand—‘critical race theory’—into the public conversation . . . . We will eventually turn it toxic, as we put all of the various cultural insanities under that brand category. The goal is to have the public read something crazy in the newspaper and immediately think ‘critical race theory.’ We have decodified the term and will recodify it to annex the entire range of cultural constructions that are unpopular with Americans.”).

<sup>17</sup> See, e.g., Daniel A. Farber & Suzanna Sherry, *Is the Radical Critique of Merit Anti-Semitic?*, 83 CALIF. L. REV. 853 (1995).

historical and ongoing racial oppression.<sup>18</sup> Eschewing simple narratives where social groups, including Jews, can be sorted into categories of pure “oppressor” or “oppressed,” Kemker instead insists that (white) Jews<sup>19</sup> have both been the beneficiaries of certain forms of white privilege even as they have also been the targets of the most hideous forms of white supremacist discrimination and violence. As uncomfortable as it is to grapple with this liminal position, the tools of Critical Race Theory can help Jews and allies gain a more complete picture of the full character of white supremacy and Christian nationalist oppression, which ultimately will be essential if antisemitism is to be resisted and eventually eradicated.

The diverse contributions to this symposium all demonstrate the profound necessity of having a dedicated space for analysis and discussion of antisemitism in American law. Yet while the problems of antisemitism are distinct, they do not stand alone. The importance of carving out space to speak on antisemitism should never delude us into thinking that the fight against antisemitism can be divorced or analyzed in isolation from other forms of oppression. The manner in which “anti-CRT” initiatives, most overtly targeted at Black Americans, have nonetheless predictably rebounded to silencing education on antisemitism is one clear example of overlap. The risk that claims of “free speech,” however legitimate in the abstract, might act to neuter the operation of anti-discrimination law, is another.<sup>20</sup> Discussions and strategizing on antisemitism are most robust when they are actively engaged in conversation with parallel efforts to combat racism, homophobia, misogyny, and other forms of identity-based hate and oppression.

In this vein, our conference was exceptionally lucky to have two keynote speeches—both reprinted in this issue—which vividly illustrated the utility of making these connections. Steven Freeman, the Anti-Defamation League’s Vice President for Civil Rights and Director of Legal Affairs, provided a historical narrative of the manner through which the ADL helped guide the development and passage of hate crimes laws and defended them against constitutional challenge.<sup>21</sup> Such laws, of course, are essential to the security and well-being of the Jewish community—Jews are the victims in over half of all religion-based hate incidents.<sup>22</sup> But they are

---

<sup>18</sup> Diane Kemker, *Using a “Moves to Innocence” Approach to Dissect and Debunk the Claim That Critical Race Theory is Antisemitic*, 27 LEWIS & CLARK L. REV. 1145 (2024).

<sup>19</sup> It is important to reiterate both the highly contingent and conditional character of whiteness as applied to European Ashkenazi Jews and the fact that many Jews are not “white” (conditionally or otherwise) under any definition of the term. See Schraub, *supra* note 2, at 380.

<sup>20</sup> See 303 Creative LLC v. Elenis, 143 S. Ct. 2298, 2313 (2023) (holding that the First Amendment prohibited Colorado from requiring a web designer to serve gay couples on the same basis as it serves heterosexual couples).

<sup>21</sup> Steven M. Freeman, *The Anti-Defamation League and the Evolution of Hate Crime Laws*, 27 LEWIS & CLARK L. REV. 1037 (2024).

