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Law
Guest Editor, Kenneth Lasson



Benjamin Ferencz (1910-)

Benjamin Ferencz was a Romanian immigrant who came to America in 1921 and graduated from Harvard Law School in 1943; he and his wife, Gertrude, now live in New Rochelle, N.Y. Ferencz enlisted in the U.S. Army and joined an anti-aircraft artillery battalion preparing for the invasion of France and fighting every campaign in Europe under General George S. Patton. As Nazi atrocities began to be discovered, Ferencz was transferred to the newly created War Crimes Branch to gather evidence; he became the U.S. chief prosecutor against the Nuremberg Tribunal's Einsatzgruppen. A strong supporter of the International Criminal Court (ICC), he continues to work for his goal of replacing "the rule of force with the rule of law." For his lifelong fight for justice and democracy, we dedicate this special issue on law to Benjamin Ferencz.

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Note: In the previous issue of the *JSA* (Vol. 3, No. 2), there was an editorial error in Simon Mayers' essay, " 'Saint' Chesterton": in footnote 17, the reference to Ian Boyd in the *Chesterton Review* should not have been included. The *JSA* regrets the error.

*Organize, organize, organize until every Jew . . .
must stand up and be counted.*

—Louis D. Brandeis
from *The Jewish Problem and How to Solve It*

Introduction: Special Issue on Law

Kenneth Lasson¹
Guest Editor

Just as ensuring civil liberties for all requires eternal vigilance, so combating antisemitism is a never-ending quest. But the continuous monitoring of antisemitic incidents—a critical exercise that this journal painstakingly reflects in its “Antisemitica” feature—is merely the beginning of the everlasting effort to limit them. Bigotry comes in many guises and is a constantly evolving target, exposing the limitations of law and the frustrations of justice.

Thus, even in civilized societies where equality under the law is a guiding principle, legal remedies for discrimination are insufficient in and of themselves. They must be accompanied by purposeful good-will and a firm and rational determination to triumph over humanity’s basest instincts. This issue of the *JSA* is devoted to how that resolve may best be nurtured.

The American experience has seen many attempts to combat discrimination through law. Principal among them was the passage of the Civil Rights Act of 1964, the landmark legislation that resulted from a growing demand during the early 1960s for the federal government to launch a nationwide offensive against racial discrimination. Title VI of the Act prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. President John F. Kennedy identified simple justice as the justification for Title VI: “Direct discrimination by Federal, State, or local governments is prohibited by the Constitution. But indirect discrimination, through the use of Federal funds, is just as invidious; and it should not be necessary to resort to the courts to prevent each individual violation.” The protections of Title VI were extended to include barring against discrimination on the basis of pregnancy, sex stereotyping, and sexual harassment of employees. Title VII prohibits most workplace harassment and discrimination, covers all private

1. Kenneth Lasson is a professor of law at the University of Baltimore. He is Regents Scholar, University System of Maryland, and director of the Haifa Summer Law Institute. Professor Lasson is the author of *Trembling in the Ivory Tower* (Bancroft, 2003), and has written book chapters in Eunice Pollack’s (ed.) *Antisemitism on the Campus* (Academic Studies, 2011) and in Steven K. Baum, Florette Cohen, and Steven L. Jacobs’ (eds.) *North American Antisemitism*, Vol. 15 (Brill, in preparation). His article “In an Academic Voice: Antisemitism and Academy Bias” appeared in the December 2011 issue of the *JSA*.

employers, state and local governments, and educational institutions with fifteen or more employees.

In 1964, President George W. Bush signed into law a bill requiring the State Department to monitor global antisemitism and rate countries annually on their treatment of Jews. "This nation will keep watch; we will make sure that the ancient impulse of antisemitism never finds a home in the modern world," Bush said. (The State Department had opposed the legislation, saying it was unnecessary as the department already compiles such information in its annual reports on human rights and religious freedom.)

The United States is not alone in passing legislation against antisemitism. A few nations have enacted laws dealing with antisemitism directly, and some have gone further, specifically prohibiting symbolic speech like Holocaust denial and the display of Nazi insignia. In most countries, the subject of antisemitism is dealt with in the broader general legislation against racism and xenophobia.

Legislation to prohibit Holocaust denial has particular obstacles. Indeed, as the Coordination Forum for Countering Antisemitism points out, alongside the clear advantages to legislating against denial of the Holocaust, there are several arguments against such legislation:

- *The confrontation with freedom of expression.* Legislation whose object is to limit expression on the subject of denying the Holocaust could be construed as an illegitimate limitation on freedom of expression.
- *Problems with the effectiveness of such legislation.* Despite a number of successes in the implementation of this kind of law, mainly in France and Germany, its use as a basis for obtaining an indictment is still very low. In addition, there is no clear evidence indicating a connection between this kind of legislation and the drop in the number of incidents of Holocaust denial.
- *Defining the concept is problematic.* Too broad a definition of the concept of Holocaust denial is liable to meet up with claims of substantial limitations on freedom of speech, while too narrow a definition of the concept is liable to leave too many incidents outside its purview. At the same time, an ambiguous definition could create difficulties in framing the indictments.
- *Apprehension about discussing the subject.* Legislation against discrimination arouses public discussion in connection with the uniqueness of the Holocaust vis-à-vis other horrors throughout human history. In this connection, it has been claimed that legislation of that kind might, paradoxically, result in a public debate

whose result would be diminishing the status of the Holocaust in comparison with other events.

- *The fear of creating a platform and a resonance for the claims of the Holocaust denier.* Putting Holocaust deniers on trial will provide them with a convenient arena where they can present their case while enjoying broad media coverage. Moreover, they might be viewed by the public as “martyrs” fighting for the principle of free speech.
- *The fear of losing.* The deniers’ acquittal at trial is liable to be construed as the historical vindication of their claims and not as merely a legal-technical acquittal. Recall the trial several years ago in Britain of David Irving, which attracted a great deal of attention because it required a legal decision on the historical subject of the Holocaust. In addition, legislation against racism often requires a burden of proof and legal procedures that make getting a conviction in the courts very difficult; the legal systems in the European states have no clear category for racist crimes; and many cases of antisemitism are ignored under the burdensome weight of dockets filled with more pressing criminal prosecutions.

Nevertheless, it is notable that many European states have become actively engaged in the collection of data and a systematic recording of antisemitic incidents. Among the more prominent among them are Germany, France, the Netherlands, Sweden, and Britain. On the other hand, in Austria, Belgium, Greece, Spain, Ireland, Luxembourg, Italy, Portugal and Finland, there is no orderly monitoring and registration of such incidents.

Included in this issue of the *JSA* are a number of articles and essays that touch upon the relationship between law and antisemitism. Frederick Schweitzer (“International Law and Antisemitism”) addresses the core problem from a global and historical perspective, concluding that combating antisemitism will remain a “Sisyphean task.” Karen Eltis (“Hate Speech, Genocide, and Revisiting the Marketplace of Ideas in the Digital Age”) underscores the fact that the collective condemnation of racist incitement cannot be discounted, particularly in terms of a communal statement helping to distinguish lies, such as genocide denial, from historical truths—a distinction even more important, as she notes, in an age when the discourse on human rights “is being cynically inverted.” Benjamin Arem (“Never Again, and Not at Work”) points out that courts have become increasingly prone to uniting themselves against applying the legislative-policy goal of the Civil Rights Act, overlooking any general sense of morality in favor of providing a shield to grossly intolerant actors. For example, in *Peterson v. Wilmur Communications*, the court found in favor of a white-supremacist plaintiff solely on the basis that his antisemitic beliefs were

sincerely held. Stephen Norwood (“The Expulsion of Robert Burke”) provides a historical overview of how the notorious case of administrative bias at Columbia University in the Second World War era was displayed. Winnipeg-based lawyer David Matas (“Palestinian Rights and Israeli Wrongs”) points up the current bias in the cultural air that allows all things Palestinian to be tinged with goodness while all things Israeli are painted black.

The *Journal for the Study of Antisemitism* is still a fledgling publication and seeks always to be a work in progress—both responsive and responsible, thoughtful and thought-provoking. I am proud to guest edit this first legal issue. As usual, we welcome readers’ comments and suggestions for improvement.

—Kenneth Lasson

A Note from the Editors: The Year in Hate

One of us (Baum) returned last month from the annual Association for Psychological Science conference in Chicago. APS is the premier research group for American psychology. Convened by JSA associate editor Florette Cohen and JSA board member Lee Jussim, our panel was to present the latest findings of American antisemitism research. The papers were fairly well received, and the audience of professors and graduate students listened quietly—quietly, that is, until the Q & A session began.

I think it is fair to say that while hundreds of other papers were presented over the next few days, our panel members were the only ones to have their work dismissed because of pro-Palestinian politics. In particular, one professor asked the panel to “take it up a notch” (read: speak truth to Jewish power) and began a litany of several baseless claims along the lines of “Nothing really happens to Jews like lynching, so why bother researching antisemitism?”

I quickly reminded him of the French schoolyard killings that occurred two months before (see Manfred Gerstenfeld’s essay “The Toulouse Murders” in this issue) and that the last recorded lynching in the United States was during the 1960s, though no one would think of stopping racism research. But the key concern on the audience’s mind was the next indictment from a professor: Why study antisemitism if Israel is a perpetrator racist nation like Serbia or South Africa?

I started to inquire how long he has held these perceptions, knowing that for most Westerners, it has been about ten years with the start of the Second Intifada and the Palestinian winning of the war of words. Terms such as *apartheid*, *perpetrator*, *Nazi* were not uncommon descriptors of Jewish Israelis in the Arab news media but had now transitioned to the Western news media and championed by the left.

	Occupied Territories			Israel
	Gaza	W. Bank	Total	
Palestinians killed by Israeli security forces	4,633	1,840	6,473	69
Palestinians killed by Israeli civilians	4	46	50	3
Israeli civilians killed by Palestinians	39	215	254	500
Israeli security force personnel killed by Palestinians	105	147	252	90
Foreign citizens killed by Palestinians	11	7	18	40
Foreign citizens killed by Israeli security forces	6	6	12	0
Palestinians killed by Palestinians	535	134	669	

Data from September 29, 2000, to April 30, 2012, <http://old.btselem.org/statistics/english/Casualties.asp>.

The professor did not really care to hear any opposing arguments based on these statistics, and the next panel was walking in to set up. But what I had just experienced—the one-sided statements attacking Israel with no real rebuttal—was occurring daily across the planet. This is David Matas’s point in his article for this issue, “Palestinian Rights and Israeli Wrongs.”

The anti-Israeli invective today fills the room whether anyone addresses it or not. It is often spread by well-meaning Jewish professors advancing what Haifa University Steven Plaut calls the unique “psychosis of Jewish antisemitism.” The professor at the conference was trying to correct what he thought was a social wrong. The problem is that he did not understand that his thinking had changed in the past decade due to one-sided information intentionally sent out by the sender—in genocide studies, the term is *propaganda*.

There was a time when less than polite discourse would be shunned in academic settings. Not any more. To the well-meaning professor who thinks that antisemitism is not a concern, we offer the Antisemitic Incidents listing in each issue of the *JSA* as well as other sources like *Il Foglio* journalist Guilio Meotti’s report of June 12, 2012:

Security guards were patrolling the streets near Rome’s Jewish school with metal detectors, searching for possible explosive devices. Rome’s largest synagogue, one of the oldest in the world, today looks like a military outpost, with private guards and policemen at every corner. The Jewish school is also a “sterilized area,” protected by bodyguards and cameras, the windows plumbed with iron grates. (<http://frontpagemag.com/2012/06/12/the-last-days-of-jews-in-the-islamicized-europe/>).

Meotti then makes a case that Europe’s Jews are ready to leave their homes of hundreds of years for safer grounds. Sixty percent of Dutch Jews are ready to pack up and leave the country, he says, and cites the predictions of British journalist and author Melanie Phillips that the UK Jewish population will decline to 240,000 in 2020, 180,000 in 2050, and 140,000 in 2080.

It isn’t hard to imagine why. I was watching a Middle East weather report a few weeks ago on *BBCAmerica* evening news. A map of the Middle East was presented with temperatures reported from all Middle East nations. As with Palestinian textbooks, Israel was missing.

In her essay in this issue, Phillips explains, in part, how this happens and documents the dismaying success of scoundrels like George Galloway in pandering to his local Arab constituency with inciting anti-Israeli rhetoric.

It is for the some of these same reasons that undergraduate Jessica Felber left the University of California-Berkeley after being assaulted during Israeli Apartheid Week. While Israel is protested against and name-called “apartheid.” Efraim Karsh addresses the apartheid laws and culture endemic in the Arab culture. Florette Cohen’s original research also demonstrates how hating Jews is enduring in Middle Eastern culture and that it is broadcast in the transmission of cartoons. Just as daunting is Ben Cohen’s examination of how antisemitism is becoming more acceptable in intellectual milieus, and how Daniel Vahab’s analysis of *Gentleman’s Agreement* shows that, in spite of Jews’ prominence in Hollywood, antisemitism was not a stranger to American film.

Israel Charny, who never minces words, speaks to the excesses of Shia ideology and asks as a psychologist if Iran’s leaders are suicidal and want to take everyone with them. Political pathology notwithstanding, Ryan Jones offers a peek into Palestinian mindsets via polls that tell of the hate inculcated in that culture.

Steven Leonard Jacobs points up the ambivalent history of Israeli-United States relations, while the University of Toronto’s Leonid Livak proposes a syllabus for teaching about antisemitism in academia. Rounding up the usual scoundrels includes Dina Siegal Vann’s thoughts on Venezuela’s ailing president Hugo Chavez. Finally, history reminds us of where we come from and where we have to go, in Richard Spence’s examination of double, and maybe triple, agent Boris Brasol and in Portuguese attorney Francisco Garrett’s documentation rewriting history and vindicating Captain Arthur Carlos Barros Basto’s good Jewish name.

Yes, “good” and “Jewish name” can go in the same sentence—just like the Irish, Germans, and other ethnicities. Thanks to antisemitism, though, Jews are not used to that notion. Ofer Ashkenazi observes that same process in his critique of Israeli cinema. Veteran reviewers Joanne Intrator and Scott Rose examine Israeli film directly in their review of Oscar Best Foreign Film nominee *Footnote*. Alexander Traum takes another look at Peter Beinart’s controversial *Crisis of Zionism* and Michael Berenbaum continues the Zionism interest in Cohen-Sherbok’s book, but is much more satisfied by Ericksen’s work regarding Holocaust complicity. Then again, there are those reviewers like Michael Bates on *I Sleep in Hitler’s Room*, Fr. John Palikowski on *Were the Popes Against the Jews?*, and Manfred Gerstenfeld on *Genocidal Liberalism*, who were less impressed.

The hardest-working man in Judaic studies, Steven Leonard Jacobs, has three reviews in this issue: one on Baum’s book addressing the psychology of antisemitism; the second is on Manfred Gerstenfeld’s key works regarding Dutch politicians’ thwarting of funds for Jewish survivors and misdeeds of so-called humanitarians in general; the third review is of

Eisen's *Peace and Violence of Judaism*. There are psychologist David Sokol's insightful review of Umberto Eco's *Prague Cemetery* and what will probably never happen again—a Dreyfus family member, University of Manchester professor Jean-Marc Dreyfus, reviewing a book on Alfred Dreyfus.

We try to keep it in the family as well, with future issues guest edited by *JSA* Board members. We are anticipating CEU's (Budapest) Andras Kovacs for a special issue on Eastern European antisemitism. The British are then coming with a special Hate Crimes edition hosted by Lancaster University's Paul Iganski. Legal scholar Lesley Klaff, senior lecturer at Sheffield Hallam University, brings the uniqueness of UK antisemitism to focus in the December 2012 issue. It will be followed by the writing team of Paul Bartrop and Steven Leonard Jacobs, who will present the current status of antisemitism in the land down under.

We look forward to our contributors from around the world bringing readers the most timely and pertinent investigations. And we thank you, our readers, for making the *JSA* a success.

Steven K. Baum
Neal E. Rosenberg
Editors

*The JSA thanks Jeff and Evy Diamond
for their continuing patronage.
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Antisemitic Incidents from Around the World, January–June 2012 A Partial List

JANUARY

Plainville, NY, January 3: State and Nassau County public officials, along with local religious leaders, will stand on a lawn in Plainview and denounce hatred and antisemitism. The office of state assemblyman Charles Lavine, D-Glen Cove, along with Nassau County legislator Judy Jacobs, D-Woodbury, will join Plainview-area clergy members and other community leaders at the home of Burton Radish, a retired school administrator whose outdoor menorah was desecrated by vandals during Hanukkah. “This desecration of a religious symbol under the cover of darkness is a cowardly act,” Lavine said. “An attack on any religion is an attack against every religion. Prejudice is un-American and must neither be tolerated nor enabled.” “Vandals in the dead of night” destroyed the five-foot-high menorah that stood at Radish’s front yard on Gerhard Road,” Lavine’s office said in a statement. “The ancient symbol of Judaism and the emblem of the State of Israel . . . was ripped from his yard, thrown into the street, run over and destroyed.” Nassau County police are investigating the vandalism. There have been no arrests.

“You know how to make the Jew jealous? Have some money, honey. You go to LA and they own all the Rolex and diamond places. Walk down a part of LA where we live and it is so rich it smells. You ever smell rich? They are all Jews, hallelujah. Amen.”

—Minister Keith Hudson, estranged father of U.S. pop singer Katy Perry

Santiago, Chile, January 5: Antisemitic conspiracy theories have appeared on Chilean Web sites following the arrest of an Israeli tourist in connection with a devastating forest fire. Rotem Singer, 23, has been questioned by police for allegedly starting the blaze at the Torres del Paine National Park (Patagonia) by failing to extinguish burning toilet paper. He has denied any involvement, but has been ordered to remain in Chile while the investigation is carried out. If convicted, he could face a fine and up to 60 days in jail. His arrest has been fruit for conspiracy theorists, who are blaming Israel for this fire and a wave of similar ones that swept Chile over the last week. According to the New York-based Anti-Defamation League, Chilean Web sites have suggested that Israel and the Jews deliberately started the fire. The hate monitor said that users had posted “hate-filled comments,” linking the fires to an old antisemitic trope known as the “Andinia Plan.” The “plan” is based on the idea that Jews want to create a state in Patagonia by any means possible. A Chilean congressman, Fuad Chahin, asked his Twitter followers to consider the possibility that Singer had been sent to Argentina by Israel after “killing Palestinian children.”

Great Neck, NY, January 4: Nassau County police are investigating swastikas on a 1998 Mercedes-Benz parked at the Babylonian Jewish Center in Great Neck. “This

is not just an act of hatred. It's an act of violence against Jews," said mayor Dan Levy of the village of Saddle Rock. "It's a symbol of many years of torture, killing, of eradication of the human race, and it goes beyond the violation of the car." Police say they believe the two swastikas were scratched into the car sometime between 4:30 p.m. Friday and 11:00 a.m. Saturday. "It's horrible. It's horrible," said village resident Gloria Guerra. "Whoever did it should be disciplined." According to detectives, a 39-year-old male victim left the car parked last night before attending services; his 16-year-old son made the discovery. Rabbi Nir Shalom says the owner is unnerved, as is his congregation. "He's very religious and it hurts him," he said. "Sometimes people, they harm other people and they don't know who they are. They think they are an enemy." "We remain strong and that our community can grow as a result of this and become even stronger," said village resident Nathan Yadgar. Detectives are urging anyone with any information on this to call police.

Rome, January 9: Police in Turin are investigating a high school teacher who threatened in a Facebook post to massacre Jews and go "target shooting" against African immigrants. Police searched the home of Renato Pallavidini January 6 and seized computers, a flash drive, and CDs; he could be charged with racial hatred. Five years ago, Pallavidini was penalized for Holocaust denial. The Italian media last week reported that on December 29, Pallavidini posted a picture of Adolf Hitler and Italian fascist dictator Benito Mussolini shaking hands, with a post reading "Warning to dirty bastard Jews who control us from the land of s— and fags called California. If you remove this picture, I will go to the synagogue very near to my house, with my pistol, and gun down some parasite Jews." He also reportedly published a post on December 23 asking who would join him in "target shooting" against African immigrant street vendors near his home.

Budapest, January 9: According to a recent survey, antisemitism is on the rise, and, as a result of "Jobbik's influence," antisemitic rhetoric has become more and more legitimate in public discourse. This is understandable, as without brainwashing no political support is possible. Andras Kovács, a sociologist in Central European University, systematically studies the rise and consolidation of anti-Jewish prejudice in Hungary. The Jewish-Hungarian magazine *Szombat* had featured his recent survey, from November 2011, on the front page. Based on a sample of 1,200 individuals, 24% of all adult Hungarians find Jewish people repugnant, despite the fact that between 1993 and 2006 this number ranged between 10 to 14 percent. The relative rate of antisemitic prejudices had lowered somewhat during that period, compared to last year, though, according to Kovács, this may have been affected by a large number of incidental daily events. "The number of Hungarians who find Jews repugnant had significantly increased prior to the election years, a fact indicating that political endeavors augment anti-Jewish sentiment—namely, that the 'Jewish Question,' becomes a regular component of some political campaigns," says Kovács.

New Jersey, January 9: Rabbi Nossou Schuman suffered minor burns in an incident at Beth El Synagogue in Rutherford. It was the fourth antisemitic incident in the past month in Bergen County. On January 4, a Paramus synagogue was hit by an

arson attack, and in December, two temples were vandalized. No arrests have been made. “We don’t know if we’re looking at one person or a group of people,” said Bryan Travers of the FBI’s Newark division. In November, vandals smashed windows at five stores owned by Jewish merchants in Middlesex County.



Swastika Earrings—The Perfect Gift

New York, January 11: The sale of swastika earrings at a Brooklyn jewelry store is the latest example of antisemitism in New York and New Jersey, politicians and advocates told FoxNews.com. Manhattan borough president Scott Stringer demanded that the store—Bejeweled, on Manhattan Avenue in the Greenpoint section of Brooklyn—immediately remove the earrings. “Let me be clear—a swastika is not a fashion statement,” Stringer said in a statement to FoxNews.com. “It is the most hateful symbol in our culture, and an insult to any civilized person.” But the store’s manager, Young Kim, defended the \$5.99 earrings, saying the swastika is a symbol of eternity in Tibetan Buddhism, not just a symbol popularized by Nazi Germany.

London, January 16: London School of Economics students are facing disciplinary action after participating in a Nazi-themed drinking game during the Athletics Union’s ski trip, held at a French mountainside resort in December 2011. Later that night, two students were involved in an altercation; one of them sustained a broken nose from the incident. Nazi Ring of Fire involved arranging cards on the table in the shape of a swastika, and required players to “Salute the Fuhrer.” A video featuring students making antisemitic comments was uploaded to Facebook, but has since been removed. “LSE Students’ Union Jewish Society (J-Soc) and the Union of Jewish Students (UJS) are appalled by a reported antisemitic assault that occurred after a Jewish student objected to a Nazi-themed drinking game that was being played by his fellow students on a recent LSE ski trip in France.”

London, January 17: Less than a month after Britain’s biggest bookstore chain, Waterstones, had to apologize because branches in Yorkshire, Manchester, Liverpool, and Cheshire “pushed Adolf Hitler’s manifesto *Mein Kampf* as the ‘perfect’ Christmas present” (as reported in the *Guardian*), the book is back in the news with yet another British company promoting it. According to a report in the *Telegraph* by Matthew Day, London-based publishing house Albertas Press has decided to publish the book in Germany—even though it’s been effectively banned there by

the copyright holder—by exploiting what it thinks is a loophole in German copyright law.

Vilnius, Lithuania, January 17: The *Lietuvos rytas* Web site (Lrytas.lt) published an article by veteran Holocaust denier Petras Stankeras—who was forced out of his Interior Ministry post in November 2010—which was a republication of an article by Stankeras that had appeared earlier in *Kultūros barai*, considered to be an elitist magazine. Geoff Vasil, a senior analyst for the Holocaust watchdog Web site DefendingHistory.com, reported December 27, 2011, on a similar sequence where a fascism-friendly article by Stankeras was reprinted in the mainstream daily on December 26, 2011, after being premiered earlier in *Kultūros barai*. After the turn of the year, on January 12, an antisemitic article written by another author, also published in *Lietuvos rytas*, drew the rapid attention of a Facebook thread and was pulled.

New York, January 19: Vandals slapped swastikas and the words “Die Jews” on four Midwood properties in a new wave of antisemitic attacks over the weekend—but, in a bizarre twist, cops say the perpetrator may be Jewish! Police arrested David Haddad of Manhattan on Monday on tips from neighbors and family that he had made threatening, antisemitic phone calls and scribbled racist symbols on doors in both Brooklyn and Manhattan between December 11 and January 12. The police say he’s a suspect in last weekend’s Midwood hate spree, but have yet to arrest him for the crime. Multiple properties in the quiet neighborhood were disfigured by the repulsive messages, sending waves of agitation through a community all too familiar with bias attacks: according to the FBI’s latest hate crime statistics of the 922 bias attacks committed across the country in 2011, 887—or more than two thirds—were directed at Jews. “It’s just the latest in a series of ongoing antisemitic occurrences in Brooklyn,” said Assemblyman Dov Hikind (D-Borough Park). “People are justifiably very concerned and upset.”

Berlin, January 23: A group of experts commissioned by the German parliament concluded that antisemitism could be found “right at the heart of society.” “Antisemitism in our society is based on widespread prejudices, deeply rooted clichés, and sheer ignorance about Jews and Judaism,” one of the experts, historian Peter Longerich, said at the launch of the report in Berlin. One of the places where antisemitic utterances are most frequently heard is on the football field. Chants such as “Jews belong in the gas chambers,” “Auschwitz is here again,” and “Synagogues must burn,” are often heard during lower league games. And in many schools “You Jew!” is used as a general insult. Overall, the report found, latent antisemitism is to be found in around 20 percent of the population. . . . 90 percent of antisemitic crimes are carried out by far-right members. . . . there are about 26,000 neo-Nazis in Germany. Hatred of Jews is also found among different Islamist groups. The domestic intelligence agency estimates that there are 29 Islamist groups in Germany, with around 37,400 members. And antisemitism is also a “constituent element of their ideology.”

FEBRUARY

London, February 1: Four British men pleaded guilty to involvement in an al-Qaeda-inspired terror cell that was planning attacks on the London School of Economics and the American Embassy, as well as hits on London's mayor and two rabbis. The men were among nine defendants facing trial in London over an alleged plot to attack the exchange and several other high-profile targets in December 2010. All had initially pleaded not guilty to all the charges against them. But on Wednesday, four of the defendants pleaded guilty at Woolwich Crown Court to involvement in the Stock Exchange plot, and the five other British citizens to lesser charges. The suspects, aged between 20 and 30, were arrested in London, Cardiff, and Stoke-on-Trent in central England, in what police called the biggest anti-terror raid for two years.

Manchester, UK, February 2: Nearly half of the 586 antisemitic crimes reported in the UK were in Greater Manchester, the Community Security Trust (CST) said. The overall UK figure was the fourth highest since records began in 1984. Greater Manchester police said the increase reflected a greater reporting of incidents. There were 244 reported antisemitic crimes in Greater Manchester—including street attacks, threats, vandalism, and the desecration of Jewish property—with 201 in London. London's Jewish population stands at 149,800 compared with Greater Manchester's 21,700, the researchers said. One incident of "extreme violence" took place when a Jewish family was filling up their car at a gas station. "As one of the family members crossed the forecourt in order to make payment, a car containing two white women reversed sharply into her, knocking her to the ground," the CST report said. "The occupants then got out of their car, shouted 'Dirty Jew,' and spat at the injured woman lying on the ground, before getting back into the car and driving away."

Budapest, February 2: Around 300 people gathered outside Budapest's New Theater to protest its new director, an actor with links to far-right parties. Dozens of members of extreme-right groups seeking to disrupt the protest, some wearing face masks and shouting racist slogans, were kept nearly a block away from the theater by police in riot gear. A few were detained by police, state news wire MTI reported. Gyorgy Dorner became head of the theater Wednesday after being named by Budapest mayor Istvan Tarlos; Tarlos picked Dorner over the theater's previous director, Istvan Marta. Dorner initially named far-right playwright and politician Istvan Csurka, also known for his antisemitic articles, as the theater's artistic director, but Tarlos blocked the plan. Dorner has described himself as a "national radical" and has taken part in rallies of the far-right party Jobbik, which won nearly 17 percent of the votes in the 2010 elections. Dorner is also known in Hungary as the voice of Eddie Murphy and Bruce Willis in dubbed films.

Hamilton, Ontario, Canada, February 2: Police are investigating after several vehicles and houses in Dundas were marred by a variety of hateful messages, including "Kill the Jews," "Hitler," and at least six swastikas. Vandals wielding spray paint and markers struck at 12 homes on four streets early on the morning of February 2, Hamilton Police Service detective sergeant Tom Andrew said. The worst messages were both antisemitic and racist: a swastika and "Hitler" on a rear deck, two swasti-

kas and “I hate niggers” on the doors of a double garage, and a swastika and “Kill the Jews” on a different garage door. Swastikas were also painted on two vehicles. Other messages did not have racial or genocidal overtones, but many made liberal use of profanity.

Kaunas, Lithuania, February 16: With attention focused on the central Vilnius neo-Nazi march, which received government permission, slated for Lithuania’s Independence Day March 11—now the subject of an international petition on Change.org—there was minimal foreign interest in today’s Independence Day neo-Nazi march and demonstration in central Kaunas, Lithuania’s second city. The March 11 independence day marks the date in 1990 when Lithuania declared independence from the Soviet Union. Today’s holiday is on the date of the 1918 declaration of independence, which heralded the rise of the modern Lithuanian state in the twentieth century. Both dates are revered by the country’s diverse minorities and factions.

