

Remarks of Professor Robert Katz
ADL Never Is Now Summit on Antisemitism and Hate
Panel on Leveraging the Law to Combat Antisemitism and Bias
November 10, 2022

Good afternoon. Today I will talk about the crisis of antisemitism in the law school community. This crisis actually consists of two crises. The first one you know about: the rising tide of anti-Jewish hatred at places like Berkeley Law and elsewhere. The second crisis you likely haven't heard about -- even though it is arguably more serious and entrenched than the first. I am speaking about the law school community's basic incuriosity about the relationship between antisemitism and the law, most notably how the law perpetuates antisemitism and how it can be used to counter it. This intellectual incuriosity borders on indifference.

To prove that there's a problem, let facts be submitted to a candid world.

- 1) Nearly every law school offers courses on law and various forms of bias, including racism, sexism, classism, ageism, ableism, homophobia, xenophobia, and speciesism. By contrast, no American law school offers a course on law and anti-Jewish bias.
- 2) Many law schools run clinics to teach students how to use their legal skills to combat other forms of bias, but none run clinics on antisemitism.
- 3) Many law schools regularly host conferences on other forms of bias, but none has ever hosted a conference on antisemitism - with one notable exception.
- 4) Multiple textbooks -- called casebooks -- explore the law's impact on other vulnerable groups, including African Americans, Latinos, Asian Americans, women, LGBTQ individuals, the disabled, the elderly, immigrants -- even animals. By contrast, no casebook exists exploring the law's impact on vulnerable Jews.
- 5) Only a handful of legal scholars research the relationship between law and antisemitism and an average of just 1.4 articles a year on the subject appear in law reviews.
- 6) For the past thirteen years, the annual meeting of the Association of American Law Schools (AALS) has featured only one program on antisemitism -- this out of a total of 2,600 programs featured during this same period. It is also worth noting that the AALS rejected a proposal for a program on antisemitism at its 2023 meeting.
- 7) At many law schools, diversity, equity, and inclusion (DEI) programs do not work to raise antisemitism awareness or make Jews feel welcome. Some even schedule diversity events on major Jewish holidays.

By any conceivable metric, the law school community's incuriosity about antisemitism is profound. Its failure to engage this subject is a great loss for our society -- and for Jews above all. Because of this neglect, law schools produce lawyers who don't understand antisemitism, can't spot it, and aren't trained to combat it. This absence will become more pronounced as law schools require students to take bias-related courses in order to graduate. Jews are thus shut out of a curricular space that is getting larger.

Intellectually, the lack of legal scholarship on antisemitism is also a great loss. There is no body of work comparable to critical race theory, feminist theory, queer theory, Latino theory, and the like. Front-line practitioners in the fight against antisemitism are thus cut off from a valuable source of knowledge and guidance.

Let no one doubt there is a problem. What can be done about it?

First and foremost, the law school community must acknowledge that Jews as a class are vulnerable and that bias against Jews is no less worthy of study than other forms of bias. They must accept their responsibility -- both moral and pedagogical -- to educate students about antisemitism.

Second, infrastructure must be created to make the study of law and antisemitism robust and influential. A center would be a game-changer by supporting research; hosting conferences and speakers; publishing a journal; tracking legal developments; operating a clinic; mentoring students and providing them with a pipeline to internships and jobs at advocacy groups.

Third, a casebook on law and antisemitism is sorely needed. Without a casebook to assign, law schools are unlikely to offer courses on the subject.

Fortunately, some progress is being made on each of these fronts.

Even as we speak, a law professor is hard at work writing *Antisemitism and the Law*, the first casebook on this subject. It will survey and synthesize topics related to antisemitism which law schools now cover either piecemeal or not at all. It will provide a legal history of American Jews and their efforts to obtain equal respect and concern through law.

To be intellectually incurious about something is to believe that it is not worthy of your sustained attention. That is exactly the law school community's stance towards the legal aspects of antisemitism. They just don't find it interesting. Every day, the social costs of their incuriosity mount.

Because this crisis is so deeply entrenched, it's an open question whether law schools can solve it on their own. They may require outside encouragement and pressure.

By coming here today, I am quite literally telling tales out of school. I am, in a way, going over their heads and appealing to a higher authority. By "higher authority" I mean people who already know antisemitism is serious and who can persuade law school administrators and professors of that as well.

Thank you.