<sup>22</sup> In 2021, anti-Jewish incidents comprised 51.4% of all religion-related hate incidents compiled by the Department of Justice. *FBI Releases Supplement to the 2021 Hate Crime Statistics*,

equally critical as means of protecting other minority groups—by raw numbers, the most common hate crime target is the Black American community, which in 2021 endured more attacks than the next three most-common victim groups combined.<sup>23</sup> As efforts to dislodge these historic modes of cooperation regrettably gain steam, the ADL's work is testament not just to that organization's historic role in civil rights advocacy, but of a broader principle: strategies that help keep Jews safe can help keep other groups safe, and vice versa. Politicized efforts to isolate and silo off mainstream Jewish organizations from broader civil rights campaigns, or insistence that anything but single-minded and atomistic concentration on antisemitism-qua-antisemitism is a distraction from or dilution of Jewish interests, ultimately threaten the security of Jews and non-Jews alike.<sup>24</sup>

---

U.S. DEP'T OF JUST., <https://www.justice.gov/crs/highlights/2021-hate-crime-statistics> (Apr. 4, 2023). This figure is especially striking given that Jews comprise less than 2.5% of the American population. *The Size of the U.S. Jewish Population*, PEW RSCH. CTR. (May 11, 2021), <https://www.pewresearch.org/religion/2021/05/11/the-size-of-the-u-s-jewish-population>.

<sup>23</sup> *Crime Data Explorer*, FBI, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime> (last visited Nov. 17, 2023) (2,229 anti-Black hate crimes reported, compared to 948 crimes targeting whites, 537 targeting gay men, and 433 targeting Hispanics and Latinos). It is worth noting that the statistics disaggregate attacks on gay men, lesbians, gender-nonconforming, and transgender individuals, as well as a gestalt category encompassing attacks on the LGBT community in general. Combining these groups together yields 1,339 incidents, more than any other group other than Black Americans. There were 324 reported antisemitic incidents, which is more than the next two most commonly-targeted religious groups (Sikhs and Muslims) combined. *Id.*

<sup>24</sup> Such misguided endeavors come from both the political right and left. On the right, conservatives have assailed the ADL for its insistence on connecting the fight against antisemitism with the fight against hate more broadly, demanding that the organization instead focus exclusively on “Jew-hatred.” Charles Jacobs & Avi Goldwasser, *The ADL Has Corrupted Its Mission and Betrayed the Jewish Community*, NEWSWEEK (July 28, 2022), <https://www.newsweek.com/adl-has-corrupted-its-mission-betrayed-jewish-community-opinion-1728500> (“There are many organizations devoted to supporting marginalized communities; there is only one, in theory, dedicated to protecting Jews. By expanding its efforts beyond the Jewish community, the ADL dilutes its impact at a time of surging antisemitism.”). Others have more broadly condemned any initiative against antisemitism that operates in conjunction with condemning other forms of bigotry, suggesting that to do so downplays the importance of antisemitism or even consists of “all lives matter-ing” the issue. See Tiana Lowe Doescher, *Congressional Democrats Take an ‘All Lives Matter’ Approach to What Used to Be an Anti-Semitism Resolution*, WASH. EXAM’R (Mar. 7, 2019), <https://www.washingtonexaminer.com/opinion/congressional-democrats-take-an-all-lives-matter-approach-to-what-used-to-be-an-anti-semitism-resolution> (condemning as an “All Lives Matter” approach a House resolution on antisemitism that also called out anti-Muslim discrimination and bigotry).

On the left, an array of organizations (of varying degrees of influence) have campaigned to exclude the ADL from participation in social justice campaign work, contending it is indelibly corrupt and aligned “with police, right-wing leaders, and perpetrators of state violence.” *Open Letter to Progressives: The ADL Is Not an Ally*, DROP THE ADL (Aug. 2020), <https://droptheadl.org>.

One would be hard-pressed to find a better explicator of the indispensable connection between antisemitism and broader currents of hatred than our other keynote speaker, the veteran civil rights leader Eric Ward. Building off his seminal 2017 article “Skin in the Game: How Antisemitism Animates White Nationalism,”<sup>25</sup> Ward powerfully argues that one cannot understand the rising tides of white nationalism in the United States without understanding how antisemitism forms its theoretical core.<sup>26</sup> White nationalism at its very center presents Jews as the organizing genius behind the (real and imagined) decline of white supremacist power; hence why fears of a “great replacement” of non-white immigrants taking over American politics and society yield chants of “Jews will not replace us!” at the Unite the Right rally in Charlottesville.<sup>27</sup> What Frantz Fanon wrote so many years ago remains true, “When you hear someone insulting the Jews, pay attention; he is talking about you.”<sup>28</sup>