Paris, February 16: The year 2011 saw a 16.5% drop in antisemitism in France, according to a study released by the French Service for the Protection of the Jewish Community (SPCJ) together with the French Interior Ministry. The study, released late January to accompany International Holocaust Remembrance Day and now in its sixth year, recorded 389 incidents of antisemitism in 2011, compared to 466 in 2010, making it the lowest number in ten years. The number of violent antisemitic incidents, however, remained the same as those recorded in 2010, and there was even a rise in the severity of the level of violence. The main source of the drop in recorded antisemitic incidents was the decline in malicious graffiti and slanderous letters. The number of recorded attacks stood at 127, mainly comprising damage to property, vandalism, and direct violent attacks. The report also recorded 144 cases of malicious threats, threatening actions and curses, and 46 antisemitic publications. About 50% of the total number of antisemitic incidents occurred in greater Paris.

Paris, February 27: A Paris university has been forced to close for two days because of the “public order” threat posed by a group of anti-Israel activists. The group, called Collectif Palestine Paris-8, was initially given permission to hold a conference on the campus of Paris-8 University to examine Israel’s “apartheid” practices. The event was billed as a chance to explore the “new sociological, historical and legal methods of internationally boycotting Israel.”

Munich, February 27: The German police opened an investigation following an outbreak of anti-Semitism and racism incidents during the training of the Bundesliga 1. FC Kaiserslautern on Sunday, German public broadcasting corporation SWR reported Monday. Israeli FCK soccer player Itay Shechter was targeted with antisemitic statements, and two stadium visitors reportedly welcomed the FCK soccer players with a Hitler salute. A police spokesman said the elements of the offense probably fall under the category of incitement to hate, according to the report. The soccer club asked the authorities and police to strongly pursue the matter and evaluate the criminal aspects, and called on the approximately 300 partici-

pants who were present on Sunday to help with the investigation. The police, who were at the game, did not eject the participants due to “deescalation reasons.”

MARCH



Lady Tonge

London, March 2: Nick Clegg asked Lady Tonge to apologize and withdraw her comments earlier this week, but the peer refused and has now been required to withdraw the party whip. During a talk at Middlesex University, she claimed Israel would “reap what it has sown” if the United States decided to withdraw its support, telling students the country “would not be there forever.” Asked if Clegg has been too quick to disown her on BBC Radio 4’s *Today* program, she replied: “I think very hastily and I think ill advisedly. He’s going to have a lot of flak about it, I do know that. Of course, I always have an enormous amount of flak and I am quite used to that. But I have also had an enormous amount of support.” Lady Tonge refused to back down over the comments and stood by them on the program.

Prague, March 7: A Hungarian government official rejected charges of antisemitism in the asylum case of Hungarian-Jewish writer Akos Kertész. Following Kertész’s political asylum request last week to Canada, the head of the ruling Fidesz-Christian Democrat alliance in Hungary denied the charges. Zoltan Nemeth said the stripping of Kertész’s honorary citizenship by the Budapest City Council had nothing to do with the author’s religion or ethnicity, the Hungarian News Agency reported. The incident arose from an article by Kertész in a Hungarian-language American newspaper in which he referred to Hungarians as “genetically subservient” in being unable to accept responsibility for crimes against Hungarian Jews in the Holocaust. Though Kertész later removed the offending phrase, the city government still withdrew the honorary citizenship.

Berlin, March 14: A Dutch public broadcasting network last month offered its viewers a board game featuring Israeli settlers who use “Jewish stinginess” and “the Anne Frank card” to colonize the West Bank. Organizations combating antisemitism have called on the Dutch government to persuade the network, VPRO, to halt the downloading of the board game. A VPRO representative said the game was not antisemitic, but rather a thought-provoking satire. The game, called “The Settlers of the West Bank,” is based on the multiplayer hit “The Settlers of Catan,” first released in Germany in 1995. The Dutch variant appeared in 2010 on the VPRO Web site—a self-described “liberal-Protestant network.” In the game, the user is a settler trying to expand his community and mine diamonds and Dead Sea

mud while producing textiles and bulldozers. Players can use the “Jewish stinginess” card to force competitors to hand over resources. The instructions refer three times to the “nation’s typical mercantile spirit.” Terrorist attacks are described as a natural result of settlement expansion. “Saw wood, and you get wood chips: Not everyone’s happy with the Israeli settlements. Least of all the terrorist,” the instructions explain. One day later, VPRO removed from its Web site a game decried by human rights groups as antisemitic.

Rome, March 15: Police in northern Italy have arrested a Morocco-born man suspected of planning terrorist attacks on a Milan synagogue and other targets. Mohamed Jarmoune, 20, who has lived in Italy since childhood, was arrested in the province of Brescia, according to Italian news reports. Investigators reportedly found a document on his computer analyzing the security measures of Milan’s main synagogue.

Toulouse, March 19: At least two people were also injured in the attack outside the Ozar Hatorah school in the northeast part of the city. Police are hunting for the gunman, who witnesses said was riding a black scooter. The attack comes days after three soldiers were shot dead by a man on a scooter in the same part of France. President Nicolas Sarkozy, his education minister, and his interior minister are traveling to Toulouse, in southwest France. The grand rabbi of France, Gilles Bernheim, who is also on his way to the city, said he was “horrified” and “stunned” by what had happened.

New York, March 21: A new report by the U.S.-based NGO Anti-Defamation League shows that antisemitic attitudes in 10 European countries, including Poland, remain at “disturbingly high levels.” Released one day after a tragic shooting at a Jewish day school in Toulouse, France, that left three children and a teacher dead, the ADL study reveals that antisemitic attitudes are stronger in Europe than in the United States. The results are based on a survey of 5,000 adults in January 2012, in 10 EU countries: Austria, France, Germany, Hungary, Italy, the Netherlands, Norway, Poland, Spain, and the United Kingdom. In comparison to the previous study, which was conducted in 2009, Hungary saw the greatest increase in overall antisemitic sentiment—rising from 47 to 63 percent. Hungary (63 percent), Spain (53 percent) and Poland (48 percent) were the three countries where surveyed individuals expressed the highest levels of antisemitic attitudes (Austria 28%; France 24%; Germany 21%; UK 17%; Italy 35%; Holland 10%; Norway 16%).

Berlin, March 26: Ilmar Reepalu, the Swedish social democratic mayor of Malmö, said on Thursday in an *NEO* magazine interview that the Swedish Democratic party has infiltrated the town’s Jewish community to spread hate of Muslims. Reepalu’s comments triggered outrage from Sweden’s central council of Jews last week. Lena Posner Körösi, the chairwoman of the central Jewish council in Sweden and the Jewish community in Stockholm, termed Reepalu an “antisemite” in the Swedish Christian daily *Världen idag* because of his hate directed at Jews. In 2010, a group of Swedish Muslims in Malmö, a city of 290,000 now constituted approximately 20 percent of Muslim immigrants, shouted “Sieg Heil” and “Hitler, Hitler” and threw rocks and bottles at a small group of Jews who were peacefully demonstrating in

support of Israel. Reepalu said at the time that Sweden's Jews were largely culpable for the violence inflicted on them because they didn't "distance" themselves from Israel and the IDF operation during the Gaza War. "The community chose to hold a pro-Israel demonstration," he added.

Chicago, March 29: A local Jewish leader called the spray-painting of the words "Jews murder" outside a synagogue in the Lake View neighborhood "a sad reminder of the persistence of antisemitism." Police said they were notified of the graffiti on the Anshe Emet synagogue in the 3700 block of North Broadway about 6 a.m. March 28. "Today, we have received yet another sad reminder of the persistence of antisemitism," Dan Elbaum, Chicago director of the American Jewish Committee, said in a statement: "The words 'Jews murder' and 'Jews kill' are particularly galling given last week's murder of four French Jews by an attacker claiming to be motivated by events in the Middle East."

Toronto, March 30: For the first time in the country's history, the Canadian Jewish community has decided to establish a citizen security service, in light of the growing antisemitism in the country and around the world. The security service will be run by the Center for Israel and Jewish Affairs, a Canadian Jewish lobby, to protect Jewish citizens and locations frequented by members of the community. The program, called "Community Security Network," will operate parallel to, and in coordination with, local security services. The pilot program will take place in Toronto, home to the largest Jewish community in Canada of about 200,000 people. Following that, the program will be replicated in all Jewish communities around the country.

APRIL

Cairo, April 1: Egypt's Muslim Brotherhood has reversed its pledge not to contest Egypt's presidential elections in May, nominating one of its deputy leaders, Khairat al-Shater. The endorsement guarantees al-Shater a place among the frontrunners after the group initially said it would not field a candidate. The Islamist group said it had reversed its decision not to contest the presidency to ensure the success of Egypt's revolution and the transfer from military to civilian rule. The Brotherhood already dominates Egypt's newly elected parliament and the panel that has been set up to draft a new constitution.

Stockholm, April 1: An art exhibition called "The Holy Land—The Holey Land" in Immanuelskyrkan, a church in Stockholm, is astounding. Anti-Israel propaganda is common, but this is something else; the artist accuses Judaism of being inherently destructive. The organizer of the exhibition is the Swedish Christian Study Center, a nongovernmental organization with an office in Jerusalem. Before the event, the Simon Wiesenthal Center protested the Christian organization's publicity poster, which portrays Israelis as rats and the West Bank as cheese. The painting *Golden Parachute* alludes to both greed and dishonest covenants; with his black hat as his parachute, the huge dark Jew is descending toward land. In other pictures, the effect of the influence of the mythical Jew is all too apparent: Jesus weeps tears of blood over the riches of Israel, and the trees of Palestine are dead. A bank note cast in concrete—the wall again—carries the words "Bank of Sweden," "false," and

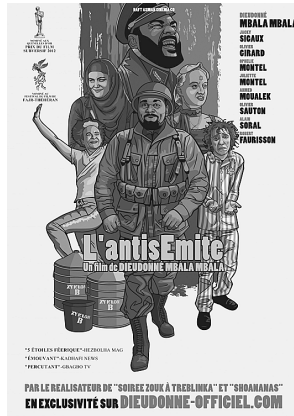
“wallet.” Another black hat covers one of Jerusalem’s city gates. The stone face has soulless eyes and the gate is its mouth. The Jew shown in *The Jew* has devoured the Al-Aqsa Mosque, the only colorful object in the picture. As a more materialist sort of gangster, this personification of the stereotypical Jew appears in a black hat, black sunglasses, a gun belt, and a Magen David instead of a sheriff’s star—or the yellow star . . . On the walls of this Stockholm church are Israeli flags without Stars of David. The white field is clean; it is *Judenrein* and “*Zionistenrein*.” As though all this were not enough, an image of Joseph, Mary, and Jesus as Palestinian refugees perpetuates the myths of deicide and child-killing. A sad, long line of refugees marches alongside a wall with barbed wire and a watchtower, a reminder of concentration camps. Graffiti on the wall behind the holy family says, “Refugees since [no date].” It is as though human beings, perhaps humanity, have been running away from the Jews since Jesus was born.

Budapest, April 4: A far-right Hungarian lawmaker was urged to resign after making a speech in Parliament that was widely criticized as antisemitic. In his speech, Zsolt Barath criticized the verdict in a well-known, 19th-century court case that had found several Jews innocent of murdering a Hungarian peasant girl. That verdict stoked antisemitism in Hungary at the time and led to disturbances in cities across the country. On Tuesday, Barath, of the far-right Jobbik party, commemorated the case by claiming the judge had proof of the defendants’ guilt but succumbed to pressure to acquit them to avoid seeing Hungary bankrupted by international financiers.

*And on the gentiles God will pour The boundless riches of His grace.
What the Jews foolishly foreswore He makes of us—a chosen race.*

—National Icelandic Broadcasting Service, April 9, 2012

Kiev, April 10: Israel’s ambassador to Ukraine, Reuven Daniel, visited the Kiev hospital where a 25-year-old yeshiva student, Aharon Alexander, has been hospitalized in critical condition. Alexander was assaulted in what some are saying was an antisemitic attack as he left a local synagogue on the Passover holiday.



Antisemitic Comedy

Paris, April 12: French comedian Dieudonné is a well-established provocateur—a Jew-baiter whose most recent show was called *Mahmoud*, after Iran’s Holocaust-denying president. So it shouldn’t come as a surprise that the performer’s next movie is titled *L’Antisémite* (The Antisemite) and features dialogue such as “It’s clear the Jews control everything—the media, finance, politics. We no longer have a choice. We must”—here’s the ostensible punch line—“exterminate them.” *New Yorker* movie critic Richard Brody reports that Holocaust denier Robert Faurisson appears for several minutes in the movie, which *Le Monde* says was co-produced by Iran. The film is in the news because France’s League Against Racism and Anti-Semitism is fighting to get it banned for being antisemitic and denying the Nazi genocide. Denying the Holocaust is a crime in France. A lawyer for Dieudonné argues that his client is just kidding around.

Carrickfergus, North Ireland, April 25: A Northern Irish schoolboy has suffered antisemitic abuse and a physical attack after a chance remark during a Holocaust history lesson, his family has claimed. The mother of Matthew Lough, 14, says he has had to take time off from Carrickfergus College on the East Antrim coast after being taunted as a “Jew boy,” having swastikas daubed on his schoolbooks and finally undergoing a physical assault. The Police Service of Northern Ireland confirmed that it was investigating the Lough family’s allegations of antisemitism. The family said that after a lesson on the Shoah and Matthew’s revelation that his maternal great-great-grandmother was Jewish, bullies started a campaign against him. “It started last year with the swastikas drawn on his books, he was called ‘Jew boy’; and one fellow pupil even told Matthew: ‘It’s a pity that the gas chambers were not still open, so we could deal with you.’ This was before the physical assault,” Sharon Lough told the *Guardian*.

New York, April 27: Detroit Tigers left fielder Delmon Young has been arrested on a hate crime assault charge after police say he attacked a group of men and yelled antisemitic epithets. According to the police, Young was standing outside of the Hilton New York, not far from Times Square. A group of about four Chicago tourists staying there were approached by a panhandler wearing a yarmulke. As the

group walked up to the hotel doors, Young started yelling antisemitic epithets. Police say it's not clear who he was yelling at, but he got into a tussle with one of the Chicago group, who sustained scratches to his elbows. Police were called, and Young was arrested. He was first hospitalized because he was believed to be intoxicated.

Tunis, April 28: Tunisian president Al-Muncef Al-Marzouki was to attend this year's conference for Palestinians in Europe, held in Denmark. Adel Abdullah, the secretary general of the Palestinians in Europe conference, told Quds Press on Saturday after meeting with the Tunisian president that he experienced absolute solidarity with the oppressed Palestinian people. He said that Marzouki's stand was not a surprise, as he is well known for his human rights activity and constant support for the Palestine cause.

MAY

Montreal/Winnipeg, Manitoba, Canada, May 1: A few weeks after thugs vandalized several Jewish-owned summer cottages in the Laurentians, a human rights organization says antisemitic incidents were on the rise in Montreal last year. There were 303 incidents reported in Montreal, a 9.4 percent increase from the 277 cases documented in 2010, according to the League for Human Rights of B'nai Brith Canada, which released its annual audit of antisemitic incidents across Canada. Vandalism against Montreal's Jewish community jumped from 51 cases in 2010 to 75 in 2011. A third of all hate crimes reported to Montreal police in 2011 were against Jews, Montreal lawyer Steven Slimovitch noted. In Manitoba, there were three separate cases, including an incident at Oak Park High School, where a Jewish student's hair was set on fire with a lighter. In the same month, the second case of antisemitic violence in Manitoba involved a male student at the University of Winnipeg. According to the student's report to B'nai Brith Canada, he was "accosted by another male student and told to 'get that disgusting Zionist star [Star of David necklace] off.' Then he flipped out and came to me and basically threatened to kill me, calling me 'a dirty Zionist fascist.' Then he grabbed the necklace and pulled it." In the third case, a 70-year-old man in Gimli was targeted for repeated harassment by a condo neighbor, said Alan Yusim, Midwest regional director of B'nai Brith Canada. "The neighbor got drunk one night . . . and grabbed the elderly man and pushed him," Yusim said. Police were called and a restraining order was placed against the neighbor. Nationally, there were 1,297 reports to B'nai Brith Canada of acts motivated by hate, including harassment, vandalism, and violence. In Manitoba, there were 78 such cases last year, compared to 60 in 2010.

London, May 2: Is it possible to measure antisemitism and to influence its spread in society? Two German researchers who specialize in cultural economics claim that it can. Nico Voigtländer and Hans-Joachim Voth combined historical data with current statistics. The results of their research, entitled "Hatred Transformed: How Germans Changed Their Minds about Jews 1890-2006," were published this week on the research portal of the Centre for Economic Policy Research, based in London. A significant finding: Your place of birth has a great influence on your level of hatred toward Jews (and foreigners in general). In some areas, for example, 87 percent of the respondents were convinced that the Jews brought persecution

onto themselves; in contrast, in other places the number of respondents who agreed with this belief was 38 percent of the population. At the top of the list, however, is Lower Bavaria, where the study found the highest rate of antisemitism. The result was clear: The young can be manipulated by massive indoctrination, but only to the extent that the new, radical beliefs are not completely at variance with preexisting norms.

Paris, May 6: The French Finance Ministry froze the assets of a radical imam from Tunisia who is under the threat of expulsion for antisemitism, an official announcement said. Mohammed Hammami, 76, who has lived in France for decades, was accused in January by interior minister Claude Geant of making “violently antisemitic remarks” as well as calling for women to be “whipped to death” for adultery. Hammami was hospitalized in February for what his lawyer said was psychological and physical shock from the accusations, and was unable to attend an expulsion hearing.



Greece's Golden Dawn Party

Athens, May 8: Jewish leaders in Greece expressed concern and disappointment after the Fascist Golden Dawn party was poised to enter the Greek parliament for the first time. With most of the ballots counted, Golden Dawn received nearly 7 percent of the vote in Sunday's elections, as Greeks punished the mainstream parties they blame for the country's financial crisis and accepting harsh European austerity measures. “It is very disappointing that in a country like Greece, where so many were killed fighting the Germans, that a neo-Nazi party is now in parliament,” David Saltiel, president of the Central Board of Jewish Communities in Greece, told the Jewish Telegraphic Agency. It was a major victory for Golden Dawn, whose flag closely resembles the Nazi swastika.

Toronto, May 9: A Toronto Islamic school under police investigation over its “antisemitic” curriculum has apologized to the Jewish community and promised to review its teaching materials. The East End Madrassah acknowledged in a press release that passages of its texts that refer to “crafty” and “treacherous Jews,” and contrast Islam with “the Jews and the Nazis,” were a mistake. “We unreservedly apologize to the Jewish community for the unintentional offense that the item has caused,” it said. “Our team of scholars has already undertaken to review all texts and material being used in the curriculum to ensure that our teachings are conveying the right message.”

Los Angeles, May 9: Vidal Sassoon has died. Too young to serve in the Second World War, at age 17 Sassoon joined the 43 Group—an underground Jewish veterans’ organization that fought antisemitism by breaking up Fascist meetings in East London. In 1948, at the age of 20, Sassoon joined the Haganah and fought in Israel’s War for Independence. In 1982, he established the Vidal Sassoon International Center for the Study of Anti-Semitism at the Hebrew University of Jerusalem.

Berlin, May 13: An Italian court moved forward with its decision to compel an Italian journalist to pay a 25,000-euro fine because he satirized a cartoon by Vauro Senesi that depicted the Jewish Italian politician Fiamma Nirenstein in classic antisemitic terms, according to critics in Italy and the U.S.-based Anti-Defamation League.

Glasgow, May 16: Police in Glasgow have charged six people over the creation of an antisemitic Facebook page that mocked the Jewish community of Giffnock. The page, which attracted nearly 1,000 “Likes” while it remained live, was called “Welcome to Israel, only kidding you’re in Giffnock.” The page’s profile picture was a photograph of the late Rev. Ernest Levy, a Holocaust survivor and prominent Glasgow communal leader. The page’s creator joked: “They have a Gaelic translation in the train station; Hebrew would have been more appropriate.” Fans of the page posted comments ranging from “Jewish scum” to “F— the Jewish Zionist,” while another person wrote: “Hebrew is not needed in the train station [because] all the Jews are f—ing rich c— they have gold plated Bentleys.” Five adults and a child have now been charged with a breach of the peace with “religious and racial aggravations.” Police made the arrests on Friday after searching homes in Glasgow and East Renfrewshire and seizing computers.

London, May 17: A BBC public opinion survey on 22 countries places Israel in the company of North Korea, ahead only of Iran and Pakistan.



Budapest, May 23: The Raoul Wallenberg monument was found defaced with bloody pigs’ feet.

JUNE

Warsaw, June 1: With the European Football Championships just around the corner, the public debate on antisemitism and racism in general is gaining momentum in Poland, out of a fear about disruptions by extremists during the games. Security authorities across the country have been put on alert ahead of the UEFA Euro 2012, which is set to begin in Poland and Ukraine on June 8. In Warsaw alone, 10,000 police will be deployed to ensure appropriate audience conduct among the hundreds of thousands of soccer fans arriving from everywhere. In addition, the Polish press has given much focus over the past few days to condemning any form of hostility to minorities, including Jews. *Newsweek* even devoted its entire last issue to the matter: Jesus and Mary appear on the front cover, with Stars of David on their clothes, accompanied by the headline “Jesus, Maria, Jews! How contemporary Poland handles the shame of anti-Semitism.”



Villeurbanne, France

Villeurbanne, France, June 3: The Interior Ministry says an attack by 10 assailants on three people in southeast France was antisemitic and has called for the assailants to be brought to justice. The office of interior minister Manuel Valls said that police were mobilized to arrest those behind the attack a night earlier in Villeurbanne, near the city of Lyon. The ministry said the assailants wielded a hammer and an iron bar. One victim sustained an open wound to the head, and another suffered a neck injury; two of the victims were hospitalized. Both men wore Jewish skullcaps.

Budapest, June 8: About 120 Hungarians donned paper yellow stars with the word “*Jude*” (“Jew” in German) written on them and lined up on the bank of the Danube in downtown Budapest to protest recent antisemitic and racist incidents in Hungary. Local media said the demonstration was a Flashmob organized on Facebook. The protesters staged the demonstration outside the building hosting the offices of members of Parliament. The state news agency MTI said several demonstrators told its correspondent that even though the Hungarian government had stated that it intends to protect Jewish Hungarians, concrete actions, rather than words, were needed. One example, they were quoted as saying, would be for the government to back down on including openly antisemitic authors in the national school curriculum.

May it [Israel] be destroyed. May it be colonized. May it be wiped off the map. May a wall fall on it. May it disappear from the universe. God, please have it banished.

—Egypt's Amr El Masry's hit song "I Love Israel"
<http://www.youtube.com/watch?v=HC5czUoiK08>

London, June 12: The Tories' organizational grouping in Europe is facing an embarrassing split after a controversial Polish priest who runs a radio station that broadcasts antisemitic views was invited to the European parliament by one of its MEPs. Father Tadeusz Rydzyk, whose Radio Maryja has been condemned by Jewish organizations and the Vatican for its extreme views, was invited last week to Brussels by a Polish MEP from the European Conservatives and Reformists (ECR), the anti-federalist group. The invitation has angered some Tory MEPs, including one who has written to Polish colleagues demanding that members of the group never again invite someone with antisemitic views to Brussels. The split is an embarrassment for the Tories because the ECR, which was formed two years ago, is closely associated with David Cameron. It comes as Poland's attitude toward racism is being scrutinized during the Euro 2012 Football Championship, which the country is co-hosting with Ukraine.

The Hague, June 18: Inadequate registration of antisemitic crimes by European Union countries makes it impossible to accurately assess its prevalence, the EU's Agency for Fundamental Rights said. The Vienna-based EU made the claim in a working paper titled "Anti-Semitism—Summary Overview of the Situation in the European Union 2001-2011." The 55-page report states that "A small minority of member states operate official data collection mechanisms robust enough to provide a picture of the situation," listing France, Germany, the Netherlands, Sweden, the United Kingdom, and, "to a lesser extent," Belgium. The report notes that Hungary, Latvia, Bulgaria, Luxembourg, and Cyprus do not collect data on antisemitism specifically. Data from Estonia, Malta, Portugal, Romania, Slovakia, and Slovenia were "not available." Denmark and Lithuania can offer "little" and "scarce" information, respectively, on the phenomenon. "No clear-cut conclusions can be drawn on the situation of anti-Semitism in the EU on the basis of the data that are currently available," the report states. Poland, according to official data, reported 25 antisemitic cases. Greece reported three cases and Ireland two cases. France's government watchdog registered 389 cases in 2011, 466 incidents in 2010, and 815 instances in 2009. The Community Security Trust of Britain's Jewish community counted 585 antisemitic incidents in 2011. Germany's "political crimes" police unit recorded 1,188 antisemitic incidents in 2011 and 1,192 cases in 2010.

Buenos Aires, June 20: Jewish soldiers will be recognized for their service during the Falklands War, and the antisemitism they suffered will be acknowledged. DAIA, the Jewish political umbrella in Argentina, will host the ceremony for the soldiers who fought in the war 30 years ago. "I was insulted as a Jew," said Silvio Katz, an Argentina army veteran. "Our superiors told the other soldiers that the Jewish soldiers would betray them in combat. I was tortured. I was forced to put my hands, legs, and sometimes my head in cold water in the cold climate of the islands. They told me that this punishment was because I was a Jew."

Cairo, June 24: The Muslim Brotherhood's Mohamed Morsi has been declared Egypt's first post-revolutionary president, bringing an end to days of feverish speculation amid increased divisions and polarization. Morsi won with 51% of the vote. Second-place Ahmed Shafik, Mubarak's final prime minister, took 48%.



Elmo as Antisemite?

New York, June 26: A man in an Elmo costume was ejected from Central Park and hospitalized after going on an antisemitic rant in the middle of the New York landmark. While the man's name was not released because he was not arrested, police said that Monday's incident was not the first time he had dressed as the Sesame Street character and gone on a racial rant. Videos of the costumed Elmo's antisemitic comments began to circulate Sunday and show him directing bystanders to read *The International Jew* by Henry Ford, the automobile manufacturer who was known for his antisemitic views. "I'm not making money because the Jewish costume company is harassing me," said the man, caught on video. "That's why I'm doing it and that's why I want people to read *The International Jew*, because if you start your business in this city, Jews will harass you." The man also complained that he wasn't making any money because of "Jewish cops and company."

International Law and Antisemitism

Frederick M. Schweitzer*

Antisemitism continues to appear in its lethal multifarious forms. It has been a subject, explicitly or implicitly, of treaties and international law for at least two centuries. While the UN's human rights program had an effect in diminishing antisemitism, anti-Zionism soon replaced it. The Council of Europe, the Conference on Security and Cooperation in Europe, and the European Union have ongoing efforts to combat antisemitism in all its forms, e.g., anti-Zionism, Holocaust denial. The Internet and issues of free speech are addressed as well. The author concludes that combating antisemitism will remain a Sisyphean task.

Key Words: Antisemitism, Anti-Zionism, Human Rights, International Law, International Military Tribunal, International Criminal Court, Minorities

There are multiple variations on antisemitic motifs to demonstrate the strength and protean character of an antique demonological myth, and its extraordinary capacity to persist and be adapted to different times, places, and cultures, as in its recent resurgence worldwide. In pondering the ninety or so major treatises written over nearly two millennia that constitute the corpus of antisemitism, one is made conscious of an intensely bitter and fanatical hatred and loathing for the Jews and Judaism on the part of the authors—and presumably many of their readers. The extreme paranoid fear and dark suspicion that animate almost all such treatises make annihilation seem plausible and acceptable as the solution for so grave a menace, whether by forced conversion in the Middle Ages or genocide in Hitlerite Europe. A particularly dangerous situation arises when a battery of antisemitic legislation is enacted, as by the medieval Church, tsarist Russia, or Nazi Germany and most fascist states, or when governments undertake as official policy outsized antisemitic propaganda campaigns, as several Muslim states have done.

At the present time, the most menacing expressions of antisemitism are found in the Arab-Muslim world and the Muslim diaspora in the Western world. While there is an antisemitic infrastructure extant in Islam, it is clear that Jews were much better off under Islam than in medieval Christendom. References to Jews in the Qur'an are mostly negative, and the few positive ones were consistently ignored or explained away over the centuries by Muslim interpreters and commentators. The Qur'an requires the Jews' "abasement and poverty," and Muhammad's expulsion of Jewish tribes

from Medina was a compelling precedent much invoked by later Muslim authorities. The *Hadith* (the body of tradition, law, and legend that grew up in the century following Muhammad's death in 632) is scathing in attacking Jews as debased, cursed, anathematized forever by God; cheats and traitors; defiant and stubborn; murderers of the prophets; liars who falsify scripture, and take and give bribes; ritually unclean infidels with a foul odor emanating from them—such is the image of the Jew in classical Islam, degraded and malevolent, and derived in considerable measure from Christian sources. Although in Muslim tradition they allegedly tried to poison him, “the Jews” could not be condemned as “killers” of Muhammad, who, in any event, was neither a Jew nor a god.

The motivations for inflicting disabilities and persecution on Jews were inferences drawn from non-Jews' perceptions of them as dangerous and evil. It was not until the Catholic Church's Second Vatican Council of 1962-1965 that fundamental changes began radically to transform Catholic attitudes toward Jews and Judaism, and to cleanse its teaching of the antisemitism that has so long vitiated it and from which other forms of antisemitism derive, changes that are being adopted in varying degrees by other denominations and churches. Essentially symbolic but nevertheless significant, the 1993 treaty between Israel and the Vatican, *Fundamental Agreement*, commits both parties to “combating all forms of antisemitism and all kinds of racism and of religious intolerance”; in particular, “the Holy See takes this occasion to reiterate its condemnation of hatred, persecution and all other manifestations of antisemitism directed against the Jewish people and individual Jews anywhere, at any time and by anyone.”¹ National legislation in many countries of the world and international law under UN auspices as well as education at many levels are among the numerous ways pursued to combat antisemitism or avert it from taking hold of the mind and imagination, especially of the young. That reformulation and the drafting of corrective legislation and treaties are extremely difficult tasks will come as no surprise to anyone familiar with antisemitism in all its longevity and tenacity and mutability. It is the only form of hatred that is global in its dimensions and requires a panoply of organizations and law—international, regional, national, local—to understand, define, condemn, prosecute, and ultimately extinguish this human affliction.²

1. Stephen J. Roth, “The Legal Fight against Anti-Semitism—Survey of Developments in 1993 and 1994,” *Israel Yearbook on Human Rights*, 25 (1995): 369.

2. For fuller elaboration, see Frederick M. Schweitzer, chapter on antisemitism and international law, in *North American Antisemitism*, Brill, in preparation; for the origins, history, and nature of antisemitism, see Marvin Perry and Frederick M. Schweitzer, *Jewish-Christian Encounters over the Centuries* (New York: Peter

HISTORICAL BACKGROUND

Efforts to checkmate antisemitism and vindicate Jewish civil and religious rights had to wait until the modern era. The history of these efforts can be traced in diplomatic congresses that addressed in varying measure the suffering or status of Jews, sometimes by definite mention of them, more often by reference to groups or categories that implicitly included Jews—in more recent decades by citation of universal categories such as human rights, democracy, racism, freedom of religion, and so on. Thus, the 1941 Atlantic Charter proclaimed the Four Freedoms: of speech and religion, and from fear and want; in planning for peace and the United Nations at the 1944 Dumbarton Oaks conference, participants urged creation of a world body that would “promote respect for human rights and fundamental freedoms”; the 1945 UN Charter calls for “universal respect for, and observance of, human rights and fundamental freedoms for all” (although there is no provision for minority protection). There were at least ten diplomatic conclaves from the 1814-15 Congress of Vienna to the 1913 Bucharest Conference that considered the question in some form. In 1867, a British diplomat informed the United Principalities (as Romania was then known), that “the peculiar position of the Jews places them under the protection of the civilized world,” and, indeed, as it developed down to the minorities treaties of 1919 and under the League of Nations, the international system of human rights had been brought into existence largely to protect the Jews of east central Europe.³ By 1878, diplomats invoked “the standard of civilization” in treaty settlements, meaning the rule of law, civil liberties, and minority guarantees. Examples of “humanitarian intervention” in behalf of Jews include: in the Ottoman Empire over the 1840 Damascus ritual murder accusation by Britain; Napoleon III’s attempt to include emancipation of Romanian Jews in the 1856 treaty of Paris ending the Crimean War, and again in 1858; the several diplomatic intercessions from the 1860s to 1902

Lang, 1994); Marvin Perry and Frederick M. Schweitzer, *Antisemitism: Myth and Hate from the Middle Ages to the Present* (New York: Palgrave Macmillan, 2002); Marvin Perry and Frederick M. Schweitzer, *Antisemitic Myths* (Bloomington: Indiana University Press, 2008).

3. Nathan Feinberg, “The International Protection of Human Rights and the Jewish Question,” *Israel Law Review*, 3 (October 1968): 490; Natan Lerner, “Anti-Semitism as Racial and Religious Discrimination under United Nations Conventions,” *Israel Yearbook on Human Rights*, 1 (1971): 105-106; Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878-1938* (Cambridge: Cambridge University Press, 2004), xv; Jennifer Jackson Preece, *National Minorities and the European Nation-States System* (New York: Oxford University Press, 1998), 55-66.

in Romania over denial of citizenship to Jews as “foreigners” because only those of “Christian persuasion can obtain naturalization”; and in Russia in 1911-13 in the Beilis case. In 1945 it was trenchantly argued that, in an attempt to broaden the jurisdiction of the upcoming Nuremberg trials to include persecution of Jews in Nazi Germany prior to the war, “for the last century there have been many interventions for humanitarian reasons. All countries have interfered in [the internal] affairs of other countries to defend minorities who were being persecuted.”⁴

The 1878 treaty of Berlin settling the Russo-Turkish war was a landmark accord. The great powers declared legal equality for Jews to be a binding principle of international law, although the treaty provided no mechanism for enforcement. Jews worked assiduously and lavished funds to mobilize the press, parliamentarians, and governments to support minority rights, and they energetically lobbied delegates at Berlin—Gerson von Bleichröder, Bismarck’s banker and confidential advisor in the lead, together with Alphonse-Isaac Crémieux, head of the first Jewish defense organization, the Alliance Israélite Universelle. The famous Article 44, on Romania and ten other of the treaty’s 66 articles, guaranteed to the—unnamed—Jews of Bulgaria, Montenegro, Romania, and Serbia religious freedom, equality of civil and political rights, entry into the professions, and commercial and industrial rights in return for recognition of the sovereign independence of the four new nations by the great powers; the Ottoman Empire also subscribed to the guarantees. Romania defied Article 44 by its relentless persecution of Jews, and a cynical Bismarck and the increasingly preoccupied European powers did not trouble to intervene. They were reminded of this indifference from time to time by the American government, such as the 1902 protest to Romania of its violations of the Berlin treaty and a summons—punctuated by copies of the treaty text—to the seven signatories to do their duty under international law. Britain expressed some interest, but the rest were indifferent or opposed. More failed minorities diplomacy ensued: the treaty of London, March 1913, concluding the First Balkan War, recognized the independence of newly created Albania and reiterated, *pro forma*, the principles of Article 44. It was, in effect, torn up by the treaty of Bucharest, August 1913, concluding the Second Balkan War; the belligerents negotiated among themselves, quite indifferent to the great powers, and made no pretense of including the principles of Article 44 despite the lobbying of Jewish NGOs. So Romania continued its antisemitic persecutions with impunity, gaining the northern part of Dobrudja, and

4. William A. Schabas, *Genocide in International Law: The Crime of Crimes* (New York: Cambridge University Press, 2000), 35.

Greece acquired the port of Salonika and its 90,000 Jews, both at Turkey's expense.

In practice, the system of minority rights created at Berlin was a dismal failure, as the persecution of Jews persisted and increased, and antisemitism flared as a backlash to Jewish demands for "special rights" as well as the growing strength of the racial ideology and the national crises of war and depression. In theory, however, a significant breakthrough had been achieved. The Berlin treaty established the legal principle that, to be recognized as independent, "new" or "expanded" states, as in 1878 and again in 1919, had to adhere to treaty agreements guaranteeing Jews and other minorities religious freedom and political equality and civil rights, and to be subject to intervention in cases of violation of the guarantees. Such interventions went against the most powerful force of the nineteenth century, nationalism or national sovereignty, and violated the diplomatic principle—almost a taboo—of non-intervention. The 1878 precedent and, more generally, the hundred or more years of humanitarian interventions by force or threat of force by the great powers acting on "the principles of humanity" have been interpreted by some jurists as the source in international law of the idea of crimes against humanity.

The collapse of four multinational empires—Austria-Hungary, Germany, Ottoman Turkey, and Russia—in World War I threw an unprecedented number of minorities into new and old states, where many of them, Jews in particular, were regarded with suspicion and hostility that inspired massacres, expulsions, and pogroms in the new Poland as severe as in the old Romania, and in the frightful civil war between Reds and Whites in Russia and Ukraine. For the Jews, it was a situation that cried out for the creation of a system of minority rights to be guaranteed by the new League of Nations. The postwar climate was favorable to safeguarding minorities in the possession of fundamental rights, partly because the peace treaties reduced the number of Europeans living under alien rule from about 60 million before 1914 to between 20 and 25 million.⁵

At the 1919 Paris peace conference, Western Jewish NGOs played an extraordinarily important role in enlisting and sustaining support through many crises for minority rights in east central Europe, partly because the defeated nations, together with communist Russia, were barred from the conference, but also because representatives of minorities, whether new or existing ones, failed to show up. While Jewish leadership was divided and often riven by personal quarrels, it is likely that except for their strenuous efforts a more defective or incomplete minority rights system would have

5. Michael Marrus, *The Unwanted: European Refugees in the Twentieth Century* (New York: Oxford University Press, 1985), 69-70.

emerged, or none at all. Indefatigably, they published documents and statistics, lobbied the press and public forums, and plied the great powers and minority states with numerous proposals and draft treaty provisions. These Jewish NGOs fell into essentially two groups: One group, described as the “nationalists,” included Zionists and pressed for religious, language/cultural, and political rights, proportional representation in local and national elections, autonomy for communal organizations, protection of Sabbath observance and the right to trade on Sundays, a central Jewish bureau functioning as part of the central government, and the right of representation at international organizations like the League of Nations; the other group of Jewish NGOs can be designated non-nationalists or anti-nationalists and were similar in outlook to their counterparts of 1878: they sought religious, civil, and social rights and freedoms for Jews as citizens rather than as a community. Among the diplomats and delegates at Paris the prevailing conceptions of minority rights focused on the group or community rather than the individual.

Jewish NGOs’ plans and proposals were submitted to the Big Four, who deleted many and watered down others in the face of fierce resistance to what the representatives of the new and enlarged minority states resented as a “diktat.” They angrily denounced “special privileges” for Jews/minorities as an infringement of their sovereignty that would expose them to foreign intervention in their internal affairs. They were determined to be, as Romania’s constitution proclaimed, “national, unitary, and indivisible,” and wanted to treat their minorities as they saw fit. As in previous peace settlements, like those concluding World War I, international recognition of the independence of the “new” states hinged on their legal and constitutional guarantees of minority rights. The Polish treaty was the model for others, and as the president of the Paris peace conference, Georges Clemenceau, explained in the covering letter presenting the treaty for signature by the hostile premier-foreign secretary and composer-pianist of Poland, the “moderate” Ignacy Paderewski: the proviso that recognition of Polish independence is contingent on the guarantees to the minorities “is an accepted part of European public law” for which “there are many precedents,” particularly as “explicitly approved by the [1878] Congress of Berlin.”⁶ More resentment was generated by the great powers’ refusal to commit themselves to a program guaranteeing rights and liberties for their own minorities, such as, it was noted, the blacks in America. The failure to insert president Woodrow Wilson’s proposal (owing to lack of unanimity) in the League’s Covenant to define minority religious and civil rights so as to

6. Nathan Feinberg, “The International Protection of Human Rights and the Jewish Question,” 497.

empower the Council to guarantee and enforce them in all states was a great setback, for it meant that, as in the past, minority status would depend on separate agreements or treaties with each of the states, which, as exemplified by the 1913 treaties ending the Balkan wars, were bent on evading the guarantees as much as possible. Another serious failure in 1919 was visited upon Japan's proposal, the first attempt in history, to incorporate the principle of universal racial equality in the Covenant of the League, which won a majority but was rejected on the grounds that the vote was not unanimous.

Various Jewish representatives pressed for the right of minorities to appeal directly to the League's Council, but it was rejected; the demand that minorities be enabled to appeal judicial decisions in national courts on minority rights to the Council was much debated but ultimately rejected, also after vituperative opposition. Only member governments could appeal to the Council; contested decisions were to be resolved by the Permanent Court of International Justice that was established under the League in 1922. As finally worked out in complex detail, enforcement of the minorities provisions fell to the member states of the Council, where a single member could veto any plaintiff's petition, an arrangement parallel to that under the Berlin treaty and making enforcement extremely difficult, as had been experienced after 1878. The Permanent Court was empowered to intervene in disputes or provide guidance on minority rights, and it took a few modest steps toward establishing universal jurisdiction in certain types of cases; on occasion, it was able to remind conflicting parties of their obligations, as in 1935, when it eloquently stipulated that the minorities treaties were intended to "secure for certain elements incorporated in a State, the population of which differs from them in race, language or religion, the possibility of living peaceably alongside that population and co-operating amicably with it, while at the same time preserving the characteristics which distinguish them from the majority, and satisfying the ensuing special needs."⁷ The Covenant allowed for amendment ("reconsideration") of the treaties by League members. By 1929, there were some 25 bilateral agreements that weakened the minority system; on the whole, the new formulations were less specific and less stringent than the language of the treaties, were limited to general principles and mechanisms to handle disputes, and tended to nudge the great powers out of their enforcement role. While the League established elaborate procedures for investigation and evaluation, it lacked adequate recourse procedures for redress of violations of minority rights, whether the victims were individuals or collectivities, a weakness that remains a perennial failing of international humanitarian law.

7. William A. Schabas, *Genocide in International Law*, 23-24; the PCIJ was superseded in 1946 by the UN's International Court of Justice.

Another serious shortcoming was the lack of concrete penalties or punishments for infractions, which, when added to complex procedures that resulted in interminable delays, induced minorities to give up hope and refrain from seeking redress. Early on, the League rejected the far-seeing proposal of Lord Robert Cecil that violations be treated as threats to international peace, a principle that would have made forceful action and intervention more distinctly imperative, as prevails today under UN auspices.

By the summer of 1920, the minority states—Czechoslovakia, Greece, Poland, Romania, and the Serb-Croat-Slovene state that became Yugoslavia—had signed treaties, and minority provisions were inserted in the peace treaties with Austria, Bulgaria, and Hungary. Jews were specifically mentioned in four of the peace treaties, five minorities treaties, and several unilateral declarations concerned with protecting minority religious and civil rights. Yet most of the agreements made no specific mention of special Jewish rights; more typically, very minor cultural rights inserted in the Greek treaty did not prevent harsh hellenization of Salonika's large Jewish population. The Romanian treaty recognized all Jews resident in Romania as citizens and prohibited their relegation to "alien" status, reiterating, though in vain, the provision in the Berlin treaty that had been consistently flouted. Not surprisingly, the treaty framers and international jurists dedicated to implementation anticipated the danger of genocide and the general persecution of minorities (they had only to look about the continent to witness multiple atrocities) by their affirmation of the "right to life" of vulnerable national, ethnic, or religious groups in at least four peace treaties: those with Czechoslovakia, Poland, Romania, and the future Yugoslavia. Thus, "Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion."⁸ By 1924, Albania, Estonia, Finland, Latvia, and Lithuania were admitted to the League, but only light demands were put on them; often, they had merely to issue a *pro forma* declaration to protect minority rights. Turkey was also brought into the League's minorities regimen. By 1925, the League's Minority Section was responsible for 15 states and 50 minorities. Though it was one of the defeated nations, under the Versailles Treaty Weimar Germany was not compelled to guarantee minority rights within its shrunken boundaries, and it was barred from the League until 1926, when it was admitted and became a permanent member of the Council. With an irredentist eye focused on its former citizens and territories lost to the new or expanded states on its borders, Germany quickly became the foremost advocate of minority protection: it submitted proposals to make the League's procedures fairer and more open and speedier, and

8. William A. Schabas, *Genocide in International Law*, 23.

to extend the minority system, even urging that it be universal. But in 1929, although hailed in some quarters as “the year of minorities,” opposition by the great powers, the minority states, and the League’s secretariat beat the proposal down.

Jews celebrated the minorities treaties as a great victory, but one assumes their elation did not last long amid continued hostility and persecution in Poland and Romania and elsewhere, the default of the isolationist United States—the League’s main creator and author of the minorities treaties—the withdrawal of Japan, Soviet Russia outside and hostile, fascist Italy inside and hostile, Britain and France increasingly aloof and paralyzed, and the mounting enmity of the minority states. Germany withdrew from the League in October 1933, which meant that there was no international mechanism to protect German Jews from Hitler’s persecutions except in Upper Silesia, where a special convention under the League ran until 1937 and held Nazi persecution somewhat in check. In September 1934, Poland declared it would cease to abide by the minority treaty; thereupon, General Felicjan Skladkowski launched his “necessary cruelty” of “economic war” against Polish Jewry. In quick succession, the other minority states except Czechoslovakia renounced all responsibility under the minority treaties. By a grim irony, Hitler got away at the notorious Munich conference in 1938—as two of the architects of the minority system, Britain and France, looked on either in approval or helplessness—with the destruction of Czechoslovakia under the pretext of vindicating the rights of the German minority in the Sudeten area of that unfortunate country, in whose destruction he was joined by two other beneficiaries of that system, Poland and Hungary, under the same pretext in behalf of their nationals. As was clear at the time, 1938 was the death knell of minority protection; the obvious lesson was that the minority guarantees were only as strong as the peace settlements, and would stand up only as long as those settlements endured and the great powers remained united to enforce them through the machinery of the League of Nations.⁹

By 1940, the system of protection of minorities’ rights, as a theory, had forfeited the credence it had long enjoyed (owing in good measure to the resentment and resistance by those states that were supposed to abide by it) and given way to the concept of universal protection of the human rights of individuals, as proclaimed in the 1945 United Nations Charter (which has no clause for minority protection) and its 1948 Universal Declaration of Human Rights. Nevertheless, the post-World War I minorities treaties,

9. Jacob Robinson, “International Protection of Minorities: A Global View,” *Israel Yearbook on Human Rights*, 1 (1971): 63-75; this is a searing account by a close observer and participant.

together with nineteenth-century diplomatic precedents, provided important examples and helped set the pattern for the development of international human rights law after 1945. The ultimate failure in practice notwithstanding, the necessity for special protection of national minorities was recognized, both morally and juridically, and those years saw the first attempt to launch an international criminal court, an idea that had taken fairly definite shape by 1937 in a treaty adopted by the League of Nations but was a casualty of the world crisis. The interwar experience is the starting point of Raphael Lemkin's pioneering treatise, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (1944), in which he coined the term "genocide" and made the case that it be designated a crime under international law and prosecutable in an international court. In many ways, the creation of the modern international human rights legal system represents a resumption of the ground-breaking efforts of the interwar period, and owes much to Lemkin's heroic activism.¹⁰ Lemkin was a one-man lobbying machine, interceding with heads of state and delegates, urging on the deliberations of planning committees, and plying all and sundry with articles, memoranda, letters to the editor, and much else. In the aftermath of the disintegration of the Soviet Union, 1989-1991, some observers saw a striking parallel between the new states that emerged with new boundaries and minorities trapped in hostile settings, and the aftermath of World War I, when the disintegration of multinational empires saw the emergence of new states with new boundaries and minorities trapped in hostile settings. Witnessing the renewed horrors of ethnic persecution and denial of human rights, Mikhail Gorbachev was not alone in advocating the revival of the interwar minorities treaties.¹¹

PRECEDENT-SETTING TRIALS

While the 1919 Versailles Treaty called for the trial of Kaiser Wilhelm II and other German war leaders for violations of international morality and treaties in an international court, it was not implemented; the treaty also required German courts to prosecute German soldiers charged with war crimes, but these Leipzig trials turned into fiascos, for only about twelve men were actually tried; some were acquitted, while those convicted were given very light sentences, giving a decided boost to the superior-orders

10. For this line of interpretation, see William A. Schabas, *Genocide in International Law*, 23-30, and generally chap. 1.

11. Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878-1938* (Cambridge: Cambridge University Press, 2004), xv.

defense. The international amnesty for Turkish persecutors of Armenians meant that no trials were held, emboldening Hitler to feel that his genocidal actions could be pursued with the same impunity. The great milestone in establishing international authority to punish heinous crimes committed in wartime was the Nuremberg Trial, or International Military Tribunal (IMT), 1945-46. It prosecuted 21 major German war criminals in three categories of indictment: conspiracy to commit aggressive war, plus the two that covered the annihilation of Europe's Jews, although their fate was not a main focus of the IMT: war crimes and crimes against humanity. The IMT was partially stymied by the legal-diplomatic principle that barred intervention in the domestic affairs of a sovereign nation. Thus, it did not prosecute the Nazi regime's crimes committed in Germany against its own nationals, Jews and political opponents. The IMT also refrained from prosecuting Nazi crimes committed before the outbreak of war on September 1, 1939; this restriction stemmed from IMT's charter. Thanks in considerable measure to strenuous lobbying by Jewish NGOs, the charter made Nazi atrocities against civilians prosecutable under the category of crimes against humanity, but it limited that severely by the stipulation that only those crimes against humanity and war crimes perpetrated in the conduct of the war were to be prosecuted; lacking that link, atrocities were unprosecutable or prosecutable with great difficulty.¹² These limitations did not thwart IMT

12. An often ignored body, the United Nations Commission for the Investigation of War Crimes (UNCIWC), 1943-48, was set up to compile evidence of war crimes, and ultimately accumulated over 8,000 files for some 36,000 individuals and what it designated "criminal organizations" like the Gestapo. The UNCIWC was directed, as international law then stipulated, to limit itself to war crimes committed against Allied nationals and exclude those committed by Germany against its own nationals and those of its Axis allies, which would have meant that atrocities against Polish Jews would, but against Romanian and Hungarian Jews would not, constitute war crimes, a narrow definition insisted upon by the U.S. State Department and the British Foreign Office, and was modified only with great difficulty late in the war. The UNCIWC sought to define war crimes, to establish whether aggressive war was a war crime, and whether German atrocities committed before the outbreak of the war were subject to prosecution; it recommended the creation of a treaty-based international military court to try war criminals jointly with national courts, and proposed that "crimes committed against any person without regard to nationality, stateless persons [whether] because of race, nationality, religious, or political belief, irrespective of where they have been committed," be punishable as war crimes or, in some instances, as "crimes against humanity," a term it helped make current. See *Encyclopedia of Genocide and Crimes against Humanity*, 1103. The London charter and thus the IMT followed in the wake of the UNCIWC, adopting its wider definition of war crimes, of crimes against humanity (though a narrower definition than the UNCIWC's), its concept of aggressive war, of criminal organizations, and prosecution of the enemy for crimes against its own

inquiry and voluminous documentation of prewar Jewish persecution, but there were no trials or convictions on that basis. And so the proud claim of the American chief prosecutor, Justice Robert Jackson, that the IMT established “that to persecute, oppress, or do violence to individuals or minorities on political, racial, or religious grounds in connection with such a war [of aggression], or to exterminate, enslave, or deport civilian population, is an international crime” loses some of its luster in the light of the necessary “connection” with the war—what has been called “the Jackson nexus.” It also meant that such crimes as may have been committed by the Allies were out of legal bounds.¹³ Jackson noted what has come to be seen as an essential element of all such trials—that the documentary record was compiled “with such authenticity and in such detail that there can be no responsible denial of these crimes in the future and no tradition of martyrdom of the Nazi leaders can arise among informed people.”¹⁴ In later years, the “nexus” limitation was abolished, but finally gave way definitively to universal jurisdiction only in the 1990s.

Raphael Lemkin (in a strategic position as advisor to Jackson) had succeeded in having “genocide” added to the indictment under war crimes—extermination of “Jews, Poles, and Gypsies and others”—but not with regard to crimes against humanity. In their summations, the British and French prosecutors did use “genocide” as a formal, legally defined term for the first time. Lemkin hoped that the IMT would employ the term in its judgments, but the tribunal did not do so and it convicted no one of that crime; yet, the terminology it employed in the sentences it pronounced is frequently synonymous with “genocide.” Lemkin concluded that the IMT made “an advance of 10 or 20 percent” in outlawing genocide.¹⁵

nationals, and contributed its lists of war criminals and organizations as well as the evidence for the crimes they committed to the IMT and later courts. The charter and thus the IMT did not follow the UNCIWC in the matter of war crimes/atrocities committed before 1939, nor war crimes/atrocities committed by the Allies (discussed extensively within the UNCIWC), which were excluded from the IMT’s jurisdiction. Basing itself on the League of Nations treaty of 1937, the UNCIWC also prepared a “Draft Convention” for an international criminal court. In any event, the UNCIWC should be remembered for traveling some distance toward universal jurisdiction of a permanent international criminal court.

13. Robert H. Jackson, *The Nürnberg Case* (1947; reprint, New York: Cooper Square Publishers, 1971), xv; Dinah L. Shelton, Ed., *Encyclopedia of Genocide and Crimes against Humanity* (Macmillan, 2004), 593.

14. Dinah L. Shelton, *Remedies in International Human Rights Law*, 2nd ed. (New York: Oxford University Press, 2005), 397.

15. Samantha Power, *“A Problem from Hell”: America in the Age of Genocide* (New York: Basic Books, 2002), 50-51.

The IMT was responsible for several precedents and innovations. It made the first formal use of “crimes against humanity” in legally binding documents and decisions. At the time and since then, there was much ado that the term had never been part of international criminal law; that fact exposed the IMT to allegations that its proceedings were *ex post facto* justice, violated the ancient principle of *nullam crimen nulla poena sine lege*, and were therefore illegal. But IMT’s charter cites treaties and customary international law that were binding on Germany at the time the crimes were committed, thus disposing of the issue, and in this the IMT has been followed by all comparable courts since.¹⁶ The IMT also set the example—confirmed by the Tokyo war crimes trials—that crimes against humanity and genocide were so heinous that trial and punishment of perpetrators ceased being the sole prerogative of the country where they were committed and became the duty of an international body representing the humanity against whom crimes had been committed; the principle was confirmed and extended by the UN Convention on the Prevention and Punishment of the Crime of Genocide of 1948 and other UN documents as well as later trials. The IMT also established the precedent by which the plea of perpetrators that they were not responsible for crimes they committed in obedience to superior orders (“*Ich habe kein Schuld.*”) was inadmissible, that superiors and subordinates alike are liable. Some precedents set by the IMT have disappeared from international jurisprudence, although only after long debate and not beyond revival. One was the criminalization of whole organizations like the Nazi party, the Gestapo, and SS, making members automatically guilty or subject to trial. Another that has been abandoned in later trials was IMT’s trial, conviction, and sentencing of an accused (Martin Bormann) in absentia. Also gone is the conception of *conspiracy* to commit aggressive war (the IMT itself had discarded *conspiracy* as a necessary element of indictments for war crimes or crimes against humanity). In 1946, the famed American columnist Walter Lippmann expressed high hopes that have not been fully realized but are certainly, as this article bears out, not beyond fulfillment: “For my own part, I do not think it rash to prophesy that the principles of this trial will come to be regarded as ranking with the Magna Charta, the habeas corpus and the Bill of Rights as landmarks in the development of law. The Nuremberg principle goes deeper into the problem of peace, and its effect may prove to be more far-reaching than anything

16. In 2010, reviewing the reconstructed film of 1948, *Nuremberg: Its Lessons for Today*, Ian Buruma repeated the old chestnut about “victors judging the vanquished according to laws that did not exist when the crimes were committed,” *The New York Review of Books*, November 21, 2010, p. 42.

else that has yet been agreed to by the peoples of the world.”¹⁷ In his retrospective sixty years after, Yoram Dinstein testifies to substantial progress: “It is impossible to overestimate the contribution of the IMT to the development of international criminal law”; it represents an “immense achievement.”¹⁸

While the IMT was still in session, in December 1945 the Allies modified the charter in a document known as Control Council Law No. 10 (Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity) by which the nexus linking aggressive war and crimes against humanity was severed. Control Council Law No. 10 served the U.S. Military Tribunal, 1946-1949, as the basis for a series of trials in its zone of occupied Germany prosecuting members of the Nazi political, judicial, military, economic, and medical professions and leadership. The law opened the way to prosecution of Nazi crimes against German Jews and others in Germany for the entire span of 1933 to 1945; some perpetrators were found guilty of genocide—the term attaining more frequent and formal use in these later trials—committed before the war. Britain proved less dedicated to the cause of vindicating human rights, and it proclaimed to the Commonwealth countries (Australia, Canada, New Zealand, South Africa, and others) who went along, that, as of August 31, 1948, it proposed to stop prosecuting German war criminals in its occupation zone: “Punishment of war crimes is more a matter of discouraging future generations than of meting out retribution to every guilty individual,” specified a cabinet policy document that remained secret for many years; “It is now necessary to dispose of the past as soon as possible.” It even opposed the creation of the Genocide Convention, arguing at the assembly deliberating its provisions, “Nuremberg was enough.”¹⁹ This reluctance to prosecute was widespread in the West and lasted through the Cold War. The United States could not legally bring criminal action against persons who committed crimes outside the country except if the crimes were against American citizens; as of 1979, however, under the law creating the Office of Special Investigations, civil suits resulting in deportation have been brought against persons who entered the country and/or gained citizenship by concealing their criminal past. In the 1980s, Britain, Australia, and Canada, rather than follow the

17. Leila Nadya Sadat, “The Nuremberg Paradox,” *The American Journal of Comparative Law*, 58 (Winter 2010): 152, n. 1.

18. Yoram Dinstein, “The International Military Tribunal,” *Israel Yearbook on Human Rights*, 37 (2007): 1, 18.

19. Rudolph Braham, “Canada and the Perpetrators of the Holocaust: The Case of *Regina v. Finta*,” *Holocaust and Genocide Studies*, 9 (1995): 296; Samuel Totten and Steven Jacobs, *Pioneers of Genocide Studies* (New Brunswick, NJ: Transaction Publishers, 2002), 390-91.

American example, instituted procedures to try alleged Nazi war criminals in their national courts but with disappointing results.