But it is worth remembering that the reverse is true as well: the politician, podcaster, shock jock, businessman, or columnist who fulminates against “globalist”

---

Once again, this is paired up with larger trends: the DC chapter of the Sunrise movement made an abortive effort to expel three liberal Jewish organizations—the Jewish Council on Public Affairs, the National Council of Jewish Women, and the Religious Action Center of Reform Judaism—from a voting rights rally on the grounds that they were “Zionist.” Arno Rosenfeld, *Environmental Group Boycotts Voting Rights Rally Over Inclusion of Zionist Groups*, FORWARD (Oct. 20, 2021), <https://forward.com/news/476921/sunrise-dc-zionist-jewish-groups-voting-rights-rally-israel>.

Other examples include instances where Jewish marchers in LGBT rights parades were expelled from displaying “Jewish pride” flags featuring a Star of David superimposed on the familiar Rainbow Pride flag. See Ben Sales, *The Controversy Over the DC Dyke March, Jewish Pride Flags and Israel, Explained*, Times of Israel (June 8, 2019), <https://www.timesofisrael.com/the-controversy-over-the-dc-dyke-march-jewish-pride-flags-and-israel-explained>; Laurel Grauer, *The Chicago Dyke March Preaches Inclusion. So Why Was I Kicked Out for Carrying a Jewish Pride Flag?*, Haaretz (June 26, 2017), <https://www.haaretz.com/us-news/2017-06-26/ty-article/why-was-i-removed-from-dyke-march-over-jewish-flag/0000017f-e8f7-d62c-a1ff-fc583f0000>. In all cases, the overall intent and effect is to uproot preexisting connections between mainstream Jewish organizations and emergent social justice campaigns, and effectuate a new reality of wary—if not outright antagonistic—separation between the two. Such efforts, whatever their utility for particular partisan groups or intra-movement jockeying for influence, cannot help but do immense damage to both Jews and non-Jews alike, and should be vigorously resisted.

<sup>25</sup> Eric K. Ward, *Skin in the Game: How Antisemitism Animates White Nationalism*, POL. RSCH. ASSOCS. (June 29, 2017), <https://politicalresearch.org/2017/06/29/skin-in-the-game-how-antisemitism-animates-white-nationalism>.

<sup>26</sup> Eric K. Ward, *Skin in the Game Revisited*, 27 LEWIS & CLARK L. REV. 1047 (2024).

<sup>27</sup> See Yair Rosenberg, *Jews Will Not Replace Us: Why White Supremacists Go After Jews*, WASH. POST (Aug. 14, 2017), <https://www.washingtonpost.com/news/acts-of-faith/wp/2017/08/14/jews-will-not-replace-us-why-white-supremacists-go-after-jews>.

<sup>28</sup> FRANTZ FANON, *BLACK SKIN, WHITE MASKS* 101 (Richard Philcox trans., 2008) (1952) (quoting Fanon’s philosophy teacher from the Antilles).

influence, “Zionist” dominion, “Soros” money, or “cultural Marxist” indoctrination—they are talking about us. Even if they studiously avoid saying the word “Jew,” even if they hold themselves out as nothing but the fondest friends of the Jews—they are still talking about us. The currents of such conspiratorial ramblings, whatever their source, inevitably and inexorably flow to the same antisemitic destination they have always reached.<sup>29</sup> Whatever contretemps or quarrels might emerge between Jews and other targets of the white nationalist campaign, they do not dislodge the fundamental fact that the fight against hatred and oppression is a fight we must undertake together—because it certainly fights against us together.<sup>30</sup>