As of 1955, West Germany and then the reunited Federal Republic of Germany undertook to conduct trials of Nazi perpetrators in its own courts under Control Council Law No. 10. Total jail time imposed on Nazi perpetrators of genocide or crimes against humanity has been miniscule. Willi Dressen, a former German chief prosecutor at Ludwigsburg, estimated that up to 2005 the total number of persons investigated in criminal proceedings by German courts was 106,000, but only 6,500 defendants were tried, of whom 166 were sentenced to prison for life. "The plain statistics," he said, "show therefore that the sentences imposed for murder was ten minutes each."²⁰ It is the same dismal failure of justice that a commissioner for human rights lamented in observing that "a person stands a better chance of being tried and judged for killing one human being than for killing 100,000." But at least mass murder did constitute the crime of genocide, which was an advance over the situation that Raphael Lemkin had decried: "Why is a man punished when he kills another man? Why is the killing of a million a lesser crime than the killing of a single individual?"²¹

Adolf Eichmann was the high-ranking Nazi and SS officer who directed the mass deportation of Jews to ghettos and extermination camps. He escaped to Argentina until he was abducted in 1960 by Israeli secret agents and tried by an Israeli court. Eichmann could not be tried under the Genocide Convention, which prescribes an international court such as the IMT or a court in the country where the crimes were committed, and therefore he was indicted for crimes against humanity and war crimes under customary international law that can be tried in the court of any nation. Argentina protested the "violation of the sovereign rights of the Argentine Republic" and the UN Security Council passed a resolution declaring the abduction illegal, requiring "appropriate reparation," but it also acknowledged that "this resolution should in no way be interpreted as condoning the odious crimes of which Eichmann is accused." Sixteen states submitted depositions for Eichmann's defense on the grounds that his abduction violated international law. On conviction, his appeal to the Israeli supreme court failing and his appeal to the president for mercy was rejected, and he

20. Willi Dressen, speech at the Politische Akademie in Tutzing, Bavaria, *Akademie-Report*, Nr. 3/2005, 31.

21. Raphael Lemkin, "Totally Unofficial Man?," in Samuel Totten and Steven Jacobs, *Pioneers of Genocide Studies* (New Brunswick, NJ: Transaction Publishers, 2002), 371. Though it may be an editor's sharper rewording of the quotation, Lemkin is also said to have asked, "Why is it a crime for one man to murder another, but not for a government to kill more than a million people?"

was hanged. While the trial was a purely national undertaking, the court adhered to the principles and precedents of the IMT, but like trials before and since, it broadened the scope of crimes against humanity. The Eichmann trial is comparable to the IMT in the full historical record it compiled, adhering to standard rules of evidence and procedure and providing documentary material for later trials as well as historians.²²

Two ad hoc tribunals, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) were created respectively in 1993 and 1994 by the UN Security Council under Chapter VII of the charter, empowering it to preserve or restore “international peace and security.” They too set important precedents. The civil war and ethnic persecution that punctuated the disintegration of Yugoslavia had a vivid impact on the West. The scale of the atrocities and their visibility on nightly TV reporting “death camps” ringed about with barbed wire and “ethnic cleansing” that laid out rows of corpses, and the fact that the barbarity went on in Europe within living memory of the horrors of World War II, brought the Holocaust once more powerfully to mind and galvanized world opinion to take forceful action. The ICTY trials—pursuing indictments for crimes against humanity, war crimes, genocide, and aggression—refined the definition of genocide with regard to “intent”; because demonstrating proof of motive or intent is extremely difficult, and ICTY failed in some instances, in appeal proceedings it created a lesser but still very serious charge of “aiding and abetting” genocide. That refinement enabled the court to avert the imbroglio of intent and to convict rather than release the accused for insufficient evidence. Also part of ICTY’s jurisprudence was its decision that ethnic cleansing, together with additional evidence, could suffice to establish genocidal intent. Signaling the advance since IMT’s breakthroughs half a century earlier, ICTR was empowered by its statute to prosecute genocide, conspiracy to commit genocide, incitement to commit genocide, attempting to commit genocide, and complicity in genocide. Its conviction of the prime minister of Rwanda, Jean Kambanda, made him the first (former) head of state to be found guilty of genocide. In its media case, ICTR convicted leading journalists, editors, and TV moguls of incitement to genocide—the first time since Julius

22. Matthew Lippman, “Genocide: The Trial of Adolf Eichmann and the Quest for Global Justice,” *Buffalo Human Rights Law Review*, 8 (2002): 45-121; Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven: Yale University Press, 2001), 97-182. For several other pivotal trials—such as of Klaus Barbie, Paul Touvier, and Maurice Papon, all in France, and of Imre Finta in Canada—which are more national in significance, see Frederick M. Schweitzer, chapter on international law, in *North American Antisemitism*, Brill, in preparation.

Streicher and IMT that such a case had been brought. The defense lawyers' invocation of freedom of speech was rejected on the grounds that "promotion of ethnic hatred" is hate speech and therefore unprotected. Perhaps ICTR's most significant advance, though, was its ruling that mass rape and other forms of sexual brutality can be construed as genocide, the first time that an international court made such a finding. Together, ICTY and ICTR firmly established the precedents of jurisdiction over such crimes, whether committed in wartime or peacetime, and whether committed within a sovereign state or across international boundaries.²³ Two other important international criminal tribunals, the Khmer Rouge Tribunal for Cambodia and the Special Court for Sierra Leone, were created by the Security Council. Charles Taylor, the warlord president of Liberia, was convicted by the Special Court in April 2012 of crimes against humanity and war crimes committed at his behest in neighboring Sierra Leone. This was a milestone, as Taylor became the first head of state to be convicted since the IMT convicted Admiral Karl Dönitz, who had briefly succeeded Hitler; Taylor may yet undergo trial for comparable crimes in Liberia.

ICTY and ICTR were not without their critics, during and since: the proceedings were allowed to drag on for far too long—so that the president of Serbia, Slobodan Milošević, died before his trial could be concluded; they were too much concerned with getting the small fry and not the big fish; the chief prosecutors came and went in too rapid a succession; the tribunals did too little to effect reconciliation of the parties in the aftermath of the conflict; and other criticism. Two of the biggest fish, the authors of ethnic cleansing—Radovan Karadžić, president of the Bosnian Serb Republic of Srpska, and the commanding general of its army, Ratko Mladić—were indicted by ICTY in 1995 on multitudinous crimes against Bosnian Muslims and Bosnian Croats. They disappeared into hiding, but have since come into custody and are being tried by ICTY in The Hague. The UN's decision to conclude the work of both tribunals in 2008 (for trials) and 2010 (for appeals) did not prevent ICTY from resuming its prosecutorial work, especially as the UN had eliminated time limitations for prosecution of such crimes, rendering them imprescriptible, in 1968 (came into force in 1970) by the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Europe followed with an analogous convention in 1974.

The IMT and other pivotal trials helped sustain efforts to create a permanent international criminal court, efforts that persisted intermittently

23. Articles on the ICTR and the ICTY in Dinah M. Shelton, Ed., *Encyclopedia of Genocide and War Crimes*, 547-564; William A. Schabas, *An Introduction*, 10-13.

since the 1920s, though long to no avail. In 1946, a resolution of the UN General Assembly declared genocide a crime under international law and launched the process to create such a court. In 1948, a General Assembly resolution directed the International Law Commission to prepare a statute creating the “international penal tribunal” anticipated in the Genocide Convention. A draft was presented to the UN in 1954 that took its cue from the League of Nations treaty of 1937, but the effort was suspended in the teeth of Cold War animosities and distrust. Finally, a long half century later, spurred on by the experience of ICTY and ICTR, the International Criminal Court (ICC) was born, enacted in 1998 by the Treaty of Rome as a permanent rather than ad hoc tribunal and designed to implement the Genocide Convention’s imperative to apprehend, try, and punish perpetrators of genocide, crimes against humanity, war crimes, and aggression in an “international penal tribunal.” Its statute (the 128 articles read like a précis of a century’s strivings, and many evoke the Holocaust) came into force in 2002, with ratification by sixty states, not including the United States; initially, the United States was one of only seven votes opposed versus 120 in favor, but then the Clinton administration signed, presumably as a first step to ratification, although the Bush administration “de-signed” and campaigned against the ICC in ways that can only be called sabotage. Beginning with the IMT, “no country [USA] has invested more in the development of international jurisdiction for atrocity crimes and no country has worked harder to make sure that the law it seeks for others does not apply to itself.”²⁴ ICC’s statute proclaims that crimes within its jurisdiction are not subject to any statute of limitations; but, still something of a handicap, it has no authority over offenses committed before 2002, and Security Council referrals of cases can be vetoed by Council members, as in the instance of Syria by Russia and China in March-April 2012. One of the compelling features of the ICC is its independence, for while it has important links to the UN and can be stymied by the Council, it is fundamentally untrammled, subject essentially only to the assembly of state parties that created it. Although it took six years, the ICC reached a milestone in 2012, and set a precedent in international criminal law, with its first conviction, that of the Congolese warlord Thomas Lubanga for forcibly recruiting children for fighting and brutality.

The memory of the Holocaust has also inspired efforts not only to punish perpetrators of heinous human rights violations, but also to recompense victims. Virtually all the nearly one hundred regional and global

24. Michael Ignatieff reviewing David Scheffer, *All the Missing Souls: A Personal History of the War Crime Tribunals* in *The New York Review of Books*, April 5, 2012, p. 6; for the Rome statute, William A. Schabas, *An Introduction*, 167-247.

human rights treaties promulgated since 1945 include provision for redress, although there is little definition of what constitutes effective redress or what means are to be used under international law if a particular state fails in its obligation to afford appropriate rectification. Remedies in the form of war reparations can be traced as far back as the seventeenth century, normally in agreements between states such as those required of Germany in the Versailles Treaty of 1919. A distinct new form of claim began to take shape in the course of World War II, when Shalom Adler-Rudel became director of the Central British Fund to assist Jewish refugees. Adler-Rudel was himself a refugee who had suffered Nazi outrages and fled Germany. From 1939, he initiated preparation of a series of precise compilations of Jewish losses and participated in formulating a program for collective indemnification. In 1941, he presented exact figures for Jewish losses suffered in Germany and Austria. Adler-Rudel also laid out the unprecedented nature of the situation—that reparations were not being demanded by one state of another, but instead by a people whose government was inflicting a war of destruction and atrocity on them. Hence, as German occupation engulfed more and more of the continent, demands arose for restitution not only to individuals but to the (stateless) Jewish people for the loss of cultural assets and institutions such as libraries, synagogues, and schools, the obliteration of whole communities, and the “damage done to the very fabric of the Jewish people’s existence.” In the course of the war, the Allies accepted the principle of collective claims in considerable measure, and by 1945, when calculations of losses totaled in excess of six billion dollars, collective reparations had become a key aim. In time, Israel was recognized by the Allies as the claimant in behalf of the Jewish people and a succession of German (Federal Republic of West Germany; East Germany rejected acknowledgement of Jewish claims) compensation laws and agreements were concluded between 1948 and 1965, most notably the treaty of 1952. More recent agreements have been worked out or claims settled in courts pertaining to slave labor, stolen art, expropriated businesses, and the like.²⁵

The innovative plan of collective compensation that began with Shalom Adler-Rudel found its way into the growing number of human rights treaties and became the model for later claimants, such as the Organisation of African Unity (OAU) when it appointed a committee “to explore the modalities and strategies of an African campaign for restitution [for slavery or slave trade] similar to the compensation paid by Germany to Israel and to survivors of the Nazi Holocaust.”²⁶ A further development may be seen in the creation of the UN Compensation Commission by the Security Council

25. Dinah L. Shelton, *Remedies in International Human Rights Law*, 400-404.

26. Dinah L. Shelton, *Remedies*, 451.

in the 1990s, which was established in response to the catastrophic invasion and occupation of Kuwait by Iraq. Much of the commission's concern is directed to human rights violations—among other things, loss of life and physical injury, including disfigurement, medical, and rehabilitation costs; being held hostage; assault and rape; torture; being forced to flee into exile—and property loss, environmental destruction, damage and injury to governments in addition to Kuwait's, as well to foreign nationals and corporations doing business in Kuwait. Both the institution of compensation for Jewish claims against Germany and the UN Claims Commission for Kuwait were ad hoc organizations. A further significant step may have been taken with Article 79 of the ICC's statute. It created a trust fund for "restitution, compensation and rehabilitation" to benefit (future) victims, and their families, of crimes within the ICC's jurisdiction. The funds come from the fines and forfeitures imposed by the tribunal.²⁷

In sum, the Holocaust has had a profound impact on international law, under which imprescriptible crimes are punishable and compensation awarded worldwide in courts that enjoy universal jurisdiction. As Louis Henkin, a renowned lawyer in human-rights legislation, observed, "[T]he abiding and ineradicable memory of the Holocaust has made it impossible for any state to insist that, in principle, how it behaves toward its own people is no one else's business."²⁸ Immigration lawyer David Matas exaggerates but not by much when he says, "The whole contemporary human rights structure had its foundations in revulsion to the Holocaust."²⁹ Another lesson of the Holocaust and an important milestone might be seen in NATO's military intervention in 1999 to defend the Albanians in Kosovo, the first time that massive force was used to defend a threatened minority. The fact that in 1999 the former president of Chile was arrested in Britain to be extradited to Spain for trial for crimes against humanity indicates that heads of state no longer enjoy immunity and impunity (even though his medical condition thwarted the order); Milošević's arrest and trial, the conviction of Kambanda, and the arrest of former Ivory Coast president Laurent Gbagbo to face charges of crimes against humanity confirm the precedent, which is incorporated in the ICC's statute. The institutional framework for international human rights law is the ICC, "a benchmark in the progressive development of human rights" and "perhaps the most innovative and exciting

27. Dinah L. Shelton, *Remedies*, 404-12.

28. Louis Henkin, "Human Rights: Ideology and Aspiration, Reality and Prospect," in Samantha Power and Graham Allison, eds., *Realizing Human Rights: Moving from Inspiration to Impact* (New York: St. Martin's Press, 2000), 17.

29. David Matas, "Canada Properly Adopts New Anti-Semitism, Holocaust Positions," *Winnipeg Free Press Story*, January 27, 2008.

development . . . since the creation of the United Nations.” It has its roots in Article I of the UN charter, the Convention for the Prevention and Punishment of the Crime of Genocide, and the Universal Declaration of Human Rights, established half a century earlier.³⁰ In time it may become possible, though still remote, that genocide, crimes against humanity, war crimes, aggression, and ethnic cleansing could all be subsumed under a unified law of atrocities, one advantage of which may be to avert pedantic equivocations over definition and application. As things stand, we have the greatest hope so far in history that heinous violations of international humanitarian law and human rights law will not be tolerated by the international community, and the prospect that more adequate remedies for violations will be provided through enhanced norms for punishment, restoration and compensation, rehabilitation, deterrence, and reconciliation.

THE UNITED NATIONS AND INTERNATIONAL PROTECTION OF HUMAN RIGHTS³¹

The long struggle in the international arena against antisemitism and for Jewish rights contributed significantly to the general recognition in international law of human and minority rights. Since the 1870s, Jewish groups and organizations—reluctant to be singled out for special pleading or seen as an irritating public presence to give openings to antisemitic agitators—characteristically pressed for human rights for all. “Human rights are indivisible” became a Jewish motto.³² This helps explain why such terms as “antisemitism” or “Jews” or “Jewish community” rarely appear in the documents. Not long into the Cold War, Jews, antisemitism, and like terms dropped out of diplomats’ vocabulary. Sparse use of the terms in treaties or other forms of international law is, no doubt in part, owing to antisemitic biases in the drafters as well as political tension among the various national blocs at international forums. On the other hand, the terms are subsumed or implicit in such terminology as “human/minority rights” or “elimination of racial or religious intolerance” in documents intended to prevent or punish “incitement” of religious, ethnic/racial, or political/national discrimination and violence. Such terms appear in the UN Charter of 1945; the Genocide Convention and the Universal Declaration of Human Rights, both of 1948; the International Covenants on Civil and Political Rights and on Economic,

30. William A. Schabas, *An Introduction*, vii, 20.

31. All the UN documents dealt with here are available online: <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>, the University of Minnesota Human Rights Library: www.umn.edu/humanrts/center/honline.

32. Nathan Feinberg, “The International Protection of Human Rights and the Jewish Question,” 497-98.

Social and Cultural Rights, both of 1966, intended as one document but inability to agree brought forth two; and, in the same year, the International Convention on the Elimination of All Forms of Racial Discrimination, whose Committee on the Elimination of Racial Discrimination (CERD), relatively unpoliticized, has done good work in monitoring compliance and prompting improvements and the enactment of implementing national legislation. These instruments long set the global standard for human rights and automatically included Jews without specifically mentioning them. Jewish suffering was sometimes the occasion for documents to be initiated, a notable example being the Genocide Convention, particularly in that once it was ratified by twenty nations on October 16, 1950, it became the first human rights treaty to be adopted by the UN, and also because there had been strenuous opposition to defining genocide as a crime punishable under international law on the argument that to do so was to deflect international law into an area where it had, supposedly, no business. As emerges from the *travaux préparatoires*, Jewish concerns were often in the minds of the documents' framers or brought to their attention by Jewish organizations. Such circumstances led to human rights guarantees being inserted in the peace settlements with Bulgaria, Hungary, Romania, and Italy in 1947 and Austria in 1955. Implicitly, all these documents outlaw antisemitism, but steadfast attempts to include specific reference to antisemitism long failed. According to UNESCO's eloquent 1978 Declaration on Race and Racial Prejudice, "mass media and all organized groups within national communities" ought to refrain from offering "a stereotyped, partial, unilateral or tendentious picture of individuals and of various human groups," and that "states ought to prohibit and eradicate racism [and] racist propaganda" and "combat racial prejudice," but its authors could not be induced to specify antisemitism.³³

Except in hortatory language, UN efforts to address antisemitism as racial and religious discrimination in one comprehensive document were thwarted by thoroughgoing Soviet indifference to the religious issue and Arab insistence on dispensing with the issue of antisemitism entirely. Attempts to introduce the term in the two separate conventions, when legal logic and outbreaks of "swastika epidemics" revived memories of the racist horrors of World War II appeared to make it imperative, also failed. A first step was taken, though non-binding in law, in 1963 with the UN Declaration on Racial Discrimination, paving the way for the 1965 Convention on the Elimination of All Forms of Racial Discrimination, which is binding. Although the term was very much in the mind of their authors, neither doc-

33. Natan Lerner, "Group Libel Revisited," *Israel Yearbook on Human Rights*, 17 (1987): 195.

ument makes reference to antisemitism, owing to Soviet attempts to intrude condemnation of Zionism and Arab resistance to what they thought would be a manifestation of support for Israel. This unfortunate political wrangling notwithstanding, the convention forcefully condemns unnamed antisemitism. Article 4 takes a powerful stand against racial hatred, whether spoken or written, and requires signatories to condemn all propaganda and organizations based on ideas of inferior races, makes punishable incitement of racial hatred and dissemination of ideas of racial superiority (here the drafters had in mind the Nazis' prodigious output of works—from pamphlets to treatises—on “scientific” racialist biology trumpeting Aryan superiority), and outlaws all organizations that utilize propaganda to incite racial discrimination, hatred, or violence, and demands prosecution of those who participate in or finance such organizations. This strong stand is difficult to reconcile with the convention's citation of Article 19 of the Universal Declaration of Human Rights, an absolute guarantee of freedom of expression that can complicate or even nullify the implementation of the convention.³⁴ In recent years, CERD, which implements the convention, has handed down decisions concerned with antisemitism, such as *Jewish Community of Oslo v. Norway* in 2005. In this case, CERD examined a complaint regarding a Supreme Court of Norway decision that overturned a lower court's conviction under a section of the Norwegian Penal Code prohibiting “a person from threatening, insulting, or subjecting to hatred, persecution or contempt, any person or group of persons because of their creed, race, color or national or ethnic origin.” The conviction was based upon a racist speech by the leader of a neo-Nazi group haranguing marchers honoring Rudolf Hess, whom the IMT had imprisoned for life. The Norwegian Supreme Court dismissed the conviction on the grounds that the speech did not sanction Jewish persecution and genocide; CERD reversed the decision, concluding that the speech had violated the convention by its message of racial superiority and hatred, and its incitement to racial discrimination.

Parallel preparatory work on the racial convention's counterpart on religious intolerance, the 1981 Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief, went on at a much slower pace and with more input from Jewish organizations, but has never gotten beyond the declaratory stage; political tension among the UN blocs again made agreement extremely difficult. The Arabs feared that anyone opposing Israel or Zionism would be branded as

34. Natan Lerner, “Incitement in the Racial Convention: Reach and Shortcomings of Article 4,” *Israel Yearbook on Human Rights*, 22 (1992): 4-10; Natan Lerner, “Curbing Racial Discrimination—Fifteen Years CERD,” *Israel Yearbook on Human Rights*, 13 (1983): 170-188.

antisemitic under the declaration, and other parties argued that it was unnecessary to specify antisemitism since the racial convention already dealt with it and that antisemitism was merely a Western or European issue. Yet it remains true that even though it is unspecified, antisemitism stands condemned in the 1981 declaration, which recognizes the claims of religious minorities and groups and some of the rights and protections afforded to racial/ethnic groups by the racial convention. The declaration's Article 7 urges states to enact laws so "that everyone shall be able to avail himself of such rights and freedoms in practice," but no provision addresses incitement to religious hatred. The declaration, which was adopted by consensus of the General Assembly, is not legally binding as a convention would be, and it remains unclear whether it qualifies, or will eventually qualify, as customary international law. Violation of religious freedom is so widespread that proposals arose to try again to draft a convention that would be binding as international law, but difficulties in reaching agreement continued and the idea of a convention was abandoned in favor of enforcement and public reportage of violations, essentially by national governments rather than under UN auspices.³⁵ The unavailability of adequate recourse procedures for victims of prejudice and discrimination of any kind remains a perennial problem. Many nations, as stipulated by international law, are pledged to tolerance and equality for all, but fail to afford the necessary judicial and administrative procedures and institutions to victims or, where such mechanisms do exist, they are too little known or excessively complicated and time-consuming or prohibitively expensive.³⁶

For many years, attempts to enact specific prohibitions on antisemitism continued to be short-circuited by Cold War phobias and the Arab-Israeli conflict, culminating in the General Assembly's action in 1975, Resolution 3379, equating Zionism with racism. The resolution, which Senator Daniel Moynihan attacked for "giving the abomination of antisemitism the appearance of international legal sanction," violated international law and human rights law as well as the UN Charter and other UN instruments that outlaw discrimination, and was intended to delegitimize Israel in preparation for its expulsion from the UN and set its destruction in train. Since the 1960s, nearly one-third of the resolutions issued by the UN Commission on Human Rights in condemnation of specific violations by states have been directed against Israel. In 2003, 18 resolutions concerned with infractions of human rights singled out Israel, while all other states were the subject of

35. Natan Lerner, *Group Rights and Discrimination in International Law*, 2nd ed. (London: Martinus Nijhoff, 2003), 84-107.

36. Mary Robinson, *A Voice for Peace*, ed. Kevin Boyle (Philadelphia: University of Pennsylvania Press, 2006), 30.

only four such resolutions. Six of the ten emergency sessions summoned by the UN General Assembly were aimed at Israel. The 56 Muslim nations in the UN normally vote as a bloc against Israel. Delegates expressing opprobrious antisemitic or anti-Zionist opinions were never called to order, nor did they seek to delete or soften their invectives in the UN's public record, although many of those verbal assaults constitute incitement or hate speech. Nor was President Idi Amin Dada of Uganda reprimanded for a speech to the General Assembly in 1975 that was laced with allusions to the notorious forgery *The Protocols of the Learned Elders of Zion* and his call for "the extinction of Israel." A new term has had to be added to our vocabulary: "politicide." Such facts and statistics reveal a deep prejudice against Jews and the State of Israel, which remained undiminished until the repeal of the 1975 resolution repeal in 1991. Yet the repeal's significance is easily over-emphasized, because in those 16 years, antisemitism and its twin, anti-Zionism, seeped in to permeate much of the UN structure, and the General Assembly remained an antisemitic bastion legitimizing antisemitism from its rostrum at least until 2004.³⁷

An auspicious development was a 1992 Report of the Secretary-General to the Sub-Committee on the Prevention of Discrimination and Protection of Minorities, which makes repeated reference to antisemitism as a form of racism and calls Holocaust denial "a new form of antisemitism." The follow-up 1993 UN Conference on Human Rights in Vienna did add genocide to its list of infractions, yet, because of destructive amendments, there was no mention of antisemitism as dangerous and a source of violence. The situation was salvaged in some measure by the NGO forum in attendance, which issued a statement designating antisemitism as danger and evil that must be effectively condemned and combated. In the same year, the General Assembly established the position of the high commissioner for human rights; a later holder of the office declared human rights to be "universal, indivisible, interrelated and interdependent."³⁸

The 2001 UN Durban Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was in many respects a debacle. Despite the furious antisemitic rhetoric and the boycott by the United States and Israel, however, the proceedings were not nearly so bleak as casual

37. See the report of the International Legal Conference on Anti-Semitism, and Anti-Zionism and the United Nations, in *Israel Yearbook on Human Rights*, 17 (1987): 9-147.

38. Stephen J. Roth, "The Legal Fight against Anti-Semitism—Survey of Developments in 1993 and 1994," *Israel Yearbook on Human Rights*, 25 (1995): 352; Mary Robinson, *A Voice for Peace*, ed. Kevin Boyle (Philadelphia: University of Pennsylvania Press, 2006), 9.

reading of the media would lead one to conclude. The Durban conference's intended focus was Africa and discussion of slavery and colonialism in quest of reparations for what African and Caribbean delegations wanted to brand "crimes against humanity." The frenzied antisemitic rhetoric, distribution of Nazi-inspired propaganda and cartoons, and antisemitic incidents were the prominent activities at the NGO forum—they were condemned by the UN leadership—rather than the conference. The attempt by Iran and Syria to derail the conference—with a separate "hate-feast" devoted to antisemitic rhetoric again equating Zionism with racism and resolutions calling for Israel's destruction—fizzled. The last stages in preparations for the conference brought the deletion of antisemitic and anti-Israel phrasing, and the text of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (issued in March 2002 with General Assembly resolution 56/206) was agreed upon, reading in part:

¶58: "the Holocaust must never be forgotten";

¶61: "We recognize with deep concern the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities";

¶63 parallels concern with the Palestinians with: "we recognize the right to security of all states in the region, including Israel, and call upon all states to support the peace process and bring it to a successful conclusion."

The declaration has been called the "first global document under the auspices of the UN General Assembly that specifically mentions antisemitism," and Shimon Peres, Israel's foreign minister at the time, praised it as "an accomplishment of the first order for Israel" and a "comedown for the Arab League"—although the conference did issue a declaration that claims Palestinians are victims of Israeli racism; in this all-too-familiar way, Israel is the only country singled out as racist. The 9/11 terrorist attacks on the United States occurred while the conference was underway and did much to obscure and vitiate its achievements.³⁹

The follow-up UN Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban II, held in Geneva in 2009, was a fiasco, though one lesson applied was to eliminate the NGO forum. Preparations went through a similar process of weeding out from the conference's proposed agenda the antisemitic/anti-Israel polemic that

39. Naomi Klein, "Minority Death Watch," *Harper's*, September 2009, pp. 53-67.

originated with Arab-Islamic countries, and steering back to its fundamental concern with slavery and colonialism (which were as problematic for the Arabs as for Western countries). UN protocol, however, requires that conferences begin with speeches by heads of state, all of whom *pro forma* are invited; the only one to come was President Mahmoud Ahmadinejad of Iran, who effectively sabotaged the conference in delivering a vicious antisemitic/anti-Israel speech, wielding every weapon in the arsenal of Jew-hatred and calumny, and confirming the refrain of protesters that “Durban is a joke.” Lately, in the fall of each year the onset of the UN Assembly’s new session brings Ahmadinejad to its roster to spew forth the same rabid antisemitism and anti-Zionism. (Ahmadinejad used the same prerogative in being the only head of state to show up and try to convulse the UN conference reviewing the Nuclear Nonproliferation Treaty, May 3, 2010.)

The UN did finally begin to reverse itself as a bastion of antisemitism in 2004, when it sponsored its first conference to address antisemitism directly and approved a resolution intended to combat religious intolerance. In memorable words, Secretary-General Kofi Annan urged member states to take action to combat the “alarming resurgence” of Jew-hatred: “This time, the world must not, cannot be silent,” and called for a resolution condemning all antisemitic acts and violence and declaring that political developments, in Israel or elsewhere, can never justify antisemitism. This resolution (a similar proposal failed in 2003) is limited to religious intolerance and, though morally compelling, is not binding in law. It “recognizes with deep concern the overall rise in instances of intolerance and violence directed against members of many religious communities in various parts of the world, including cases motivated by Islamophobia, antisemitism and Christianophobia.” The resolution originated with proposals and initiatives emanating from the European Union, which sponsored the resolution at the UN. Attempts to weaken it were defeated, and it ultimately passed unanimously. Annan said, again in memorable words, that in the UN’s efforts to combat religious intolerance, “antisemitism is certainly a good place to start because throughout history it has been a unique manifestation of hatred, intolerance and persecution. Antisemitism has flourished even in communities where Jews have never lived, and it has been a harbinger of discrimination against others. The rise of antisemitism anywhere is a threat to people everywhere. Thus, in fighting antisemitism, we fight for the future of all humanity.” One legal scholar, with hopes that a new era was underway, told the conference that the UN had long been “the leading global purveyor of antisemitism, intolerance, and inequality against the Jewish people and its state,” and that it has provided “a platform for those who cast the victims of the Nazis as the Nazi counterparts of the 21st century.” Another speaker urged that the UN follow the lead of the Organization for Security and

Cooperation in Europe at its conference on antisemitism, held in Berlin two months earlier, and establish a program for tracking antisemitic ideology and incidents worldwide and for a special official to report and initiate or suggest responses to manifestations of antisemitism. In 2005, the General Assembly followed the precedent of the Council of Europe in 2001 in voting to establish an annual UN commemoration of the Holocaust; in January 2007, it passed (by consensus rather than a tabulated vote showing who supported or opposed or abstained) a resolution that “condemns without reservation any denial of the Holocaust” and “urges all member states unreservedly to reject any denial of the Holocaust as a historical event, either in full or in part, or any activities to this end.”⁴⁰

Despite this sweeping reorientation on Jews and antisemitism, the General Assembly essentially adheres to its longstanding anti-Israel stance, and the “anti-Zionism” expressed at its rostrum—when speakers utilize the arguments, emblems, stereotypes, and aims of historic antisemitism—often serves as a fig leaf for antisemitism. In 2005 and 2006, reiterated in September 2009, 2010, and 2011, the president of Iran repeatedly called for Israel to be “wiped off the map,” which clearly constitutes “direct and public incitement” to commit genocide that is prohibited by the Genocide Convention and violates the UN Charter. Secretary-General Ban Ki-Moon reacted critically to the Iranian president’s mockery of the Holocaust and sponsorship of a Holocaust denial conference in Teheran, and added in his remarks, “Nor is it acceptable to call for the elimination of any State or people.” Some NGOs have urged indictment and trial of Iran’s president before the International Criminal Court, but such action is unlikely; in April 2009 the president of Iran repeated the call for Israel’s destruction at the Durban II conference, provoking a walkout of delegates and demands for his indictment. Critics assert that the UN persists in its Manichaeism—that it forcefully addressed antisemitism as a threat to Jews but ignores it as a threat to Israel. Delegates to the General Assembly represent governments/states more than nations/peoples; they can say what they like and enact resolutions as they wish. Yet, one must distinguish the harangues spoken with impunity by delegates in the General Assembly from the activities of UN officials and employees of the Secretariat and other UN agencies, where one finds distinguished public servants who would be insulted to hear their work impugned as antisemitic or anti-Israel, although there certainly are some of these international civil servants who do not measure up to the standard of impartiality and the greater good of the community at large. It still remains to be seen whether the hope of many at the time will

40. <http://www.un.org/holocaustremembrance>.

be borne out that the 2004 conference and resolution mark the dawn of a truly new era at the UN.

EUROPE

The Council of Europe (COE), founded in 1949, was a pioneer in promulgating the European Convention on Human Rights and Fundamental Freedoms (ECHR) the following year and nine years later in establishing the European Court of Human Rights (ECtHR) to enforce it; by the many deterrent, penal, and educational measures it has taken or urged, COE preceded and established the pattern for the UN system of human rights. In the early 1990s, renewed concern with antisemitism in Europe generated considerable progress by the Conference on Security and Cooperation in Europe (CSCE), the COE, and the European Union (EU). CSCE's 1990 Copenhagen conference issued the first international instrument since 1945 concerned with antisemitism, positing that its member states "clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds," and member states pledged themselves to combat these phenomena by various steps, including laws to protect individuals and groups against "incitement to violence."⁴¹ In the same year, CSCE made similar commitments in its Charter of Paris for a New Europe "to combat all forms of racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination against anyone, as well as persecution on religious and ideological grounds."⁴² (In 1993, the "Paris Principles" were adopted by the UN in its endeavors to define the powers, composition, and *modus operandi* appropriate for human rights organizations.) While these actions lack the force of law, they have the capacity to influence national human rights laws and have been aptly characterized as "deliberately norm-creating."⁴³ CSCE's Experts on National Minorities followed up, urging adoption of laws by member states to prohibit incitement of violence founded on "national, racial, ethnic or religious discrimination, hostility, or hatred, including antisemitism." These sentiments were reiterated (with reference to the crisis in the former Yugoslavia) by CSCE's Council in Rome in 1993 in the Declaration on Aggressive Nationalism, Racism, Chauvinism, Xenophobia, and Antisemitism. For its part and for the first time in its

41. Natan Lerner, *Group Rights and Discrimination in International Law*, 2nd ed. (London: Martinus Nijhoff, 2003), 130.

42. Natan Lerner, "Incitement in the Racial Convention: Reach and Shortcomings of Article 4," *Israel Yearbook on Human Rights*, 22 (1992): 3.

43. Malvina Halberstam, "Comment: The Copenhagen Document: Intervention in Support of Democracy," *Harvard International Law Journal*, 34 (1993): 163-75.

history, COE at its 1993 Vienna meeting declared antisemitism to be a great evil, and was joined by CSCE and other institutions working in tandem to issue and adopt several human rights standard-setting texts, among them NATO's 1994 "Partnership for Peace," the EU's 1995 "Stability in Europe," and COE's 1995 Framework Convention for the Protection of National Minorities, significantly enhancing its bedrock Convention on Human Rights and Fundamental Freedoms of 1950.⁴⁴

This 1995 COE Framework Convention offers a much more robust program for enhancement of minority rights and status than did the 1992 UN General Assembly's Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (although this declaration was the first international human rights instrument dedicated solely to minority rights since before World War II). The convention spelled out for Europe that "the protection of national minorities and of the right of persons belonging to those minorities forms an integral part of the international protection of human rights and as such falls within the scope of international co-operation [and is not an internal affair subject exclusively to the sovereign state concerned]." Following the example of the European Parliament in 1993, the convention also condemned Holocaust denial in "emphasizing the insidious nature of revisionist theories, some of which go so far as to claim that the Holocaust did not take place," and urges member states to adopt legislation condemning "any denial of the genocide perpetrated during World War II and any justification and attempt at rehabilitation of the regimes and institutions which were responsible parties to it." An important step by CSCE was its creation in 1992 of the post of high commissioner on national minorities to provide "early warning" and "early action," and the next year adding to the commissioner's mandate the requirement to address "all aspects of aggressive nationalism, racism, chauvinism, xenophobia, and anti-Semitism."⁴⁵ In 2000, COE member states held a special conference in preparation for the 2001 UN Durban Conference. It drew up a "Political Declaration" that expresses alarm at manifestations of "racism, racial discrimination, xenophobia, anti-Semitism and related intolerance," presses all states to "reject ethnic cleansing, religious persecution, and genocide," and exhorts members "never to forget the Holocaust" and to make Holocaust denial a punishable offense, insisting that the issues of violence against Jewish communities and dissemination of antisemitic propaganda must be dealt with forcefully. COE's human rights

44. Jennifer Jackson Preece, *National Minorities and the European Nation-States System* (New York: Oxford University Press, 1998), 50.

45. Natan Lerner, *Group Rights and Discrimination in International Law*, 24-25.

commissioner is mandated to promote awareness and respect for human rights by visitations to member states, cooperation with national human rights organizations, and protection of human rights activists.⁴⁶

The Office for Democratic Institutions and Human Rights (ODIHR), an arm of the Organization for Security and Cooperation in Europe (OSCE), established in 1995, replacing CSCE, which dated from the early 1970s), provides early-warning tools in its vast region of 56 nations from “Vancouver to Vladivostok” as part of its efforts to combat and prevent hate crimes and confrontations. It gives due attention (in the street, media, political discourse) to antisemitism in word and deed, anti-Israel propaganda, Holocaust denial, and the like. Its “Toolbox” contains educational guidelines and curricular materials for combating hatred, Holocaust denial, and antisemitism. ODIHR’s data collection, comparative presentations of conditions, policies, legislation, and law enforcement efforts are intended to inspire cooperative efforts by governments, NGOs, and grassroots organizations to strengthen efforts to combat hatred and intolerance. In recent years, it has been more concerned with following up, goading member states to fulfill their commitments, especially in educational content provision, as the optimum way to prevent antisemitism and xenophobia. It also puts increasing emphasis on monitoring and restricting hate speech on the Internet. Some experts and participants associated with ODIHR have proposed that future contacts with Muslim states tackle questions concerning hate speech and antisemitism in the Middle East, and possibly open the way to discussions and initiatives that would begin to extend this design, or something comparable, for the international protection of human rights to societies desperately in need of it. The Arab Spring may be a hopeful omen, but indications so far are not encouraging. The fact that increasing numbers of moderate or liberal Muslims—clerical, lay, academic—are coming forward might be a hopeful harbinger that ODIHR and other organizations will be able to initiate meaningful dialogue and inspire changed attitudes.

The culmination to date of such efforts to contend with antisemitism is OSCE’s 2004 Berlin Declaration. It recognizes that antisemitism, “following its most devastating manifestation during the Holocaust, has assumed new forms and expressions, which, along with other forms of intolerance, pose a threat to democracy, the values of civilization and, therefore, to overall security,” and goes on to declare “unambiguously that international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify antisemitism.” OSCE member states committed themselves to ensure that their legal systems foster an environment free from antisemitic harassment, violence, or discrimination; promote educa-

46. <http://www.commissioner.coe.int>.

tional programs for combating antisemitism; initiate remembrance of and education about the Holocaust; and combat racist, xenophobic, and antisemitic propaganda in the media and on the Internet that fuel hate crimes. OSCE's work has been greatly facilitated in the last few years by the "personal representative of the OSCE chairman-in-office on combating antisemitism" (the present representative is an academic and member of the European Parliament; the chairman presides over OSCE meetings and engages in personal diplomacy), particularly in organizing international conferences on antisemitism; the preparation of educational materials for teaching the Holocaust, antisemitism, and Jewish history; and energizing the governments of the member states.

An OSCE conference was held in Prague in March 2011 on "Confronting Anti-Semitism in Public Discourse." Apart from OSCE member states, a large number of representatives from the media and NGOs participated at Prague, conferring great importance on the meeting, which was essentially a continuation of efforts launched at the 2004 Berlin conference to promote international co-operation in combating antisemitism in all forms. It reiterated its desire to promote dialogue between religions and cultures, particularly dialogue between Jews and Muslims, and to reach out to communities in the Middle East. It had been observed before the conference, however, that "so far, no consensus has emerged"—and none emerged in the course of the meeting. While they could report significant progress in responding to hate crimes, the most insidious form at present of antisemitism, conferees acknowledged that increased expressions of antisemitism in public discourse and the media generally had not been addressed in many OSCE countries, and that "often governments have been slow in responding or have failed to respond adequately to antisemitic incidents." A further indication that progress remains slow and difficult was the reminder that "member states that have not yet done so should enact laws that establish hate crimes as specific offenses or provide enhanced penalties for bias-motivated violent crimes."

In 1997, the EU established its Monitoring Centre on Racism and Xenophobia (EUMC) in Vienna to provide comparative data on all forms of hatred, including antisemitism, in the member states as a basis for legislation and policy development. EUMC, absorbed in 2007 into the Fundamental Rights Agency (FRA), operates with a wide-ranging Working Definition of Antisemitism (adopted in 2005) that has proved useful to other organizations, including the U.S. State Department and OSCE, that have adopted it for purposes of compilation and analysis.⁴⁷ The purpose of the Working Definition is to provide a practical guide for identifying incidents, collect-

47. <http://fra.europa.eu>.

ing data, and supporting the implementation and enforcement of legislation combating antisemitism. It enumerates as litmus tests the principal elements of antisemitism in word and deed: “Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.” While focusing on “anti-Semitism in public life, the media, schools, the workplace, and in the religious sphere,” it does not neglect dealing with the way “anti-Zionism” often and almost inevitably degenerates into antisemitism, such as, “Applying double standards by requiring of [Israel] a behavior not expected or demanded of any other democratic nation,” and, among other stereotypical manifestations, targeting Israel “as a Jewish collectivity.” In addition, the European Forum on Antisemitism (representatives of Jewish groups and NGOs, founded in 2008) fosters FRA’s work (making the Working Definition available in 33 languages) and creating the Rapid Reaction Force to respond to antisemitic threats and attacks on Jewish communities and individuals as quickly as possible with legal assistance and coalition groups to combat antisemitism, drawing upon the International Association of Jewish Lawyers and Jurists and other organizations, and the Secure Community Trust in Britain.⁴⁸

A remarkable development under EU auspices is the creation of “equality institutions” to enforce its equality and anti-discrimination legislation in the member states. They are modeled on the American Equal Employment Opportunity Commission (EEOC) under the 1964 Civil Rights Act, and function independently with administrative and judicial powers. Emulated by Britain with its Equality Opportunity Commission and a few other countries in Europe, their scope was broadened to include racial, gender, and other anti-discrimination provisions. One of the articles of the Treaty of Amsterdam, which came into force in 1999, empowers the Council of the EU to enact legislation to enforce equality and combat discrimination. The original fifteen EU members agreed, for the most part willingly and with practically no compulsion, and each has created its “equality institution”; the requirement has been imposed on the twelve new EU members (former members of the Soviet bloc), some of them resistant, as part of the price of EU admission. While the list varies from country to country and EU directives extend and refine it in a process of “leveling up,” almost all EU countries provide for equal treatment and relief from discrimination with regard to employment, religion or belief, racial or national or ethnic origin, age, gender, and disability. In France, 18 specific categories of dis-

48. http://ec.europa.eu/justice-fundamental-rights/agency/index_en.htm; <http://www.european-forum-on-antisemitism.org>.

crimination are subject to its equality institution. The creation and continuing development and diffusion of the equality institutions by easy give and take—"bricolage"—between members and with the Council testifies to the emergence in Europe of a culture of equality and non-discrimination.⁴⁹

Since 2001, the EU Commission has been inconclusively negotiating a Framework Decision on Combating Racism and Xenophobia, a proposal that clearly includes antisemitism; it came close to an accord in 2005, specifying that "It is necessary to define a common criminal law approach in the European Union to this phenomenon of racism and xenophobia in order to ensure that the same behavior constitutes an offence in all [27] Member States and that effective, proportionate and dissuasive penalties and sanctions are provided for natural and legal persons having committed or being liable for such offences." In the judgment of NGOs and other observers, the provisions were steadily weakened until negotiations stopped altogether in 2005. In January 2007, the rotation of the EU presidency came to Germany, which, according to a press briefing, "committed itself to returning the combating of racism and xenophobia throughout Europe to the political agenda. It will revive the negotiations on the Framework Decision to combat racism and xenophobia, which have been frozen since 2005. The Framework Decision was on the verge of a compromise. The goal is to attain minimum harmonization of provisions on criminal liability for disseminating racist and xenophobic statements. These include, for example, public incitement to violence and hatred or the denial or gross minimization of genocide out of racist or xenophobic motives." In responding to the Iranian president's repeated denials of the Holocaust and his calls for Israel's destruction, Germany proposed the criminalization of genocide denial (citing the Armenian, European Jewry, and Rwandan examples) and a three-year jail term as penalty. Although Germany's term ended without enactment of the Framework Decision, the matter remains on EU's agenda, although with the worldwide economic recession it has lost momentum. The EU is also concerned about the dangers of hatred disseminated on the Internet, but such activity is not usually part of the public record and challenging Internet-based criminal activity remains legally problematic.⁵⁰

Although an emerging post-Cold War human rights regime in Europe that benefits Jews and condemns antisemitism is a clear and persuasive development, few of these compelling instruments are legally binding. Nevertheless, they reiterate legal principles and peremptory norms specified in

49. Bruno de Witte, "Evolutions in Antidiscrimination Law in Europe and North America," *The American Journal of Comparative Law*, 60 (2012): 49-74.

50. http://europa.eu/about-eu/index_en.htm.

other documents, including ones from the UN, and thus possess a great deal of moral and political weight as “soft law.”

THE WESTERN HEMISPHERE AND AFRICA

Before World War II, steps were taken in the Western Hemisphere to combat antisemitism. The 1938, 1942, and 1945 meetings of the International Conference of American States (transformed in 1948 into the Organization of American States, OAS) produced texts that were more far reaching than anything elsewhere on human rights. In 1938, it adopted texts on the defense of human rights and persecution for racial or religious motives; in 1945, the texts promulgated were “International Protection of the Essential Rights of Man” and “Persecution of the Jews.” In 1948, a half year before the UN proclaimed the Universal Declaration of Human Rights, the OAS adopted its American Declaration of the Rights and Duties of Man, proudly designated “the world’s first general human rights instrument.” Following European models in some degree, in 1969, the OAS published the American Convention on Human Rights, which was ratified as a treaty and came into force in 1978. Additional protocols and conventions enacted from 1988 to 1999 enunciate economic, social, and cultural rights and deal with the death penalty (abolished), forced disappearances, violence against women, and discrimination against the handicapped. Implementation and enforcement are the responsibility of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The commission receives petitions from states, individuals, groups, and NGOs, establishes the facts, and works to persuade the parties to an amicable settlement; failing that, the case may go to the court if the state in question has ratified the convention and accepted the court’s jurisdiction; for other states, the commission is the final tribunal. The African Charter on Human and Peoples’ Rights was approved by the Organization of African Unity (OAU) in 1981 and came into force in 1986; in 1998, the OAU established the African Court of Human Rights, which came into permanent session in 2004. The African charter is wide-ranging in scope, proclaiming economic, social, cultural, civil, and political (but not religious) rights not only of individuals but also of peoples. In Asia there are no regional organizations dedicated to the protection of human rights comparable to those of Europe, the Americas, or Africa.

ANTI-HATE SPEECH JURISPRUDENCE AND LEGISLATION: FREEDOM OF SPEECH VS. FREEDOM FROM DISCRIMINATION

Hate speech is notoriously difficult to define: everything depends on the content and the context. As a working proposition it may be defined as propagating ideas and claims of the inferiority of a person or group based on race, religion, or other comparable traits that threaten or encourage violence—even if unintentional—against an individual or group. Such speech generates an atmosphere of intolerance and inequality by employing, it has been said, “words that are used as weapons to ambush, terrorize, wound, humiliate, and degrade” not only the person or group attacked but also society as a whole. Attempts to restrict hate speech date largely from after 1945 and in considerable measure reflect the experience of Nazi propaganda and efforts to prevent a recurrence. Article 29 of the Universal Declaration of Human Rights specifies that “In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.” While this provision does not specifically call for anti-hate speech laws, it can be argued and has been argued—as well as the contrary—that Article 29 provides a basis for such laws as will secure “due recognition and respect for the rights and freedoms of others.” Article 20 of the 1966 International Covenant on Civil and Political Rights (ICCPR) provides, perhaps illogically, a far-reaching exception to the covenant’s ringing guarantees of freedoms of political speech and expression by requiring signatory states (there are some 160) to outlaw hate speech: “any propaganda for war shall be prohibited by law” and “any advocacy [written or spoken] of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” Thus, the international community has collectively acted to condemn hate speech, and through ICCPR (also CERD) to oblige signatories to prohibit such expression. Yet there is still no international human rights court to implement decisions of the UN Commission on Human Rights or work with its Human Rights Committee, as there is no court to enforce the Universal Declaration of Human Rights.

The European Court of Human Rights (ECtHR), established in 1959, is the only permanent human rights court in the world and is also unique in that all signatories of its Convention for the Protection of Human Rights and Fundamental Freedoms, usually cited as the European Convention on Human Rights (ECHR), are legally obligated to accept its decisions; most of them have incorporated the Convention into their domestic law. “The Supreme Court for Human Rights in Europe,” as it is hailed, is the pioneer

in its procedure enabling individuals as well as groups and states to bring complaints of human rights violations in its courts. ECtHR has developed the most significant jurisprudence in limiting hate speech, what it condemns particularly as “hate speech glorifying violence” and threatening democratic society and institutions. It recognizes not merely the possibility but the necessity to interdict hate-speech language or the right of assembly, provided its actions, or those of member states, are proportionate to the reason for imposing restrictions. Article 10, freedom of expression, declares that “Everyone has the right to freedom of expression. . . . The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of [among other things] public safety, for the prevention of disorder or crime, . . . for the protection of the reputation or rights of others” Nazi-style rhetoric and “all expressions that seek to spread, incite or justify hatred based on intolerance, including religious intolerance” are condemned. ECtHR has almost always found Holocaust deniers’ claims of violations of free speech to be specious, and views their writings and speeches as threats to other rights and freedoms set forth in the Convention and to the values—democracy, equality, and justice—on which ECHR is based. ECtHR has most often restricted hate speech in the form of Nazi or neo-Nazi propaganda; as one of its judges remarked, “the Convention was born not in Rome [where it was opened for signature in 1950] but in Auschwitz.”⁵¹ Article 17, in prohibiting abuses of rights like the propaganda and street violence that undermined the Weimar Republic of Germany, stipulates that “Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth [in the Convention] or at their limitation” That is to say, it is not necessary that the right or freedom in question actually be destroyed but that the intention, the aim, of the accused be such destruction, and thus Article 17 puts incitement of hatred beyond the pale of democratic rights.⁵² In their proceedings, both ECtHR and the EU’s European Court of Justice (ECJ)⁵³ not infrequently draw upon each other as well as on the judicial experience of other coun-

51. Leto Cariolu, “The Right Not to Be Offended by Members of the British National Party: An Analysis of *Serco Ltd v Readfearn* in the Light of the European Convention of Human Rights,” *Industrial Law Journal*, 35 (December 2006): 415-30, n 21.

52. Rowel Genn, “Beyond the Pale: Council of Europe Measures against Incitement to Hatred,” *Israel Yearbook on Human Rights*, 13 (1983): 199-200.

53. The ECJ, which adjudicates between member states, is not a human rights court per se but it has pronounced that “international treaties for the protection of

tries, including Israel, invoking precedents, decisions, laws, academic studies, and the like in fashioning their own judgments. The two institutions are complementary in defending human rights in the courtroom and in extending commitment to human rights by requiring nations applying for EU admission to qualify by acceptance of COE's and EU's human rights regimen; this stipulation brought some improvement in human rights law and practice in the former members of the Soviet bloc. The use by ECtHR and the ECJ of comparative method in human rights adjudication, opposed though it is by traditionalists as the emergence of "a global judicial priesthood," appears to bode well for international human rights jurisprudence. ECtHR in particular strives to bring the judicial practice of member states into line with the prescriptions of its Convention and its case law. ECtHR's innovative developments, along with the work of other international bodies, hold the promise of setting a universal norm for the protection and promotion of human rights. Since all human beings are equal, it follows, as COE's Vienna Declaration and Programme of Action, 1993 states, that "All human rights are universal, indivisible, and interdependent and interrelated."⁵⁴

Partly spurred by ECtHR, there has been a growing trend among national governments to incorporate human rights treaties and international agreements into their national legal systems, and to adapt national law to the decisions of international tribunals, even in some cases when to do so requires amending the constitution. This development is facilitated in countries "where international law and domestic law comprise one unitary system of law," but is inhibited "where international law and domestic law comprise two distinct legal orders," that is, monism, of which France is a notable example, and dualism, as exemplified by the United States.⁵⁵

THE INTERNET: AMBIGUOUS ISSUES OF ENFORCEMENT

The Internet has been called a more powerful instrument for freedom of expression than the United States Constitution's First Amendment,

human rights . . . can supply guidelines which should be followed within the framework of Community law." Quoted in Dinah L. Shelton, *Remedies*, 203.

54. James A. Sweeney, "Margins of Appreciation: Cultural Relativity and the European Court of Human Rights in the Post-Cold War Era," *International and Comparative Law Quarterly*, 54 (April 2005): 469.

55. Martin A. Rogoff, "Application of Treaties and the Decisions of International Tribunals in the United States and France: Reflections on Recent Practice," *Maine Law Review*, 58 (2006): 413; for hate speech laws and jurisprudence in the United States, Canada, Britain, Germany, and France, see Frederick M. Schweitzer, chapter on international law and antisemitism, in *North American Antisemitism*, Brill, in preparation.

although the freedom it promises against dictatorial regimes must be weighed against the hazards it presents to open societies. Since the Internet reflects, though it may also intensify, the antisemitism already present in society, we should not condemn it outright for antisemitism but note that the Internet and newer networking social media do serve as teaching devices in the cause of tolerance. Whether for good or evil, in today's global world, any person is a potential publisher, any group can have its own Web site(s), and any demonstration, meeting, or rally can place its message and image online. Yet, the massive amount of material that flows on the Internet and the multiple boundaries and jurisdictions it crosses make monitoring it practically impossible. It includes traditional print, news items, video, audio, and interactive conversation that are provided by intermediaries like Google, Microsoft, Mozilla Firefox, Internet Explorer, Facebook, MySpace, YouTube, Twitter, and others. Such intermediaries are not bound by First Amendment guarantees of free speech. They are private actors and have the right to refuse, censor or remove online speech, whether out of business-profit calculation or ethical motives if they fear that advertisers will pull out or that parents will object to vicious intolerance like "Kill a Jew Day," "Execute the Gays," "Murder Muslim Scum," or "How to Kill a Beaner," and switch to other sites. Using filters and other devices, many intermediaries have interfered to censor, remove, or counter hate speech, but many more have not, and the tens of thousands of hate sites make it virtually impossible and too expensive for intermediaries or other agencies to monitor them. Indeed, some of them are dedicated to hate speech, whether out of profit or ideological fanaticism. As things stand, advances in technology threaten to nullify national and international efforts to regulate hate speech. Wikipedia offers an example of how a site can be monitored to assure accuracy and wholeness: it sets a standard for submissions that are reviewed by its editors and subject to evaluation by users, so that articles get corrected, extended, enhanced, and rendered more authoritative by additional or better sources in a continuing, unending process. Such an elaborate process, however, is not workable or suitable to most intermediaries because of the investment in time and costs it requires.⁵⁶

Defenders of the absolutist interpretation of the First Amendment insist that emphasis should be put on conduct rather than speech, that no new test need be applied to the Internet other than those that apply to radio and television, that we should not let fear of "a new technology get the better of us," that "the public sphere [should be] open to all," and that "First

56. Danielle Keats Citron and Helen Norton, "Intermediaries and Hate Speech: Fostering Digital Citizenship for Our Information Age," *Boston University Law Review*, 91 (July 2011): 1479.

Amendment challenges posed by the twenty-first century are not really new [or, presumably, more dangerous].”⁵⁷ These views ignore the fact that the “clear and present danger” doctrine and jurisprudence were not developed in a global theater, and that speakers falsely shouting fire in the global theater is a quite different phenomenon from the national or domestic one. Unbound by time or space, the Internet can easily provide the cover of anonymity or pseudo anonymity, while the fact that servers subject to prosecution can simply be moved to the United States means that the United States enacts the First Amendment in full absolutist measure for all the world. When Canada throttled his Web site for imperiling a vulnerable “Identifiable Group,” the antisemite Ernst Zündel relocated to the United States and resumed his nefarious activity with impunity until he violated immigration law.⁵⁸ Moreover, the belief that under present conditions the Internet threatens no new or strengthened dangers represents a fundamental misreading of the workings of the marketplace of ideas. The free play of competition there does not assure that hate speech will eventually fail and fall by the wayside, and that truth and goodness will always ultimately triumph. Too often, of course, it is quite the opposite, because “hate speech can produce a process defect in the marketplace of ideas.” Evil ideas and programs are able to prevail and inflict harm when they resonate with historically based hatreds and images that can awaken latent racial and/or religious prejudices and myths. Antisemitism is an obvious example, and we have learned that in certain circumstances even fairy tales can kill.⁵⁹ That understanding has led Germany, along with Austria, Belgium, Canada, the Czech Republic (which expelled David Duke in 2009), France, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mexico, Poland, Portugal, Romania, the Slovak Republic, Spain, Sweden, and Switzerland—but, of course, not the United States—to make antisemitism and/or Holocaust denial, online and in other media, punishable according to different definitions of hate crimes under criminal law.

The secretary-general of the UN observed in 2000 that the use of the Internet to spread hate speech is one of the most important challenges to

57. Lynn Adelman and Jon Deitrich, “Extremist Speech and the Internet: The Continuing Importance of Brandenburg,” *Harvard Law and Policy Review*, 4 (Summer 2010): 73.

58. Marvin Perry and Frederick M. Schweitzer, *Antisemitism: Myth and Hate from the Middle Ages to the Present* (New York: Palgrave Macmillan, 2002), 269-77.

59. Danielle Keats Citron and Helen Norton, “Intermediaries and Hate Speech: Fostering Digital Citizenship for Our Information Age,” *Boston University Law Review*, 91 (July 2011): 1451.

have arisen from modern technology development.⁶⁰ In 2001, COE took the first steps to take up the challenge of harmful and illegal cyber content. Its attempt to establish an international standard of prohibition of computer-based racial hatred, including the use of computer systems to deny or justify genocide, resumed in 2003 with the “Convention on Cybercrime: Concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed through Computer Systems” and its “Additional Protocol,” both of which have been signed, the Convention by at least 43 states, including the United States, and some 21 have ratified it, the Protocol by at least 20 and ratified by at least 11 of the 47 member states plus six observer countries. To be enforceable and attain the goal of an internationally consistent level of prohibition of race hatred, it remains essential to limit member reservations on the Protocol and conclude international agreements bringing national legislation into line with definitions of criminal Internet hate speech. OSCE first took up the issue of combating hate speech on the Internet at its meeting at Athens in 2009 and again at Prague in 2011, but was unable to go much beyond spelling out the scale and difficulties in creating a workable balance of free speech and freedom of the press with the necessity to curb whatever incites and foments group hatred but stopping short of criminalizing hate speech.