One final note must be added with respect to the timing of this symposium vis-à-vis recent events in the Middle East. Both the underlying conference, and the contributions published in this symposium, occurred prior to Hamas’s horrific attack on Israeli civilians on October 7, 2023. The fallout from that assault, and the ensuing Israeli war in the Gaza Strip, have unsurprisingly carried with them a wave of antisemitic activity, as well as new iterations of old controversies: where is the line between “criticism of Israel” and antisemitism; what resources can be deployed to protect Jewish institutions and individuals from harassment, vandalism, and violence; how can college campuses in particular combat antisemitism without impinging on freedom of expression; how should the fight against antisemitism be located vis-à-vis struggles against adjacent forms of discrimination like Islamophobia and racism, and others. Because of the timing of when this symposium was organized, the contributions herein could not address particular events and incidents flowing out of the October 7 attacks in detail. Nonetheless, the essays in this symposium

---

<sup>29</sup> Cf. Yair Rosenberg, *The Most Shocking Aspect of RFK Jr.’s Anti-Semitism*, ATLANTIC (July 16, 2023), <https://www.theatlantic.com/ideas/archive/2023/07/rfk-kennedy-covid-anti-semitism/674727> (noting the inevitability that the sorts of conspiracy theories Robert F. Kennedy Jr. espoused about vaccination and global health initiatives would eventually converge on an antisemitic theme, as they did when Kennedy alleged that the COVID virus was “ethnically targeted” to “attack Caucasians and Black people” while sparing “Ashkenazi Jews and Chinese”).

<sup>30</sup> As Albert Memmi—one of the great underappreciated voices of Jewish liberation—argued, under conditions of diaspora, antisemitic attempts to align Jewishness with the reactionary right “can never be anything but temporary. Sooner or later it reveals a fundamental contradiction. To preserve the existing order, the Right has to stiffen and emphasize differences while at the same time having no respect for what is different.” At best, the right, “either openly or covertly, drives the Jew back to his Jewishness and can only condemn him and burden his Jewishness.” At worst, the right, “whipped to a frenzy, is driven to violent solutions, to the use of sentiments and methods that debase the lives of the Jews.” ALBERT MEMMI, *PORTRAIT OF A JEW* 218–19 (Elisabeth Abbott trans., 1962). Hence, any alliance between Jews and conservatism can only be a product of “blindness or some short-sighted caution.” Even where the right occasionally gestures at some level of Jewish inclusion or enables Jews to garner some measure of economic security, “it is in the final analysis an illusory shelter; the Rothschilds themselves supplied their quota to the deportation camps.” ALBERT MEMMI, *THE LIBERATION OF THE JEW* 228 (Judy Hyun trans., Viking Press 1973) (1966).

have much to offer those who understand that, now more than ever, both the academic world and the legal community need rigorous, respectful, and uncompromising resources that view antisemitism as a central area of inquiry and concern. It is a regrettable truth that even when at one level events seem to overtake us, research on antisemitism has a timeless quality to it. I very much believe that the contributions to this symposium still have much to say about antisemitism and how to fight it in 2024, and I hope readers will utilize their insights to help make their own campuses, neighborhoods, and communities a safer and more equitable place for Jews and non-Jews alike.

Antisemitism is a growing problem. The contributions to this symposium and to the broader Law vs. Antisemitism conference are all resources that can enable us to fight back. By necessity, they do not provide a complete picture. By design, they do not all take the same perspective. But taken as a whole, they provide a sorely needed contribution—renewed attention to the oldest hatred. Antisemitism, it is sadly clear, is experiencing a resurgence. But so has the public appetite for robust responses to combat this social cancer. The tremendous response we received upon announcing this conference is testament to an as-yet unsated appetite for more work on the intersection of law and antisemitism.<sup>31</sup> This symposium may be among the first of its kind. It should not be the last.

---

<sup>31</sup> The third iteration of the conference will be hosted February 25–26, 2024, at Florida International University. See Howard Wasserman, *3d Annual “Law v. Antisemitism” Conference (February 25–26, 2024)*, PRAWFSBLAWG (Aug. 18, 2023), <https://prawfsblawg.blogs.com/prawfsblawg/2023/08/3d-annual-law-v-antisemitism-conference-february-25-26-2024.html>.