The London Conference and Summit of the Inter-Parliamentary Coalition for Combating Antisemitism (ICCA) of February 2009 was the founding meeting of this group, in what may prove to be a historic landmark. It brought together about 125 parliamentarians from 40 countries and 75 or more nongovernmental experts and academics, and was the first such conference to assemble legislators. Its “Declaration on Combating Antisemitism” is promulgated in 35 resolutions. Emphasizing their responsibility as parliamentarians, the authors of the declaration forcefully draw attention to the dangerous resurgence of antisemitism: “We call upon national governments, parliaments, international institutions, political and civic leaders, NGOs, and civil society to affirm democratic and human values, build societies based on respect and citizenship, and combat any manifestations of antisemitism and discrimination.” They required governments to use, or expand their use, of the EU’s Monitoring Centre’s “Working Definition of Antisemitism” as a standard instrument to identify, denounce, and prosecute manifestations of antisemitism and hate, whether in word or deed. The declaration asks legislators to work against antisemitism by word and act; to urge action by their governments, international bodies, or the UN; and to enact appropriate hate crime legislation. It urges governments to take action

60. LaShel Shaw, “Note: Hate Speech in Cyberspace: Bitterness without Boundaries,” *Notre Dame Journal of Law, Ethics & Public Policy*, 25 (2011): 281.

to prevent broadcasts of incendiary antisemitic programs, especially state-sponsored programs (Iran among others is meant, though not mentioned by name); to add teaching the Holocaust, antisemitism, racism, and discrimination to the national curriculum; to reaffirm commitment to the Genocide Convention; to adopt OSCE's Law Enforcement Program for training police, prosecutors, and judges to enhance national efforts to apprehend, prosecute, convict, and sentence perpetrators. The declaration also calls for the creation of a task force of technical and legal experts to track and measure antisemitism on the Internet and prepare legal frameworks for prosecuting cybercrime and presses member states of COE to enact enabling legislation under its Protocols for Hate Speech and Cybercrime to criminalize racist and xenophobic activities committed on the Internet. Impressive as the London Declaration is, one must acknowledge that it is not a treaty binding in international law; its injunctions go no further than *should* and *can*, with only an occasional *must* or *will*. Whether it will become international law if enough heads of state follow the British prime minister's lead with their signatures is not yet clear. Its impact might be limited to atmospheric, but if the governments and organizations called upon to act do so act, it will build up the arsenal of "soft law." It is certainly exhortation of a very compelling kind that follows upon and energizes actions and initiatives taken or contemplated earlier by the EU, OSCE, and COE, as well as the UN, most conspicuously OSCE's 2004 Berlin Declaration dealing with antisemitism. Felt by commentators at the time to be auspicious (although American media paid almost no attention to ICCA) were the facts that two non-Jewish MPs were responsible for launching ICCA after their disappointment with the results of the Global Forum on Antisemitism in Israel the previous year and that the majority of the delegates were non-Jews; as one participant said, "This document is not just for Jews. There are fundamental principles involved that can be applied to any form of race hate."⁶¹

ICCA held its second annual meeting in Ottawa in November 2010, and issued the Ottawa Protocol for Combating Antisemitism. It was a larger group, with over 140 legislators from over 50 countries; many of the new participants were from African countries, which inspired the desire to increase "working relationships with parliamentarians in Africa for the combating of racism and antisemitism." With its Protocol, the Ottawa conference may be said to have taken a substantial step, though still far short of the goal of transforming moral imperative into settled law; its guidelines—a reaffirmation of the EU's Fundamental Rights Agency's (the remodeled Monitoring Centre) "Working Definition of Antisemitism"—are a spur to

61. London Declaration, www.antisem.org; <http://www.matthiaskuentzel.de/contents/new-coalition-raises-the-alarm-against-globalized-antisemitism>.

action, providing governments and organizations a framework within which to define, condemn, and deter antisemitic acts and language; the Protocol stands as a historic milestone in that a formal document addressed to the international community, for the first time, sets forth the criteria for distinguishing legitimate criticism of Israel from antisemitism/anti-Zionism. The representatives expressed great concern that the worldwide resurgence of antisemitism continues to accelerate; they were, they said, “appalled” at the persistent manifestations of age-old stereotypical myths: the blood libel, poisoning of wells, conspiracies to dominate governments, the economy, the media, and public institutions in the manner of a “new *Protocols of the Elders of Zion*,” and Holocaust denial elaborated as a big lie to justify the creation of Israel and to depict Israelis as behaving like Nazis. The meeting noted the worsening scourge of hatred online and urged the establishment of an international task force of Internet specialists (parliamentarians and experts) to create criteria to identify and monitor antisemitism and other forms of hate online, and to develop policy recommendations for governments and international organizations to deal with the problem. Canada, the first country to do so, committed itself to implementing the Protocol in September 2011, when its foreign affairs minister and its citizenship, immigration, and multiculturalism minister signed it, explaining that the Protocol “complements what Canada is already doing,” that this step was taken because, in considerable part, “Our government has lost faith in the Durban process . . . which . . . promoted racism rather than combat it.”⁶²

ICAA’s third annual meeting was scheduled to take place in 2011 in the United States, but instead met in Brussels in June 2012.

CONCLUSION

While instances of antisemitism and other expressions of hatred worldwide have not declined in recent years—quite the contrary—substantial progress in condemning and outlawing antisemitism has been made since the norm-setting precedents established in Europe in the early 1990s. Although those forceful instruments are not binding in law, they have much of its moral force and helped impel the UN General Assembly to reverse the antisemitic posture it has adhered to for much of its history. Efforts to combat antisemitism through the instrumentality of national and international law (and conventions, resolutions, covenants, declarations) by relentless advocacy and public monitoring of developments will persist and will con-

62. Citizenship and Immigration Canada, “Canada becomes first country to sign the Ottawa Protocol,” news release, Ottawa, September 19, 2011, www.cic.gc.ca; www.cpcca.ca.

tinue to achieve results slowly and surely but with occasional setbacks and disillusionment. The process is abetted by the trend in international law by which the idea of the classic rights and immunities of sovereign states not to be interfered with is giving way to ideas of good and global governance. Sometimes contending with antisemitism turns into a Sisyphean task, especially today, when hate speech can circle the globe massively and instantaneously. Notoriously, as history attests many times over, governments can readily evade even the most stringently drawn laws and sabotage the best intentioned regulations. Signature of a treaty or convention is not self-executing: it does not ensure that the nation's jurisprudence will accommodate treaty provisions or that those provisions will be enforceable in the country's courts until implementing legislation is enacted. Without effective enforcement, laws that prohibit or outlaw antisemitism or incitement of racial hatred proverbially carry little weight; as has been observed, law devoid of means of enforcement is "not law properly so-called."⁶³ For all its shortcomings and uncertainties, however, it is law that will serve our purpose as the instrument and palladium to restrain antisemitism: as Raphael Lemkin would vehemently remind us, "Only man has law. Law must be built. . . . You must build the law!"⁶⁴

In recent years, non-state actors have become highly visible abusers of human and minority rights, perhaps eclipsing the sovereign state, for which international law and organizations are handicapped since they are geared essentially for dealing with state rather than non-state or "partialitarian" actors. The Internet complicates matters still further. Given its strength and protean character, and its extraordinary capacity over many centuries to adapt itself to almost any kind of setting, antisemitism will not be abolished in the foreseeable future. Under international law, antisemitism, and hate speech generally, are neither protected nor criminalized. Yet it can be morally and intellectually discredited and legally contained, and thereby limited in the harm it causes. Over time, it is hoped, the nexus of international, regional, national, non-governmental and local organizations and institutions will grow more integrated as they learn to cooperate ever more closely in their work together in enforcing a comprehensive body of international humanitarian law that is set forth in nearly a 100 international and regional human rights treaties. ICCA, though only three years old, may indeed be a welcome sign of the times.

63. Richard Goldstone, "Advancing the Cause of Human Rights," quoting John Austin in Samantha Power and Graham Allison, eds., *Realizing Human Rights: Moving from Inspiration to Impact* (New York: St. Martin's Press, 2000), 198.

64. Quoted in Samantha Power, "A Problem from Hell," 55.

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Never Again in the Workplace: Title VII's Shield of Intolerance

Benjamin D. Arem*

With the passage of the Civil Rights Act of 1964, Title VII, it became unlawful for an employer to discriminate against an employee on the basis of his or her religion in the hiring, firing, and all terms, conditions, or privileges of his or her employment. If an employee's religious belief poses a work conflict, an employer is now bound to seek a reasonable accommodation, short of imposing any undue hardship on the employer. One of the primary obstacles to implementation has been defining "religion" under the act. Avoiding earlier judicial mistakes, courts have overlooked antisemitic behavior, shielding intolerance instead. Invariably, judicial outcomes now favor broad protection at the cost of supporting antisemitism and other forms of discrimination.

Key Words: Antisemitism, Civil Rights, Title VII

Religion has been a cornerstone of societal progress since time immemorial. From the pagan beliefs of ancient civilizations to the monotheistic movements thereafter, and everything in between, Americans of all faiths (and particularly Jews) have clung to their beliefs both in personal guidance and in imposing a moral and ethical structure for society.¹

For just as long, the ability for one to openly practice his or her faith has been an issue under fire. Only in the past fifty years, however, has the federal government provided any substantial protections against discrimination in the workplace for the open expression of one's religious beliefs. With the passage of the Civil Rights Act of 1964, Title VII,² it finally became unlawful for an employer to discriminate against any employee on

1. Jews, for instance, throughout history have been the target of religious discrimination both in the workplace and elsewhere. From biblical through modern times, persecution has ranged from prohibitions of their religious practices, to expulsion from the lands. During the Holocaust, nearly six million were murdered merely for being Jewish. See "History of Antisemitism," <http://www.simpletoremember.com/articles/a/HistoryJewishPersecution/>; David Frederick Schloss, *The Persecution of the Jews in Roumania* (Nabu Publishing, 2010).

2. 42 USC §2000(e).

the basis of his or her religion³ in the hiring, firing, and all terms, conditions, or privileges of his or her employment.

Under Title VII, if an employee's religious beliefs conflict with his or her employment, that employee is entitled to seek a reasonable accommodation, short of imposing any undue hardship on the employer.⁴ Even with this broad protection against discrimination based upon one's religion, however, there still remained conflicts between the practice of one's faith and employment. Most important, the question was begged: what constitutes a "religion" within the scope of Title VII's protection?

The legislature and judiciary have attempted to resolve this question with statutory interpretation⁵ and case law.⁶ In trying to avoid their earlier mistakes of applying cultural stigmas, however, the courts have overlooked an inherent negative moral and ethical subjectivity in certain "religious" observances. In tending to favor broad assurances over carefully scrutinizing the dogmas of a person's beliefs, courts have provided protection where all moral compasses would have dictated otherwise. As precedent currently stands, absent any regulatory amendment, the possibility continues for Title VII's protection to accommodate beliefs that are morally and ethically intolerable—particularly antisemitism.

This article theorizes that while all morals and ethics are inherently subjective, ignoring rational scrutiny to protect *all* deeply held beliefs under the current understanding runs counter to the legislative and public policy intent of the Civil Rights Acts of 1957 and 1960 to eliminate discrimination. Part I discusses the evolution of Title VII, including the statutory entitlement to protection against religious discrimination in the workplace and an employer's burden to provide for a reasonable accommodation short of imposing an undue burden. Part II explores the statute's definition of a "religion" in light of its 1972 amendment compared with an academic approach to characterizing a "religion" versus a "cult," concluding that there is in fact no distinction aside from moral and ethical subjectivity. Part III illustrates how, fearing this arbitrary distinction, the courts have broadened Title VII's protections to such an extent that all morality has been lost. The argument is made that, despite the inherent subjectivity of religious morality, extending protections to all deeply held convictions without close

3. Title VII also establishes protections for classes of employees based upon their race, color, sex, and national origin "with respect to compensation, terms, conditions, or privileges of employment"; 42 USC §2000(e)-2.

4. 42 USC §2000(e)(j).

5. Congress amended Title VII in 1972 to define "religion" as all aspects of religious observance and practice, as well as belief. See n. 28.

6. See nn. 50, 53, 54.

scrutiny actually opens the door to undermining the legislative policy behind the Civil Rights Act.

I. THE EVOLUTION OF TITLE VII

The 1950s and 1960s were a time of great social movement and change. Civil rights groups and individual activists came out in vociferous support of greater equality and freedom for blacks,⁷ women,⁸ and other minority groups. After much political pressure, legislative recognition was finally afforded to such groups through the passage of the Civil Rights Acts of 1957⁹ and 1960,¹⁰ but the standards were generally weak, focusing primarily on the right to vote.¹¹

Protests became increasingly violent and disruptive, organized through movements such as the Birmingham Campaign in the spring of 1963.¹² Finally, on June 19 of that year, President John F. Kennedy issued a statement to Congress on the civil rights issues, with a focus on the “fair and full” employment of blacks.¹³ This included eliminating racial discrimination in employment, creating more job opportunities, and raising the level of skills through better education.¹⁴ After a series of legislative bills, pro-

7. Sit-ins, boycotts, and non-violent protests, led by such figures as Martin Luther King Jr., Malcolm X, Rosa Parks, and W. E. B. Du Bois, fought for racial dignity, economic and political equality, and freedom from oppression. The National Association for the Advancement of Colored Persons (NAACP) was also making large strides in political lobbying. See Michael Weber and Michael MacCarthy-Morrogh, *Causes and Consequences of the African American Civil Rights Movement* (Evans Publishing Group, 2005).

8. In 1963, Betty Friedan published *The Feminine Mystique* (New York: Norton, 1963), in which she questioned the role of women in public and private life, thereby launching the rise of feminism.

9. 71 Stat. 634 (September 9, 1957).

10. 74 Stat. 86 (May 6, 1960).

11. 71 Stat. 634-638 (September 9, 1957) also gave judges the authority to protect voting rights through the independent investigation of claims depriving or interfering with the ability of certain citizens to vote.

12. In Birmingham, Alabama, the Southern Christian Leadership Conference (SCLC) rallied a campaign of organized protest against white civic authorities. To dissuade involvement, the police used dogs and high-pressure water hoses to control the demonstrators. These demonstrations quickly gained national media coverage as intensified outbreaks of dissolution. See n. 7.

13. Adam W. Aston, “Fair and Full Employment: Forty Years of Unfulfilled Promises,” 15 *Wash. U.J.L. & Policy* 285 (citing *John F. Kennedy, Special Message to the Congress on Civil Rights and Job Opportunities*, Pub. Papers 483, 488 (June 19, 1963)).

14. *Ibid.*

posals,¹⁵ subcommittee hearings, and amendments discussed and debated by the House of Representatives and Senate, the regulation evolved into the amended Civil Rights Act of 1964, also known as Title VII.¹⁶ From the principles of the day and the protections necessary for public satisfaction, Congress now afforded protection against discrimination, to be broadly applied in employment, expanding from race or color to national origin, sex, and religion.

As with all newly formed laws, despite the legislature's best efforts, provisions remained open for conflict in practice and judicial interpretation. The general public's understanding of the new rights afforded to employees and the requirements now placed on employers for abiding by Title VII was lacking in some key respects. Religion, in particular, was left open for misunderstanding, requiring elaboration and review by those infringed upon in a long line of evolutionary case history.

In relevant part, section 703(a)(1) of Title VII states that:

It shall be unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.¹⁷

When religion, sex, and national origin are a bona fide occupational qualification, however, "reasonably necessary to the normal operation of the business," such discrimination shall be permitted.¹⁸ But what exactly is a "religion"? When is it necessary for the operation of an employer's business? And in what way or to what extent, if at all, are employees to be accommodated?

REASONABLE ACCOMMODATION AND UNDUE HARDSHIP

Numerous conflicts arose between employers and employees after the passage of Title VII. As ratified in the Act's 1964 draft, there was no

15. See Francis J. Vass, "Title VII: Legislative History," 7 *B.C.L. Rev.* 431 (1966), citing H.R. Rep. No. 570, 88th Cong., 1st Session (1963)—most notably including H.R. 405, "A Bill to Prohibit Discrimination in Employment in Certain Cases Because of Race, Religion, Color, National Origin, Ancestry or Age" or the "Equal Employment Opportunity Act of 1963," the most recognizable predecessor to Title VII in its current form.

16. See n. 2.

17. 42 USC §2000(e)-2(a)(1).

18. 42 USC §2000(e)-2(e)(1).

requirement for an employer to accommodate an employee's religious beliefs or practices. With no guidelines on how to interpret the requirements for avoiding discriminatory practice, and with employees refusing to work when it conflicted with their observances, numerous complaints were filed with the Equal Employment Opportunity Commission (EEOC)¹⁹ demanding clarification. Finally, in 1966, the EEOC published two interpretive principles to resolve this conflict. As stated by the EEOC:

- (1) Title VII's non-discrimination requirement includes a duty on employers to accommodate the reasonable religious needs of their employees where such accommodation is possible without *serious inconvenience* [emphasis added] to the conduct of the business; and
- (2) Employers remain free to establish normal workweek schedules, and to require adherence by all employees to such schedules, despite the disparate impact that such schedules might have on the religious observances of certain employees.²⁰

One year later, in 1967, the EEOC amended this guideline to raise the standard for employers; "serious inconvenience" was replaced with "undue hardship" on the employer,²¹ putting the burden on employers to prove that "the employee's needed work cannot be performed by another employee of substantially similar qualifications during the period of absence [due to religious observance]."²²

Defining "undue hardship" was first tackled in *Trans World Airlines v. Hardison*,²³ where a union laborer (Hardison) had a conflict between his scheduled work shift and observance of the Saturday Sabbath. After a series of swapping shifts with other workers to avoid any problems with management, Hardison was finally forced to work an assigned Saturday shift, refused, and so was terminated. The labor union's collective bargaining agreement had established a seniority system through which accommodations for all employees was already in place, and the alternatives proposed by *Hardison* would have created an undue burden on Trans World by having to pay overtime wages to those picking up swapped shifts, and so

19. The EEOC was established by Congress as the federal agency responsible for resolving employment discrimination claims. This agency has the power to investigate allegations made by employees and adjudicate the matters for resolution. See Ernest C. Hadley, *A Guide to Federal Sector Equal Employment Law and Practice* (Arlington, VA: Dewey Publications, 2006).

20. See "Guidelines on Discrimination Because of Religion." 31 FR 8370 (June 15, 1966), codified at 29 CFR 1605.1(a) (2).

21. *Ibid.*, 32 FR 10298 (July 13, 1967).

22. *Ibid.*

23. 432 U.S. 63 (1977).

forth.²⁴ The Supreme Court thereby held that Title VII's principal aim was to eliminate discrimination, not to require employers to give preferential or unequal treatment to non-religious employees so that religious employees may observe their faith.²⁵

In response to this case and some confusion by employers over when an undue hardship actually applied, the EEOC again published guidelines to clarify the Act.²⁶ In evaluating whether such a hardship existed, the reviewing court was now directed to look at costs imposed on the employer (in relation to the size of the operation and the number of employees requiring the accommodation), and if any seniority system was in place that might be adversely affected by a shift change (ignoring voluntary employee shift swapping).²⁷ Throughout the following 40 years, this balancing test continued to be evaluated and interpreted. Cost and seniority, however, have remained the statute's two key principles for guidance.

With the employer's burden now codified, what was required to be done (or not done) when an employee's religious observances clashed with the employer's expectations had clearer footing, or at least a clarified method by which the courts would evaluate such conflicts. If an employee declared that his or her work or schedule conflicted with their faith and that he or she needed an accommodation for observance, employers and the courts had a method for evaluating the balance between competing interests. But what then does it mean to be a "religion" for purpose of accommodation?

II. DEFINING RELIGION

In 1972, Congress amended Title VII by defining "religion" to include:

"all aspects of religious observance and practice, as well as belief [emphasis added], unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's

24. Ibid, 78, 79, 84, n. 15.

25. Ibid., 85.

26. "After an employee or prospective employee notifies the employer . . . of his or her need for a religious accommodation, the employer . . . has an obligation to reasonably accommodate the individual's religious practices. A refusal to accommodate is justified only when an employer . . . can demonstrate that an undue hardship would in fact result from each available alternative method of accommodation. A mere assumption that many more people, with the same religious practices as the person being accommodated, may also need accommodation is not evidence of undue hardship." See 29 *C.F.R.* 1605.2.

27. Ibid. at 1605.2(e)(1) and (2).

religious observance or practice without undue hardship on the conduct of the employer's business."²⁸

By this amendment, *all* individual beliefs held as "religious" were to be accommodated (excepting the aforementioned undue hardships). The word "religious" itself is generally defined as "relating to or manifesting faithful devotion to an acknowledged ultimate reality or deity" or "scrupulously and conscientiously faithful."²⁹ Under this definition, a similarly broad interpretation is established.

While some cases on religious accommodation have revolved around finding one's beliefs to be of a "bona fide religion" before any discussion of accommodation is made,³⁰ this is not an actual requirement under Title VII.³¹ Even as recently as 2009 in *EEOC v. Papin Enters., Inc.*,³² however, this understanding continues to surface. In *Papin*, an employee who practiced Nuwaubianism³³ was terminated for refusing to remove a nose ring that she professed to be a part of her religious requirements. Although the court ultimately held in her favor, the crux of the matter centered on proving the observance to be of a religious nature. Here, Papin was unable to certify this belief due to the fact that her faith did not have formal ministers

28. 42 USC 2000(e)(j).

29. "Religious." *Merriam-Webster Collegiate Dictionary*, 11th ed. (Springfield, MA: Merriam-Webster, Inc., 2003).

30. Requiring that the individuals be ". . . members of a bona fide religion . . . sincere in their religious beliefs." *Cutter v. Wilkinson*, 544 U.S. 709, 713 (U.S. 2005), where, despite stipulating that petitioners' faiths were sincere, accommodating their religious observances would have imposed an undue burden on the prison system; see also *Gerhardt v. Lazaroff*, 221 F. Supp. 2d 827, 833 (SD Ohio 2002). Similarly, Section 19 of the National Labor Relations Act, 29 U.S.C.S. §169, requires "an employee to be a member of and adhere to established and traditional tenets or teachings of a bona fide religion, body, or sect." *Wilson v. NLRB*, 920 F.2d 1282 (6th Cir. 1990).

31. See *International Assoc. of Machinists v. Boeing*, 833 F.2d 165, 169 (9th Cir. 1987), explaining that Title VII defines religion as "all aspects of religious observance and practice, as well as belief"; *Baird v. Cal. Faculty Assn.*, 34 Fed. Appx. 303, 304 (9th Cir. Cal. 2002).

32. 2009 U.S. Dist. LEXIS 30391 (M.D. Fla. 2009), declaring that "[a] claimant must prove initially that she has a *bona fide* religious belief that conflicts with a policy, that she told her employer, and that she was fired for not complying with the policy . . . [the] employer then assumes the burden to show that no reasonable accommodation was available that did not cause an undue hardship."

33. A black Muslim cult led by Malachi (Dwight) York. See Dwight York, James Ingram, and Francis Y. s. Garlawolu, *Nubianism* (General Books, LLC, 2010).

who could speak on her behalf.³⁴ Without any statutory requirement to assess an employee's religion as anything other than being "scrupulously and conscientiously faithful," there seems to remain an inherent need for courts to compare common religious observances against the outliers. While plaintiffs of the major, established world religions do not encounter this problem (Christianity, Islam, Judaism, for example), courts are often faced with new and different belief structures that test the molds. The problem is that courts are not proficient in the world's religions, and even those individuals recognized in the field as experts have not been able to provide a clear understanding of what makes a system of beliefs a religion.

Scholars have spent centuries attempting to organize a definitive understanding of what constitutes a "religion."³⁵ While many theories have been developed that help to distinguish this ambiguous term, there seems to be no single conclusive answer. Inevitably, religions are a human creation; they are an arbitrary classification, products of our mind and beliefs. As such, any relative good or evil associated with them is also a fiction; a black cat is only a negative superstition because we believe it to be so; the cross is only a sacred image because Christianity deemed it as such. Good and evil are thus relative, products of our beliefs and associations, and nothing more.

Religions are both reflections and fundamental aspects of society. Thus, as civilization evolves and our notions of good and evil change, so too do religions. Judaism, for example, one of the oldest religions still in existence today, can trace its origins as a means of distinguishing itself from idolatry and Hellenism.³⁶ Similarly, constantly emerging variations of existing religious movements, often called "sects,"³⁷ develop out of pre-existing religions.

34. See n. 32, 1806.

35. ". . . scholars have engaged in the quest for the unique and definitive sine qua non, the 'that without which' religion would not be a religion but rather an instance of something else." Jonathan Z. Smith, *Imagining Religion: From Babylon to Jonestown* (Chicago: The University of Chicago Press, 1982). Smith approached the topic with a comparative study of human experiences and perception, historical perspective, and analysis of modern-day movements. Though Smith never successfully defined the term "religion," he was able to provide a deeper understanding of the human psyche in action.

36. "*Ioudasmos* [Judaism] seems to identify the ways and practices of the Jews in contradistinction with those of the 'barbarians' . . . contrasted with *Hellenismos*, the ways and practices of the Greeks." See "Judaism: An Overview." In Lindsay Jones, *Encyclopedia of Religion*, 2nd ed. Vol. 7 (Detroit, MI: Thomson Gale Publishing, 2005), 4969.

37. "Sects are simply alternative religious organizations with traditional beliefs and practices . . . Almost all religious traditions begin as what we today would call

One of the most infamous counter-religious movements of modern times is that of James Warren Jones and the People's Temple. Jones had created his own society³⁸ that, at first glance, seemed to mirror the world's many religions. In fact, it was originally affiliated with Christianity (ranked the largest Protestant congregation in northern California in 1974).³⁹ Jim Jones, however, soon began to stray from the religious norm and, once deemed to be an outsider, the country turned on him and his organization. Though undisputedly a paranoid and tyrannical leader, it was only when national perspective changed that the People's Temple moved from being a "religious sect" to an evil "cult." It was only after the country believed it to be evil that it became so.

What occurred with the People's Temple and its mass suicide in 1978⁴⁰ was not new, historically. In 960 A.D., for example, when the Roman army threatened to massacre the Jewish population living on top of Mt. Masada in Israel, the Jewish community chose suicide to preserve their beliefs; hundreds died.⁴¹ More recently, in the 1960s, there was the self-immolation of Buddhist monks during the Vietnam War.⁴² The perception of such occurrences is just that—human perception. Judgment of "good" and "evil," application of morality and ethics, seems to be mostly justified only after the fact. Religions are supposed to be divine and holy. Thus, nobody wants to affiliate miscreants and their deeds with sacred faiths. Hesitancy to affiliate violence and uncivilized actions with religions created the term "cult" out of the necessity to provide a classification for those groups generally disliked by the public and society.⁴³ In a sense, they are the

a sect." Charles Kimball, *When Religion Becomes Evil* (New York: Harper Collins, 2002), 73.

38. Jones' community ran a "parallel mode of government. Internally, it was a counterpolis. It had its own modes of leadership, its own criteria for citizenship, its own mores and laws, its own system of discipline and punishment." See n. 35, 115.

39. David Chidester, *Salvation and Suicide: Jim Jones, the People's Temple, and Jonestown* (Bloomington, IN: Indiana University Press), 1988.

40. Approximately 900 temple members ingested cyanide in a mass-suicide event. *Ibid.*

41. Killing oneself is a sin in Judaism. Instead, the community systematically murdered one another in a group "suicide" until the final individual killed himself. This way, the Romans were unable to claim victory over the Jewish population that had survived a lengthy siege in an attempt to overrun the religious community. See Michael Grant, *The Jews in the Roman World* (Macmillan, 1973).

42. Monks doused themselves in gasoline and lit themselves on fire in order to both protect their ideals and protest. See n. 35, 112.

43. ". . . the dogma of cults are more irrational and absolutist than that of more established religion." Andrew J. Pavlos, *The Cult Experience* (Westport, CT: Greenwood Press, 1982), 16.

rejects and outsiders of the religious world. In both a scholarly and a judicial grounding, this “outsider” distinction seems to play a key role in analyzing religious observances.

The mass media’s force in creating public opinion is a relatively recent phenomenon. The printing press,⁴⁴ allowing for the first mass production of books and manuscripts, was not invented until the 1400s. The radio⁴⁵ was unheard of until the late 1800s, and even then was not even popular for general public use until the mid-1900s. Television⁴⁶ has also followed a similar history, only becoming affordable for general ownership in the mid 20th century. Before such inventions were made available to the public, information was a slow-spreading concept. What is now known globally within seconds would only have happened (if at all) within a period of months. Therefore, it follows that only recently could public opinion and dissent be advertised; only within the past two centuries has gossip had a venue for mass distribution. This affects all facets of life, from political agendas, to social trends, and of course to religion. And the terrors it can bring are of no small consequence. Adolf Hitler, for example, seeing this instrumentality, utilized all of these new means for mass communication to instill his Nazi agenda.⁴⁷ It is then no coincidence that it wasn’t until the mid to late 20th century that “cult began to take on negative connotations in popular discourse.”⁴⁸

Cults deviate from the religious norm in both their practices and ideologies. When Judaism appeared in pagan Rome, or when Christianity arose from Judaism, their beliefs followed a variant path. Also, a cult’s membership, being new, will typically consist of only a small gathering. While organized religions may have a following in the millions, a cult could very well only have adherents in the thousands, hundreds, or even double digits. All of the major religions today were then at one point a “cult” as defined through this analysis. But while these faiths have in the past gotten away

44. See Samuel Willard Crompton, *The Printing Press: Transforming Power of Technology* (New York: Chelsea House Publishers, 2004).

45. See Hugh G. J. Aitkin, *The Continuous Wave: Technology and the American Radio: 1900-1932* (Princeton, NJ: Princeton University Press, 1985).

46. See Albert Abramson, *The History of Television: 1942-2000* (Jefferson, NC: McFarland & Company, 2003).

47. The *Völkischer Beobachter* (“People’s Observer”) newspaper, the book *Mein Kampf* (detailing Hitler’s beliefs), numerous radio broadcasts, and a wide range of alternatives made it possible for the Nazi party to take power and use it in the way they did. See Anthony Rhodes, *Propaganda: The Art of Persuasion—World War II* (New York: Chelsea House, 1976).

48. Lindsay Jones, *Encyclopedia of Religion*, 2nd ed., Vol. 3 (Detroit, MI: Thomson Gale Publishing, 2005), 6513.

with much discrepancy, today it has become much harder. With the world watching everything, and information spreading at the speed of light, one slipup can mean catastrophe. As seen with Jim Jones, their intentions were good. And it was only after negative press, and their inability to recover from it, that the groups began spiraling downward toward destructive ends. Otherwise, there remains no practical distinction between a “religion” and a “cult,” and the perception of a religion remains a fickle thing.

III. THE JUDICIARY’S MORAL STANDARD: PROTECTING A RIGHT WITH A WRONG

The Civil Rights Act’s protection against religious discrimination is to be extended to “all aspects of religious observance and practice, as well as belief.”⁴⁹ Originally, this is not necessarily what was afforded to employees discriminated against based upon their beliefs not conforming to the recognized major world religions (i.e., Christianity, Islam, Judaism), societal expectations, or belief structures running counter to the norm. Instead, courts were open to imposing their own moral and ethical subjectivity in deciding when employees would be entitled to such protection. When these outlier beliefs, these counterculture observances or values, conflicted with what society found to be acceptable, Title VII was left open to withdraw back into the shell of theory.

The court in *United States v. Seeger*⁵⁰ was one of the first instances where the moral subjectivity of a plaintiff’s beliefs gained the spotlight. Here, the plaintiff had refused to join the military effort of World War II on the basis that he was a conscientious objector, later convicted for violating the Universal Military Training and Service Act.⁵¹ During this time of global conflict, American culture placed a strong emphasis on doing one’s duty to serve one’s country, and those avoiding their responsibility were generally held in low regard. Despite this cultural emphasis on serving when drafted, the court in *Seeger* found that his beliefs were within the scope of the Act because they were “sincere and meaningful . . . occup[ying] a place in the life of its possessor parallel to that filled by the orthodox belief in God.”⁵² To put it plainly, because the plaintiff’s views

49. See n. 28.

50. 380 U.S. 163 (1965) .

51. “. . . exempt[ing] from military training and service those who, by reason of religious training and belief are opposed to participation in war, and which defines ‘religious training and belief’ as an individual’s belief in a relation to a ‘Supreme Being’ involving duties superior to those arising from any human relation . . .” 50 USC Appx. 456(j).

52. *Ibid.*, 166.

were tangibly similar to the cultural, monotheistic, God-fearing society of the time, the court found them to be protected. This was later clarified in *Welsh v. United States*, which found that a belief system does not necessarily require the concept of a God, Supreme Being, or an afterlife, so long as it is held with the strength of religious convictions.⁵³ Although in each case the plaintiff's rights were upheld, the court was forced to tackle the discrepancy between affording protection and meeting society's expected outcome.

Attempting to avoid this pitfall in the future, the EEOC derived an amended regulation from these cases, stating: "the Commission will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views."⁵⁴ In clear, textual form, the EEOC adopted a standard by which subjective interpretations are still to be implemented on an individual basis to decide whether that plaintiff's belief structure imposes a moral or ethical guideline, or if it is held with the strength of traditional (modern, popular, and widespread) religious views. To protect from cultural contamination in their decisions, courts have applied this regulation with great deference given to beliefs, seemingly ignoring their moral compasses to protect even discriminatory, hateful, and antisemitic dogmas.

In *Peterson v. Wilmur Communications*,⁵⁵ the plaintiff belonged to the Church of Creativity, holding central to its tenets the notions of white supremacy and antisemitism.⁵⁶ The church's founder, Ben Klassen, has declared democracy to be a Jewish tool to "divide and conquer." The church also has published numerous antisemitic manuscripts, including "The Truth About 9-11: How Jewish Manipulation Killed Thousands." After an article was published detailing these beliefs and Peterson's involvement with the organization, his employer demoted him to a position with lower pay and no supervisory duties. Peterson then brought suit, claiming religious discrimination under Title VII, arguing, ironically, that discriminating against him because of his discriminatory beliefs was improper.

53. 398 U.S. 333, 339 (U.S. 1970), where the court similarly held that *Welsh*, a conscientious objector, was not guilty under the Universal Military Training and Service Act because his beliefs were "sincere, intensely personal, and occupied a place in petitioner's life parallel to that filled by the God"; see also *United States v. Bush*, 509 F.2d 776 (7th Cir., 1975), which found the plaintiff's atheistic ethical beliefs to be religious despite his having no notion of an afterlife.

54. 29 C.F.R. 1605.1.

55. 205 F. Supp. 2d 1014 (E.D. Wis. 2002).

56. See Sarah Henry, "The Religion of Hatred," *The San Francisco Chronicle*, February 6, 1994; see also Michael George, *Theology of Hate: A History of the World Church of the Creator* (Gainesville, FL: University Press of Florida, 2009).

Citing the EEOC regulation adopted after *Seeger*,⁵⁷ the court here found that while the white supremacy and antisemitic notions of Peterson's beliefs were substantially similar to that of the Ku Klux Klan (held by other courts to be a political and social movement, not a religion),⁵⁸ the strength of his convictions to the Creativity movement was similar in fervor to that of traditional faiths and so upheld as a protected religion. Even though the teachings of his church were counter to the societal and cultural norms, and even though his faith preached antisemitic, hateful fervor, he was afforded protection under Title VII against discriminatory treatment by his employer because he deeply held those beliefs. The court tried so hard to uphold the notion that there is no imposition of a subjective moral or ethical interpretation that, while going on to declare religion includes any faith "espous[ing] notions of morality and ethics and suppl[y]ing a means from distinguishing right from wrong,"⁵⁹ it actually provided protection for individuals espousing notions of hatred, violence, and intolerance. Do the courts truly want to recognize that the Church of Creativity, in condemning the Jewish population, knows right from wrong? Does holding this hatred on such a pedestal, with such fervor, truly make it a "religion" and thus entitled to the protective rights of Title VII?

In 1933, Adolph Hitler officially became the chancellor of Germany under the mantra of restoring the nation to its former economic prosperity.⁶⁰ From the earliest of his speeches, it was clear that Hitler's policy included a shifting of blame and hatred onto the Jews (along with other minority groups, such as the Gypsies).⁶¹ Initiated by the Nuremberg Laws,⁶² antisemitic and discriminatory treatment of Jews began a prevalent rise in the nation's politics, media, culture, and laws, culminating in the Holocaust.⁶³

57. See nn. 50 and 52.

58. 205 F. Supp. 2d 1014, 1022; see also *Slater v. King Soopers, Inc.*, 809 F. Supp. 809 (D. Colo. 1992), which found that the Klu Klux Klan is a political organization, not a religion, as defined under Title VII.

59. *Ibid.*, 1023.

60. See Mary Fullbrook, *The Divided Nation: A History of Germany 1918-1990* (Oxford, UK: Oxford University Press, 1992).

61. *Ibid.*

62. Jewish citizens were deprived of all rights, prohibited from using public transportation, banned from public parks, and forced to wear a yellow star indicating that they were Jewish. See Amy Newman, *The Nuremberg Laws: Institutionalized Antisemitism*, Words That Changed History Series (Lucent Books, 1998).

63. Six million Jews were systematically murdered in the world's most horrific genocide. See Michael Berenbaum, *The World Must Know*, 2nd ed. (Baltimore: The Johns Hopkins University Press, 2006), 93.

But this form of antisemitism was not new⁶⁴ nor has it been resolved since. The United Nations Commission on Human Rights proposed a resolution as recently as 1994 (fiercely opposed by Syria) to prohibit intolerant discrimination.⁶⁵ Comments made during political campaigns still draw sensitive attention.⁶⁶ And organizations like the Ku Klux Klan, dedicated to demonizing minorities like Jews and Blacks, still thrive. With the modern prevalence of antisemitism, it is obvious then that some overlap will occur between people's intolerant beliefs and their workplaces.

As noted earlier, all notions of morality and ethics, right and wrong, are inherently subjective and dependent upon the culture holding their value. Under this simple analysis, even these antisemitic beliefs are subjectively tolerable. In *Peterson*, the underlying legislative and policy intent of Title VII was purportedly upheld by providing protection against discrimination to all aspects of religious observance and practice—clearly without any subjective evaluation of their moral and ethical value. So, is the only test whether a faith provides some recognizable system for making this determination, regardless of its moral compass? Does it only matter that the beliefs are deeply held, without any scrutiny as to an objective right and wrong? Are the courts to defer to any and all systems for determining right and wrong regardless of the consequences the believer's acts carry?

The courts have yet to begin reconciling how a "religion" includes a determination of "right from wrong" but allows for faiths such as Creativity to espouse the hateful antisemitic rhetoric that it does. Instead, the only such distinction the judiciary is actually willing to make on record is whether the group is political or religious, distinguishing the Klu Klux Klan and Nazism from the "church" of Creativity and other such intolerant groups. Are the courts, then, by recognizing Creativity in contrast to the other groups passively acknowledging that preaching antisemitic hatred and propaganda is an establishment of right and wrong?

As seen in *Peterson*,⁶⁷ the court provides workplace protections even for those belonging to hate groups such as the Church of Creativity. But "religions" such as these themselves promote discrimination. In essence, the current judicial model is set to permit accommodating employees even

64. Referenced as "the longest hatred," antisemitic rhetoric has been around since ancient Greece and Egypt, dating back to at least 270 BCE. See Robert S. Wistrich, *A Review of Antisemitism: The Longest Hatred* (London: Thames Methuen, 1991).

65. See Anne Bayevsky, "The UN and the Jews," Christian Action for Israel, 2004. <http://www.cdn-friends-icej.ca/un/andthejews.html>.

66. See Cathy Lynn Grossman, "Sarah Palin's 'blood libel' claim stirs controversy," *USA Today*, January 13, 2011.

67. See n. 55.

when such an accommodation may promote a greater discriminatory practice. Unlike with *The People's Temple*, evaluating the right or wrong of groups such as these is not an after-the-fact analysis, but instead raises up centuries of bigotry, hatred, and massacre.

CONCLUSION

Both practical and moral reasons exist for not extending protections to all deeply held religious beliefs. An employee seeking time to pray during a break in the workday should certainly be accommodated; one whose religion dictates human sacrifice should not, regardless of how sincere the belief may be. Similarly, employees should not be accommodated so that they may further their antisemitic or otherwise intolerant and hateful beliefs. Although clearly an imposition of morality on applying Title VII, there are conceivably foundational “rights” and “wrongs” that should be enforced—murder, human sacrifice, and intolerance included—beyond subjective cultural norms. Some values arguably extend beyond a subjective implication to actually becoming objective standards of morality. Whether this is merely a practical imposition for the preservation of order in society, or an underlying morality, the necessity to deny some “freedoms” is inarguable.

The 1972 Title VII amendment definition⁶⁸ makes no reference to morality or ethics. Only through judicial interpretations has this imposition of subjective criteria come into play. Unfortunately, the precedential value of these interpretations serves to prevent courts from applying the legislative policy underlying the Civil Rights Act. Courts have thus felt compelled to overlook a general sense of morality by providing blanket protection, regardless of how wrong the consequences of such decisions may be.

Some acts should never be condoned.

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68. See n. 28.

The Expulsion of Robert Burke: Suppressing Campus Anti-Nazi Protest in the 1930s

Stephen H. Norwood*

The expulsion of Robert Burke from Columbia University in 1936 underscores the risks students faced when they challenged their administrations' determined efforts to forge friendly ties with the Third Reich during the 1930s. Columbia expelled Burke for leading one of the largest campus demonstrations ever staged against Nazism. Its termination of Burke's academic career sparked a wave of strikes and protests at New York City colleges, the most sustained student free-speech fight until the 1960s. The administration's response to Burke exposes the American higher education elite's willful blindness to Nazi antisemitic atrocities at that time.

Key Words: Anti-Nazi Protest, Campus Antisemitism, Columbia University, Nazi Germany, Nicholas Murray Butler, Robert Burke, University of Heidelberg

Robert Burke, Columbia student and New York City Golden Gloves boxing champion, embodied a muscular anti-Nazism that led him to protest vociferously Columbia president Nicholas Murray Butler's complicity in the Hitler regime's efforts to present a favorable image to the West. This resulted in Burke's expulsion from Columbia in June 1936 and the termination of his academic career. The Butler administration targeted Burke for leading one of the largest campus demonstrations ever staged against Nazism. The severe punishment that President Butler inflicted on Burke underscores the risks students faced when they challenged their administrations' efforts to forge friendly relations with Germany's Nazified universities. Burke's expulsion sparked a series of strikes and demonstrations at Columbia and other New York City colleges demanding his reinstatement that lasted a month into the fall semester. This was the most sustained student free-speech fight until the 1960s. The protests highlighted significant differences in how students and administrators in New York City during the 1930s responded to the menace of Nazi Germany. Burke became the plaintiff in one of the era's most highly publicized academic freedom cases, in which Arthur Garfield Hays, an eminent civil liberties attorney, filed suit to rescind his expulsion.

From the time Hitler assumed power in Germany on January 30, 1933, Columbia students were much more engaged in the struggle against Nazism than were those at other elite schools. This was largely because Columbia, as a result of its New York City location, attracted more students of Jewish and working- and lower middle-class backgrounds than did other elite colleges. Jewish students and those from union families expressed the most concern about Hitler's Germany because of the Nazis' severe persecution of Jews—widely reported in the American press—and their destruction of the labor movement.

To be sure, President Butler had spearheaded the movement to restrict Jewish admissions in American higher education during and immediately after World War I. Butler sharply decreased Jewish enrollment from 40 to 20 percent by reducing the importance of scholastic achievement in admissions. Columbia heavily emphasized interviews by the Columbia College dean and assistant deans, none of whom was Jewish, and required applicants to identify their religion and parents' birthplace. Preference was given to students from elite private boarding schools that excluded Jews. During the period that Herbert Hawkes was dean of the college (1918-1943), its "anti-Semitic admissions policies acquired a harder edge."¹

Even so, New York society preferred to send its sons to the more socially prestigious "Big Three"—Harvard, Yale, and Princeton. As early as 1914, Columbia College dean Frederick Keppel had stated: "One of the commonest references that one hears with regard to Columbia is that its position at the gateway of European immigration makes it socially uninviting to students who come from homes of refinement."² As a pro-labor Irish-American working his way through Columbia, Burke felt much closer to the Jewish minority on campus than to the affluent Protestants from preparatory schools who dominated the college's social life.

1. E. Digby Baltzell, *The Protestant Establishment: Aristocracy and Caste in America* (New York: Vintage, 1966 [1964]), 211; Robert A. McCaughey, *Stand, Columbia: A History of Columbia University in the City of New York, 1754-2004* (New York: Columbia University Press, 2003), 267-269.

In 1914, President Butler told Dean Keppel: "I suggest treating the candidate for graduation as one treats a candidate for admission to a club." In 1934, Columbia College's new admissions director, Frank Bowles, informed Butler that he had admitted over half of the non-Jewish and only one-sixth of the Jewish applicants. Butler told Bowles to "keep up the good work." McCaughey, *Stand, Columbia*, 266, 272-273.

2. McCaughey, *Stand, Columbia*, 257; Norman Podhoretz, *Making It* (New York: Random House, 1967), 46; Jerome Karabel, *The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale, and Princeton* (Boston: Houghton Mifflin, 2005), 87, 577.

In the decades before World War II, the Columbia administration assumed responsibility for transforming students who did not come from “homes of refinement” into “gentlemen.” President Butler lectured the student body at the opening exercises of the 1934-35 academic year about modern youth’s lack of manners. Butler valued formality in speech and dress and suppression of emotion in public. He emphasized that it was particularly important for students to display respect for the opinions of “those who are older in years or who have justly gained distinction in any walk of life.”³

Columbia, during the three semesters before Robert Burke arrived as a freshman in September 1934, was a center of anti-Nazi agitation in New York City. Shortly after Hitler became chancellor, Columbia’s Jewish Students Society collected more than 500 signatures on a petition denouncing Nazi atrocities. A Columbia student delegation attended the mass rally against Nazi antisemitism held at Madison Square Garden on March 27, 1933. When the Columbia administration warmly welcomed Nazi Germany’s ambassador to the United States, Dr. Hans Luther, to campus in December 1933 for a lecture extolling the Hitler regime, Columbia students organized a massive protest. A large proportion of the student body did not share President Butler’s view that Ambassador Luther deserved respect as a “gentleman” who held a “distinguished position” in a major European government. Much of the audience for Luther’s speech expressed its vigorous opposition to Nazism inside the auditorium, and policemen had to forcibly remove several people. Outside, 1,000 protestors, mostly students from Columbia and other New York City colleges, repeatedly clashed with the police as they attempted to move closer to the auditorium. Columbia administrators condemned the demonstrators as “ill-mannered.”⁴

Jewish students, excluded from most fraternities and underrepresented in college sports, became particularly involved with Columbia’s daily student newspaper, the *Spectator*, and in anti-Fascist campus organizations: the Social Problems Club; the Communist-influenced National Student League (NSL), formed in 1931; the socialist Student League for Industrial Democracy (SLID); and the American Student Union (ASU), a Popular Front group established in December 1935 when the NSL and the SLID merged. The Social Problems Club initiated the protests against Ambassa-

3. Columbia *Spectator*, September 27, 1934. Norman Podhoretz, who graduated from Columbia in 1950, recalled that even then the College defined a gentleman as “a facsimile WASP.” Podhoretz, *Making It*, 50.

4. Stephen H. Norwood, *The Third Reich in the Ivory Tower: Complicity and Conflict on American Campuses* (New York: Cambridge University Press, 2009), 76-77, 84-85.

dor Luther's visit. SLID sponsored a lecture in 1934 by Gerhart Seger, an anti-Nazi former Reichstag deputy who had escaped from the Oranienburg concentration camp. The ASU aggressively campaigned against sending a Columbia delegate to Heidelberg and spearheaded the movement to reinstate Burke.

The *Spectator* took a consistently hard line against Hitler's Germany, unlike the Harvard *Crimson* and the Yale *Daily News*, which endorsed their administrations' decision to participate in the Heidelberg festivities. During the 1930s, Jews comprised a sizable proportion of the *Spectator*'s managing board, sometimes a majority. Two of the *Spectator*'s editors-in-chief, Arnold Beichman (1933-34) and James Wechsler (1934-35), were Jewish. The *Spectator* was among the very few college newspapers that provided consistent coverage of international affairs, European and American antisemitism, and labor issues.

The Columbia administration's belief that students should live up to its ideal of the Christian gentleman, along with its indifference to Nazi outrages against Jews, led to repeated clashes with the *Spectator* and Robert Burke. The administration did not consider the *Spectator*'s outspoken editors, Burke, or other student anti-Nazi protestors as gentlemen. They did not display the desired deference. Administrators were repelled by their intensity, bluntness, and persistent criticism of them. James Wechsler recalled that Butler was so angry at what he thought was the discourtesy Columbia students displayed by demonstrating against Nazi ambassador Luther that he initially planned to expel those who organized the protest.⁵ In an editorial entitled "Manners, Manners, Manners," published during the height of the Burke reinstatement campaign, the *Spectator* ridiculed the administration for defining an anti-Nazi demonstration at President Butler's mansion as unmannerly while indulging fraternity boys who injured people and damaged property during a post-football victory rampage.⁶

The *Spectator* and the ASU constantly criticized President Butler's unwillingness to take a stand against Nazi persecution of Jews and trade unionists, even as he condemned Soviet policies. Butler, head of the Carnegie Endowment for International Peace and winner of the 1931 Nobel Peace Prize, was, as America's best-known university president, in a posi-

5. James A. Wechsler, *Revolt on the Campus* (New York: Covici Friede, 1935), 421.

6. Columbia *Spectator*, October 27, 1936. Interest in sports that the upper classes favored, like college football, was a mark of the gentleman. Boxing, Burke's sport, was stigmatized by its association with the working and lower classes and ethnic and racial minorities.

tion to influence American public opinion against Nazi Germany, but chose not to do so until 1937.⁷

During the spring semester of 1934, the *Spectator* repeatedly condemned Butler for terminating the appointment of Jerome Klein, a talented fine-arts instructor who had been a member of the faculty for seven years, because he believed Klein had initiated a petition opposing the administration's invitation to Ambassador Luther. To protect the participants from administration retaliation, those circulating the petition arranged the signatures "in a large circle, so none would be first." As a result of "a student's careless error," however, Klein's campus mailbox appeared as "the return address for the petition." Klein was discharged shortly afterward, and was never again able to secure academic employment.⁸

The next semester the *Spectator* further angered Butler, a longtime admirer of Benito Mussolini, by denouncing Columbia's Casa Italiana as a leading center for the dissemination of Fascist propaganda in the United States. The Social Problems Club picketed Butler's mansion and his Low Library offices, demanding that he answer this charge, and distributed fliers on campus condemning Butler's refusal to meet with student delegations to discuss the issue.⁹

The *Spectator* several times complained that the administration was attempting to censor it. In March 1935, *Spectator* editor-in-chief James Wechsler assailed Columbia authorities' efforts to "smash the [*Spectator*'s] outspoken policy and make it an administration rubber stamp."¹⁰ The

7. Norwood, *The Third Reich in the Ivory Tower*, 78-79, 84-85, 101.

8. George Klein to Stephen H. Norwood, November 10, 2006; Norwood, *The Third Reich in the Ivory Tower*, 85-87. Jerome Klein was the Columbia fine arts department's only specialist in modern painting. When he was informed of his termination, it was too late to apply for a college or university position for the next year. A majority of the fine arts faculty opposed his termination.

9. Norwood, *The Third Reich in the Ivory Tower*, 79, 89-93; *Columbia Spectator*, November 13, 1934.

10. *The New York Times*, March 10, 1935; James A. Wechsler, "The Education of Bob Burke," *The Student Advocate*, October-November 1936, 12. The *Times*, reporting on the convention of the National Student Federation (NSF) in Washington, D.C., in late December 1933, remarked that student government leaders in the nation as a whole were inclined "to leave controversial questions, in college and out, to the decision of older and presumably wiser heads" (that is, administrators and faculty members). When Columbia *Spectator* editor-in-chief Arnold Beichman introduced a resolution at the NSF convention "in favor of a free college press, unhampered by faculty censorship," it "was defeated by a large majority." The convention was also unwilling to support another resolution Beichman proposed, asking that the session "go on record as opposing the holding of the Olympic

administration “threatened [*Spectator*] with the withdrawal of its subsidy.”¹¹

Campus denunciations of the *Spectator* were sometimes explicitly antisemitic. In April 1935, for example, Columbia junior Robert Bellaire condemned the *Spectator* in a letter to the editor as “the voice of the Social Problems Club, the Columbia Communist, the Jewish Students Society, [and] the National Student League.” This elicited an angry rejoinder from editor Wechsler, who noted “the grave significance” of Bellaire’s antisemitic conflation of Jews and Communists. Wechsler pointed out that the Columbia Jewish Students Society firmly opposed left-wing radicalism. He added facetiously that Bellaire had “omitted only the *Spectator*’s link with international Jewish bankers.”¹²

During his first year at Columbia, Robert Holway Burke became fascinated with the student struggle against Nazism, as well as campus labor conflict. He was born in Hubbard, Ohio, on September 4, 1914, and grew up in the nearby steel manufacturing center of Youngstown, raised by parents shaped by Irish republicanism. Burke’s father, Geoffrey Burke, a former steelworker and a Democrat, was a retail coal dealer and hauler and identified as a follower of Henry George. Terry Burke, his youngest son, recalled that “[t]he Irish tradition of struggling for justice and fairness . . . was arguably the predominant influence” on Robert Burke, who “never tired of singing the songs of his forefathers’ struggles.”¹³

Robert Burke faced formidable financial obstacles in attending Columbia. He toiled for three years in Youngstown in a steel mill and as a truck driver before enrolling. During the two years at Columbia before his expulsion he often worked thirty hours a week, even washing dogs and selling his own blood. James Wechsler claimed that Burke “set an employment record on Morningside Heights.” Burke’s jobs at Columbia included theater usher, soda jerk, and boxing instructor at a private school. Wechsler noted that Burke, “having saved his dollars,” went to Columbia for an education, and refused to assume the role of “quiet ‘dumb athlete.’” Alone among Columbia’s athletes, Burke campaigned against American participation in the Ber-

Games in Berlin in 1936, on account of the Nazi attitude toward non-Aryans.” *The New York Times*, December 30, 1933.

11. Robert Burke, “Why Columbia Told Me Not to Return,” *Champion of Youth*, August 1936, 12.

12. Columbia *Spectator*, April 17 and 23, 1935.

13. Terry Burke, telephone interview by Norwood, August 21, 2009; Terry Burke to Norwood, August 7, 2010.

lin Olympic Games, warning that the Hitler regime would make them a showcase for Nazi propaganda.¹⁴

Burke appears to have been a fine student, but Columbia may have recruited him because of his boxing prowess, which he displayed at an early age.¹⁵ Burke's athletic record likely contributed to his election as junior class president toward the end of his sophomore year, an office he could not assume because of his expulsion.

By his sophomore year at Columbia, Burke was engaging in trade union support work that brought him into direct confrontation with the anti-labor Columbia administration. He joined the Columbia NSL. The day after Burke won the New York City Golden Gloves middleweight boxing final at Madison Square Garden, he led 25 Columbia College students to join a picket line at Teachers College, whose elevator operators were on strike. The New York *World-Telegram* referred to Burke by his nickname, "Tarzan."¹⁶

Columbia's administration strongly opposed the unionization of its employees. The previous year, Teachers College dean William F. Russell had publicly defended the discharge of several dining hall workers who had joined the Hotel and Restaurant Workers Union. A faculty-student committee found that the administration refused to rehire the men "because of their 'union membership and activity.'" ¹⁷ President Butler devoted part of his welcoming address to the student body opening the 1936-37 academic year to denouncing American Newspaper Guild strikers in Seattle as "disorderly and lawless." That same day, the Brotherhood of Painters, Decorators, and Paperhangers accused the Columbia administration of "refusing to recognize unions" and of combating its employees' efforts to organize "by intimidation and by discharging men who join unions." University painters

14. Wechsler, "Education of Bob Burke," 12; *Union Voice*, March 11, 1951. Recalling his time in the steel mill in an interview with *Union Voice*, published by the Distributive, Processing, and Office Workers of America, when he was a vice president of its District 65, Burke declared: "Know how hot it is making steel? Damn hot. Maybe 3300 degrees and you sweat like a pig."

15. Terry Burke to Norwood, August 7, 2010; *Union Voice*, May 8, 1949. Burke's oldest son, John, was "pretty sure" Columbia had recruited his father as an athlete and noted that many of Columbia's athletes came from the Midwest. John Burke, telephone interview by Norwood, April 18, 2010.

Burke won the Ohio welterweight Golden Gloves championship in 1930 at the age of 15, and as a Columbia student was middleweight division runner-up in the New York-Chicago Inter-City Golden Gloves tournament.

16. Wechsler, "Education of Bob Burke," 12; New York *World-Telegram*, March 10, 1936; Chicago *Tribune*, March 10, 1936.

17. *The New York Times*, September 26 and December 11, 1935.

wearing sandwich boards calling on students and professors to support their organizing campaign picketed at Columbia's main gate while Butler delivered his address.¹⁸

The Columbia administration expelled Burke at the end of his sophomore year, after he refused to apologize for leading a student demonstration in front of President Butler's mansion to protest Columbia's decision to send a delegate to Nazi Germany for the University of Heidelberg's 550th anniversary celebration, along with friendly greetings. The Heidelberg celebration was a major Nazi propaganda festival, carefully orchestrated by Josef Goebbels' Ministry of Propaganda. Goebbels himself delivered the welcoming address at the banquet for foreign delegates. The four-day festival was scheduled to culminate on June 30, the anniversary of the Night of the Long Knives, a sacred day on the Nazi calendar. The University of Heidelberg, which had expelled its Jewish faculty members, had been the site of a massive book burning of Jewish and other "un-German" books in May 1933. The books the Nazis burned included the works of one of Columbia's own professors, Franz Boas, considered the world's most distinguished anthropologist, and a Jew.

Over twenty American colleges and universities accepted the Nazis' invitation to send delegates to Heidelberg, including Harvard, Yale, Columbia, Vassar, Michigan, and Cornell. The Hitler regime believed that the presence at Heidelberg of academic dignitaries from the United States and other democratic nations would cause people in the West to view Nazi Germany as a respectable member of the community of nations while it intensified its persecution of Jews and built up its armed forces.¹⁹

When, on February 28, 1936, Columbia announced its acceptance of Heidelberg's invitation, the administration was "bombarded"²⁰ with protests from Jewish leaders and organizations, the *Columbia Spectator*, and

18. New York *World-Telegram*, September 24, 1936, roll 128, American Civil Liberties Union [hereafter, ACLU] Papers, microfilm edition. The day after Butler's welcoming address, some of Columbia's striking building service workers picketed against the administration's refusal to employ union exterminators. New York *World-Telegram*, September 25, 1936; *Columbia Spectator*, September 30, 1936.

Herbert Hawkes, the Columbia College dean who expelled Robert Burke, held strong anti-labor views. In 1920, Hawkes recruited Columbia students to serve as strikebreakers when railroad workers walked off the job in the East. Stephen H. Norwood, *Strikebreaking and Intimidation: Mercenaries and Masculinity in Twentieth-Century America* (Chapel Hill: University of North Carolina Press, 2002), 31.

19. On the University of Heidelberg's 550th anniversary celebration, see Norwood, *The Third Reich in the Ivory Tower*, 60-68, 93-97, 125, 158, 166.

20. Norwood, *The Third Reich in the Ivory Tower*, 93.

the *Columbia Law Review*. One thousand Columbia students and faculty members, including Franz Boas and Nobel laureate Harold Urey, signed a petition calling on the administration to rescind its acceptance of the Heidelberg invitation. In late March, President Butler met with a delegation of student leaders from Columbia, Barnard College, and Teachers College, which expressed its strong opposition to the university's participating in the Heidelberg festival. Butler promised the delegation that he would fully consider its argument. During the next month, the student leaders heard nothing from Butler.²¹

On April 29, the *Spectator's* disclosure that Arthur F. J. Remy, Villard Professor of Germanic Philology, would represent Columbia at Heidelberg precipitated a new storm of campus protest. The *Spectator* reported that the Heidelberg festival program listed prominent Nazi party and Reich government officials, including Goebbels, as speakers. President Butler responded to a request by the student leaders for another meeting by having Columbia assistant secretary Philip Hayden announce that "Dr. Butler has nothing to see the committee about." The *Spectator* blasted Butler in an angry editorial that declared: "We refuse to be represented at Heidelberg where all academic freedom is ended."²²

As the academic year drew to a close and students prepared for final exams, the Columbia ASU organized a mock campus book burning to protest university participation in the Heidelberg festival. About two hundred Columbia students joined in the mock book burning. They displayed placards marked "Butler Diddles While the Books Burn" and "On to Heidelberg—Bring Your Brass Knuckles." Columbia junior Paul Kolisch, wearing "a short Tyrolean mustache in impersonation of Hitler," began the ceremony by having a Manhattan telephone directory thrown into the bonfire because it was "full of Jewish names." Kolisch then demanded that the university be "Aryan pure." Although Professor Remy was already en route to Nazi Germany, Kolisch announced that he was in the crowd, and sophomore Paul Thomson stepped forward to present "Hitler" (Kolisch) with a diploma. Thomson declared: "I pronounce you Doctor of Laws, Culture and Civilization."²³

21. *Ibid.*, 93-95. Franz Boas was Robert Burke's favorite professor at Columbia. Burke very much appreciated the strong support Boas gave for his reinstatement. Terry Burke, telephone interview by Norwood.

22. *The Dismissal of Bob Burke: Heidelberg Comes to Columbia* (Burke Defense Committee, American Student Union, and American Civil Liberties Union, 1936), 6-7; *Columbia Spectator*, April 29 and May 12, 1936.

23. *Dismissal of Bob Burke*, 7; *New York Herald Tribune*, May 13, 1936; *Columbia Spectator*, May 13, 1936.

The New York *Herald Tribune* reported that when campus police extinguished the bonfire with water hoses, Robert Burke, a member of Columbia ASU's executive committee, called out, "Let's go over to Butler's house for tea and biscuits." The students then proceeded to Butler's mansion, snake-dancing "as they chanted, to the tune of 'John Brown's Body': 'Nicholas Murray Butler wants to go to Heidelberg/But we say go to _____ (silence).'" Butler was in his residence, hosting a dinner for surviving members of the Columbia College Class of 1881.²⁴

At Butler's mansion, Burke and Paul Thomson briefly addressed the assembled student protestors. Thomson led the students in a call and response, asking: "Who's against war and Fascism?" and "Who's for academic freedom?" to which the students roared back: "We are!" One student shouted: "I nominate Dr. Nicholas Murray Butler for the Reichstag." Some members of the crowd then gave the Nazi salute, and Thomson announced: "I declare Dr. Butler elected."²⁵

Burke denounced Butler for accepting an invitation to a Nazi festival in Columbia's name, saying, "Nicky . . . you can send a representative to Heidelberg but let it be known that he is not the choice of the student body." Several observers later submitted sworn affidavits testifying that Burke not only refrained from using "any personal or abusive language" against Butler, but "attempted to quiet a few individuals" who shouted insults against him.

The gathering at Butler's residence lasted about half an hour, after which the students dispersed in an orderly fashion. Some students discarded picket signs near the mansion's front door. Newspaper reporters seeking a statement from Butler about the protest rang his doorbell, but no one answered. No demonstrators rang the doorbell or attempted to enter the mansion.²⁶

While the anti-Nazi protest was in progress, more than 300 other Columbia students began a riot the *Spectator* described as "typical of dormitory outbreaks" that traditionally preceded final exams. The disturbance began with students hurling bags of water, milk bottles, and other missiles from their dormitory windows. Some of the rioters threw water bags at the anti-Nazi protestors as they walked to Butler's mansion. For half an hour, water bags and bottles crashed to the ground "with the sharp reports of pistol shots." Undergraduates then poured out of the dormitories and marched on Barnard College, where they tore down a major section of the

24. New York *Herald Tribune*, May 13, 1936; Wechsler, "The Education of Bob Burke," 13.

25. New York *Herald Tribune*, May 13, 1936.

26. *Dismissal of Bob Burke*, 7-8, 17-18, 20.

wooden fence surrounding the women's campus. A female student noted in the *Barnard Bulletin* that the rioters were "obviously . . . a counter group, bored with the serious purpose of the ASU." The rioters tossed fence rails and a few benches on to the Broadway streetcar tracks, halting traffic, and set a can full of rubbish on fire. Ten nightstick-wielding city policemen "at last" drove the crowd back to the Columbia campus.²⁷ Columbia's administration imposed no punishment on the student rioters.

Angry about the picketing of Butler's mansion, Columbia College dean Herbert Hawkes summoned Robert Burke to his office and denounced the demonstration there as "reprehensible." Dean Hawkes accused the protestors of shouting "profane remarks about Dr. Butler" and violating "the sanctity of Dr. Butler's home" by picketing and leaving placards in front of the mansion.²⁸

Hawkes informed Burke that he was responsible for any disruption because he was one of two leaders (along with Paul Thomson) of the demonstration identified in the press. It did not matter that the only "rudeness" Burke had displayed in speaking, according to sworn affidavits from eye-witnesses, was to call President Butler "Nicky," and that he had nothing to do with the discarding of placards. Hawkes called Burke's behavior "disgraceful" and gave him the choice of publicly repudiating the demonstration or resigning from the student body. Confronted with the same choice, Thomson had chosen the former option, and was not disciplined in any way. Unlike Burke, Thomson was of privileged background, a cousin of Frederick Coykendall, chairman of the Columbia University Board of Trustees. This may have influenced the administration's sharply different treatment of the two men. Burke, in contrast to Thomson, refused to back down. He responded: "Disgraceful to holler about holding hands with the Nazis? If there's another demonstration tomorrow, I'll speak there too." He would only apologize for any use of profanity by members of the crowd and their dropping of placards at the foyer of Butler's mansion.²⁹

Dean Hawkes told Burke that if he resigned he might be able to transfer to another school, but if he refused and Columbia expelled him, he "would be unable to enter any educational institution in the United States." Burke, unfazed, prepared to contest his expulsion as a "suppression of free thought and free speech." He warned that such an infringement on civil

27. New York *Herald Tribune*, May 13, 1936; *Columbia Spectator*, May 13, 1936; *Barnard Bulletin*, June 5, 1936.

28. *Dismissal of Bob Burke*, 8.

29. *Ibid.*, 6-10, 17-18, 20; New York *Herald Tribune*, May 13, 1936; New York *Post*, October 2, 1936; *Barnard Bulletin*, October 23, 1936; *Union Voice*, March 11, 1951.

liberties could lead “to those other denials of freedom so well demonstrated in Nazi Germany.”³⁰ Dean Hawkes denied Burke’s charge that the administration’s refusal to take any disciplinary action against the student rioters who had torn down the Barnard fence indicated that his expulsion was politically motivated. Hawkes claimed that the rioters had merely engaged in a “usual pre-examination outburst,” while the anti-Nazi demonstration was an “invasion of the sanctity of Dr. Butler’s home.”³¹

The ASU immediately rushed to Burke’s defense. James Wechsler, the ASU director of publications, announced that his organization was planning a nationwide campus protest against Burke’s expulsion when the fall 1936 semester began. Wechsler demanded to know why the Columbia administration had singled out Burke for punishment when “hundreds of students joined with him in the protest meeting.” He accused the administration of expelling Burke because of his activities supporting the building service workers strike at Columbia the previous March.³² The Columbia ASU charged that President Butler was responsible for Burke’s expulsion, declaring that subordinates carried out his instructions “while he circles the globe paying lip-service to freedom.”³³ The ASU, while the Heidelberg festival was in progress, cabled Nazi Germany’s minister of education Bernhard Rust, who delivered a blistering antisemitic speech there, warning that Burke’s expulsion would not quash protest against American university complicity in Nazi Germany’s propaganda campaign.³⁴

American and British press dispatches from Heidelberg described the 550th anniversary ceremonies as a massive Nazi propaganda festival. The London *Times* reported that “the city [is] smothered in Swastika flags and students marching through the town as Nazi Storm Troopers or Nazi Guards.” Both the London *Times* and *The New York Times* emphasized that the German ministry of propaganda tightly controlled the entire festival. *The New York Times* reported on the first day that the top Nazi leaders were either present or expected to arrive shortly, including propaganda minister

30. Burke, “Why Columbia Told Me Not to Return,” 12.

31. *Dismissal of Bob Burke*, 9.

32. *The New York Times*, June 30, 1936; *New York Herald Tribune*, June 30, 1936.

33. The *Washington Post*, June 30, 1936. The ASU was referring to the frequent trips to Europe Butler made as president of the Carnegie Endowment for International Peace. Butler considered himself an international statesman and peacemaker. He made several trans-Atlantic voyages on German vessels flying the swastika flag, in defiance of the boycott of German goods and services announced by American Jewish groups in 1933 and endorsed by the American Federation of Labor. Norwood, *The Third Reich in the Ivory Tower*, 78, 82.

34. *Daily Worker*, July 1, 1936.

Goebbels, scheduled to deliver “the chief address”; SS chief Heinrich Himmler; racial ideologist Alfred Rosenberg; education minister Rust, who wielded dictatorial control over Germany’s universities; and economics minister Hjalmar Schacht. At the festival, Rust gave a speech in which he denounced Jews as “an alien race” that did not belong in German universities. The *Times* noted the conspicuous absence of the Union Jack among the foreign flags displayed because the British universities had declined to send delegates, and editorialized: “In England academic freedom lives. In Germany a wreath should be laid on its grave.”³⁵

The American Civil Liberties Union (ACLU) considered Columbia’s expulsion of Burke an egregious violation of free speech. Arthur Garfield Hays, the ACLU’s world-renowned general counsel, agreed on July 30 to represent Burke in a lawsuit against Columbia for reinstatement.³⁶ An ardent anti-Nazi like Burke, Hays had in March 1933 urged secretary of labor Frances Perkins to remove immigration restrictions preventing Jewish and other anti-Nazi political refugees from entering the United States, and had represented defendants in the Reichstag Fire trial in Berlin and Leipzig; because Hays was a Jew, the Nazis had required him to speak in court through German lawyers. *The New York Times* noted that Hays’ “reputation as the forensic champion of civil rights in the twentieth century was second only to Clarence Darrow,” whom he had assisted in the Scopes and Ossian Sweet trials during the 1920s.³⁷ To Columbia’s attorney John Godfrey Saxe, however, Hays was just “one of the agitators of the American Civil Liberties League [*sic*].”³⁸

Several metropolitan daily newspapers, in and outside New York, criticized Burke’s expulsion. The liberal New York *Post*, in an editorial entitled “While Goebbels Beams at Columbia’s Representative,” published on the last day of the Heidelberg festival, declared that the expulsion “will draw

35. London *Times*, June 29, 1936; *The New York Times*, June 28, 1936; Steven P. Remy, *The Heidelberg Myth: The Nazification and Denazification of a German University* (Cambridge, MA: Harvard University Press, 2002), 57-58; Norwood, *The Third Reich in the Ivory Tower*, 67-68. The *Manchester Guardian* reported on the third day of the festival that Rector Groh had sent a “telegram of greeting” to Hitler, praising him as “the liberator of the German spirit and the protector of German culture.” *The Manchester Guardian*, June 29, 1936.

36. *Dismissal of Bob Burke*, 12.

37. *The New York Times*, March 22, 1933, and obituary of Arthur Garfield Hays, *The New York Times*, December 15, 1954.

38. J. G. S[axe], Memorandum for Committee on Legal Affairs, March 10, 1937. Subject: Robert Burke v. University, Central Files, Columbia University Archives—Columbiana Library, Low Library [hereafter, CUACL], Columbia University [hereafter, CU], New York, N.Y.

cheers from every Hitler functionary at today's exercises." The *Post* saw a parallel in the Columbia administration's treatment of Burke and the Nazis' suppression of basic liberties. It commented bitterly that "Herr Goebbels himself, in charge of the Heidelberg celebration, could not have met a difference of opinion more efficiently." The conservative New York *World-Telegram*, although criticizing the "boisterous" anti-Nazi demonstrators for "distressing the [university] president and his dinner guests," argued that Burke's punishment was well out of proportion to the alleged offense: "the dean's answer is not the verdict of a disciplinarian but of an executioner." The *World-Telegram* noted that Burke had been elected president of his class, which it considered an "indication of promise."³⁹

The conservative Youngstown *Daily Vindicator* implied that the expulsion was unfair. The *Vindicator*'s editorial criticized the ASU's campaign for Burke's reinstatement as "belligerent," but conceded that it was "easy to understand" the anti-Nazi demonstrators' behavior because Columbia's administration had "given [them] no satisfaction from their previous protests" about sending a university delegate to Heidelberg. The *Vindicator* spoke favorably of Burke, calling him "an engaging young man."⁴⁰

Twenty-one prominent Youngstown citizens signed a letter to Dean Hawkes prior to the opening of the fall semester, urging him to reconsider Burke's expulsion. The signers included the principal and assistant principal of Rayen High School, from which Burke had graduated; the rabbi at Youngstown's temple; the pastors at Youngstown's Congregational and Baptist churches; a city council member; the city water commissioner; the *Vindicator*'s editorial writer; and five local attorneys. The signers were uncomfortable with the decision to demonstrate at President Butler's home, but felt it was "excusable" because the students' motive was not to invade his privacy. The signers emphasized, moreover, that the students "were on firm ground in their opposition to Fascism." They declared that "because it is important to avoid even the appearance of seeming to stifle academic freedom, the incident should be overlooked." The signers praised Burke as "a young man of good habits and a sound character."⁴¹

The Columbia administration did not challenge Burke's apparently exemplary scholarly record, but insisted that academic accomplishment had no relevance in his case. Hawkes informed Burke by letter: "[t]he university can not give its diploma marking achievement and excellence to a student who is a ringleader in this kind of affair [the anti-Nazi demonstration at

39. New York *Post*, June 30, 1936, and New York *World-Telegram*, June 30, 1936, roll 128, ACLU Papers.

40. Youngstown *Daily Vindicator*, September 19, 1936.

41. *Ibid.*, September 18 and 19, 1936.

Butler's mansion] and who thereafter indicates he does not fully understand the personal misconduct involved."⁴²

Columbia administrators did not hesitate to identify Burke's radicalism and anti-Fascism as the principal causes of his expulsion a few years later, when the FBI began assembling a dossier on him. C. H. Fox, student supervisor in the Columbia Registrar's Office, described Burke as a "smart boy," but denounced him as an "agitator." Fox told the FBI that the administration had expelled Burke both "for his actions as a radical" and "as a leader of student demonstrations on the campus in the Spring of 1936." Associate dean N. M. McKnight stated that Burke was "a likable boy who was popular with the students" and "a very good prizefighter." He was, however, "a radical and was not desirable as a student of the University."⁴³

The new academic year began in late September 1936 with well-coordinated student strikes and rallies at several New York colleges demanding that Columbia allow Burke to register. These demonstrations, which persisted into late October, constituted the largest grass-roots protest against the suppression of student academic freedom in American history until that time. Burke, who had spent the summer in Youngstown as a SWOC-CIO organizer, returned to New York to participate in the campaign for his reinstatement.

The New York *World-Telegram* declared that planned demonstrations "on the first day of classes presaged another storm-beset academic year." The Columbia administration began the fall semester by releasing a statement by Dean Hawkes reaffirming his refusal to reinstate Burke. At Columbia, three ASU members, including Burke and James Wechsler, addressed a "mass demonstration of protest," in which 500 students boycotted classes in solidarity with Burke. Students walking up and down the Low Library steps in the middle of the campus had to circumvent pickets carrying signs call-

42. *Ibid.*, September 24, 1936. Dean Hawkes curtly replied to a letter from Burke's father asking him to rescind the expulsion: "Suffice it to say that your son was one of the leaders in one of the most disgusting and unmannerly demonstrations that has been seen at Columbia University for many years." Because Robert Burke refused to apologize for the demonstration, Hawkes was "obliged to assume that his action on this occasion represents the kind of conduct we may expect of him." Burke's father had asked Hawkes: "Have you considered the hard work the boy has done to help support himself while earnestly trying to acquire a really comprehensive education?" *Dismissal of Bob Burke*, 10-12.

43. James H. Merritt, FBI Report: "Robert Holway Burke. Character of Case: Internal Security-C. Custodial Detention. November 23, 1942." By examining the records of the Criminal Alien Squad of the New York City Police Department, the FBI determined that Burke "was expelled from Columbia in 1936 for leading anti-Fascist group meetings."

ing for Burke's reinstatement.⁴⁴ Wechsler proposed a general strike of the entire student body to achieve this.⁴⁵

Columbia College's Board of Student Representatives (student government) rejected Paul Thomson's resolution to support Burke's reinstatement by a four-to-three vote. The previous semester's Student Board had opposed the administration's sending a delegate to the Nazis' Heidelberg festival. During the hearing on the resolution, Board member Richard Foster declared to Burke, who was present, that in leading the anti-Nazi demonstration at Butler's mansion he had not been "on the right side of the fence with opinion." Burke shot back: "You mean powerful opinion, Dick." The *Spectator* condemned the Student Board for endorsing "reaction" and joining "the goose step."⁴⁶

Student newspapers at several other New York City colleges published editorials denouncing Burke's expulsion as a blow against students' academic freedom, including those of New York University's (NYU) uptown and downtown campuses, City College of New York's (CCNY) *The Campus*, and the Hunter College *Bulletin*.⁴⁷ CCNY, Hunter, and NYU's downtown campus had overwhelmingly Jewish student bodies, and Jews were also a sizable presence at NYU's uptown residential campus. Support for Burke at these schools was undoubtedly reinforced by Jewish students' abhorrence of Nazism and admiration for a youth willing to sacrifice his academic career to fight it.

The Campus's editorial, entitled "Crime at Columbia," was typical of those in the New York college press. It blasted the Columbia administration for "obstinately cling[ing] to the doctrine that expelling student leaders is a powerful means of halting student protest." *The Campus* ridiculed Dean Hawkes' charge of "ungentlemanly conduct" against Burke, noting that five witnesses had submitted sworn affidavits that Burke was not boisterous and had used no profanity at the anti-Nazi demonstration at Butler's mansion. *The Campus's* editors were "quite certain that 'ungentlemanly' or boisterous conduct in connection with a big football game or dance would have

44. New York *World-Telegram*, September 24, 1936, and New York *American*, September 25, 1936, roll 128, ACLU Papers; *The New York Times*, September 25, 1936; Youngstown *Daily Vindicator*, September 27, 1936.

45. New York *American*, September 25, 1936, roll 128, ACLU Papers. Burke declared at the rally that the controversy over his expulsion centered on the "question whether the president, dean and trustees of Columbia will tell me what to think and do or whether I shall do what I think is right." *The New York Times*, September 25, 1936.

46. *Columbia Spectator*, September 30, 1936.

47. *The Campus*, September 25 and 29, 1936; *Washington Square College Bulletin*, October 5, 1936; *Hunter Bulletin*, October 13, 1936.

occasioned little more than a chuckle from the same men who shudder at [it] in connection with an anti-Fascist demonstration.”⁴⁸

On the night of October 5, 250 protestors conducted an orderly mass meeting at Columbia, during which James Wechsler, Burke, and a representative of the NYU uptown campus’s Student Council called for reinstatement. The protestors then marched by the light of 300 Roman torches around the campus. As they passed President Butler’s residence, they gave the Nazi salute.⁴⁹

Burke’s struggle for reinstatement attracted editorial support from at least one newspaper published at a school with few Jewish students, the University of Minnesota. The *Minnesota Daily* on October 20 expressed its solidarity with Columbia students’ protests against their administration’s “cooperation . . . with German Nazi-dom and its suppression of academic liberty.” It denounced as a violation of academic freedom Columbia’s “threatening [Burke] with the blacklist.” The *Minnesota Daily* noted approvingly that because of Burke’s expulsion “the Columbia campus has been in constant furor since the fall term opened,” reporting that “every day President Butler is picketed by students, and every day Columbia receives scores of protests from all over the country.”⁵⁰

Barnard’s administration thwarted the plans of that college’s ASU chapter to host a protest meeting at which Burke would speak by denying it a room in which to hold it.⁵¹ The administration also removed from a Barnard Hall bulletin board a notice advertising a Columbia rally for Burke to be held on September 30. When Barnard students supporting Burke asked if they could restore the notice, permission was refused. Barnard dean Vir-

48. *The Campus*, September 25, 1936. The *Washington Square College Bulletin*, published on NYU’s downtown campus, emphasized in an October 5 editorial that the Burke reinstatement campaign was waged “to safeguard the basic rights of all students—the right to think, speak, and act freely.” The *Bulletin* urged NYU students to join a torchlight parade for student academic freedom scheduled that evening at Columbia. *Washington Square College Bulletin*, October 5, 1936.

49. *Columbia Spectator*, October 6, 1936. At NYU’s uptown (University Heights) campus a few days earlier, more than 350 students gathered at a mass meeting called by the Heights Committee for Burke Defense to hear student council president Harry Kaplan and Burke call for reinstatement. The meeting denounced Burke’s expulsion as “an unwarranted attack on student liberty.” *Columbia Spectator*, October 2, 1936.

50. *Minnesota Daily*, October 20, 1936, roll 128, ACLU Papers. Students at Harvard, Cornell, Texas Christian University, Southwestern University [Georgetown, Texas], and Howard declared their support for the two-hour Columbia student strike for Burke’s reinstatement staged on October 21, 1936. *Columbia Spectator*, October 21, 1936.

51. *Barnard Bulletin*, October 2, 1936.

ginia Gildersleeve had recently declared that students were “free to agitate,” but only off campus. Dean Gildersleeve had introduced Barnard Italian professor Peter Riccio at a ceremony in New York in which Fascist Italy’s consul-general bestowed a medal on him. Gildersleeve reacted dismissively to pickets protesting Riccio’s pro-Fascist statements outside the hall.⁵²

On October 7, Burke’s backers staged a mock trial of President Butler, his administration, and the Columbia trustees for expelling Burke and “willfully undermining the liberties of Columbia students.” The panel of judges included professor Reinhold Niebuhr of Union Theological Seminary; playwright Maxwell Anderson; actor Burgess Meredith, who performed the lead role in Anderson’s play *Winterset*; and Columbia *Spectator* editor-in-chief Thomas Jones. Burke himself appeared as a witness on his own behalf. The audience, which included more than 300 students, “roundly applauded” his summary of the case. The defense attorney, “to prove that [President] Butler’s actions were not malicious,” summoned witnesses to show “how frequently he had erred in the past.” The prosecution “conceded the point.” Burgess Meredith announced to the audience the judges’ unanimous verdict of guilty for Butler and all the other defendants.⁵³

On the night of October 8, Burke’s supporters began regular picketing of President Butler’s home for 12 hours—from 9:00 p.m. until 9:00 a.m.—in what they called “a death watch for academic freedom.” The first night’s picketing took place during the annual dinner of the Men’s Faculty Club, located next to Butler’s residence. As the dinner neared its end, the pickets divided into two groups, one remaining at Butler’s home and the other taking up positions at the Faculty Club entrance. The Columbia *Spectator* reported that “the Faculty members and their wives, in dinner clothes, were greeted as they left the building by Burke, dressed in a sweatshirt and bearing a sign, ‘Fight for Burke.’” Butler was dining there that evening, and when he spotted Burke near the front entrance as he was leaving, he withdrew to the rear of the club and exited there.⁵⁴

With the ACLU’s full backing, Burke filed a lawsuit for reinstatement early in the fall semester. Arthur Garfield Hays argued that because the plaintiff had “maintained the required scholastic standing” and had “observed all reasonable rules [pertaining] to conduct,” Columbia could not expel him. President Butler maintained, however, that he and Columbia’s deans could discipline students “without dispute” from parties outside the

52. Norwood, *The Third Reich in the Ivory Tower*, 91; Columbia *Spectator*, October 1, 1936.

53. *The Campus*, October 9, 1936; *The New York Times*, October 8, 1936.

54. *The New York Times*, October 9 and 13, 1936; Columbia *Spectator*, October 9, 1936; Barnard *Bulletin*, October 13, 1936; *The Campus*, October 18, 1936.

university. He insisted that a court could no more interfere in a matter concerning student “misconduct” than it could determine the grade on a student’s examination. Columbia’s attorney J. G. Saxe claimed that Burke had violated a contractual obligation to “abide by Columbia’s statutes” by leading a “disorderly” demonstration “on the door-stop” of President Butler’s house.⁵⁵

Columbia charged in its brief that Burke had referred to President Butler “disrespectfully” in his speech at the mansion, and held him responsible for other students’ “blasphemous and obscene language.” It did not identify the objectionable words it claimed the students used. The administration apparently mistook a shout of “Castigate Butler” for “Castrate Butler.” Saxe admitted that “the evidence that Burke himself used bad language is slight.”⁵⁶

Burke had little prospect of winning his lawsuit, because courts in the 1930s shared university administrators’ very narrow definition of academic freedom. President Butler had voiced the prevailing view in his annual report for the academic year 1934-35: that for students the phrase “academic freedom. . . . has no meaning whatever.” It related only “to freedom of thought and inquiry and to freedom of teaching on the part of accomplished scholars” in their fields of expertise. He stated that the university had the right to protect itself against “conduct on the part of any of its members” that might “damage its reputation.”⁵⁷

On October 21, the Columbia ASU and other activists grouped in a Burke Defense Committee escalated their protest by calling a two-hour campus strike. This alarmed the Columbia administration, which announced that it would have city policemen assigned to campus. The administration forbade posting notices on campus advertising the strike. The *Spectator* promptly denounced this action as a “ukase,” the Russian term for an edict

55. *The New York Times*, October 3, 1936; Nicholas Murray Butler to John G. Saxe, September 16, 1936; and J. G. Saxe], “Memorandum for Committee on Legal Affairs, March 10, 1937, Subject: Robert Burke v. University,” Central Files, CUACL, CU; Norwood, *The Third Reich in the Ivory Tower*, 98-99.

56. J. G. [Saxe], “Memorandum for Committee on Legal Affairs”; Supreme Court: New York County. Robert Burke, Plaintiff, against the Trustees of Columbia University in the City of New York, Defendant. Answer, Central Files, CUACL, CU. John Burke stated that the administration apparently confused “Castigate” and “Castrate.” John Burke, telephone interview by Norwood.

57. *Annual Report of the President and Treasurer to the Trustees with Accompanying Documents for the Year Ending June 30, 1935* (Columbia University in the City of New York, 1935), 16-17; Norwood, *The Third Reich in the Ivory Tower*, 98-99.

of the czarist government, equating the Butler administration with Romanov autocracy.⁵⁸

Five hundred students, including Paul Thomson and *Spectator* editor-in-chief Thomas Jones, along with James Wechsler and New York Teachers Union president Charles Hendley, gathered on the Columbia campus at 11:00 a.m. to hear twelve speakers denounce Burke's expulsion. A row of students held signs spelling out the word "STRIKE" behind the speakers' stand. Wechsler declared that the strike had been staged despite administration threats that students supporting Burke risked losing their "jobs, scholarships, and loans." No faculty members attended the rally, but the crowd cheered Thomas Jones's announcement that Professor Gardner Murphy had canceled his classes for the strike. Paul Thomson told the crowd that he deeply regretted his apology to Dean Hawkes, calling it "a betrayal of the Columbia student movement." He praised Burke, who, by contrast, had "stood up for his rights and was expelled for that reason." A member of the CCNY Student Council told the crowd that Burke had the full support of the students at his school. Forty to sixty protestors picketed Butler's Low Library offices after the rally.⁵⁹

At a pre-strike rally at Barnard, Thomson mocked the Columbia administration's claim that it had expelled Burke for permitting "disorderly conduct" and not displaying "good manners" at the anti-Nazi demonstration. Thomson noted that the administration had not asked authorities to prosecute any of the 500 Columbia students who had celebrated their football team's Rose Bowl victory by rioting in January 1934 in the Nemo movie theater, near the campus, which showed newsreel highlights of the game. The students caused thirteen patrons to be injured and several hundred dollars' worth of damage. New York City police arrested and jailed ten

58. Columbia *Spectator*, October 21, 1936; *The New York Times*, October 21, 1936.

59. Columbia *Spectator*, October 22, 1936; Barnard *Bulletin*, October 23, 1936; *Daily Worker*, October 22, 1936. Gardner Murphy was already a prominent scholar, who in 1944 became president of the American Psychological Association. The *Spectator* estimated the rally crowd at 500, but noted that press and police estimates ranged from 400 to 1,500.

The university-wide straw poll results for the 1936 presidential election, announced on the eve of the strike, reveal a significant difference between Columbia's student body and those of Yale and Harvard. Columbia students voted for Roosevelt by a significant margin over his Republican opponent, Alf Landon, 781 to 427. Communist Earl Browder received 119 votes and Socialist Norman Thomas 88. Yale, by contrast, gave Landon a 1,000-vote plurality; Harvard gave Landon a 165-vote margin of victory. The Browder and Thomas votes at Yale were insignificant, and at Harvard considerably less proportionately than at Columbia. Columbia *Spectator*, October 20, 1936; Harvard *Crimson*, October 15, 1936.

of the students for disorderly conduct and causing a riot. Columbia associate dean N. M. McKnight made an early-morning visit to the jail and had the arrested students released in his custody. The theater did not press charges against the students.⁶⁰

The *Spectator* similarly pointed to the inconsistency between the Columbia administration's handling of the Nemo riot and its expulsion of Burke. It noted the administration's claim that Burke, as a leader of the anti-Nazi demonstration at President Butler's mansion, was responsible for the alleged unmannerly behavior of students who could not be identified. The administration therefore deemed Burke "unfit to continue as a student." Yet when the police caught the leaders of the Nemo theater riot "red-handed," the administration did not expel or suspend them—nor did the administration take any action against "the rowdies" or their leaders, who, "[s]hout[ing] obscene remarks," tore down the Barnard fence "right in front of Dean Gildersleeve's home" on the night of May 12. The *Spectator* concluded that the administration expelled Burke because he had damaged its public reputation by challenging its complicity in a major Nazi propaganda festival.⁶¹

Students at other New York City colleges staged demonstrations of solidarity with Burke, against Nazism, and for academic freedom. At CCNY, 500 students heard speakers excoriate John R. Turner, dean of men, for banning a planned campus protest meeting at which Burke and the president of CCNY's Student Council were to speak. Dean Turner explained his refusal by stating that such a meeting was not "in good taste."⁶²

The ASU chapter at Sarah Lawrence College in Bronxville, N.Y., sent a delegation to Columbia to see President Butler or Dean Hawkes to urge Burke's reinstatement. A member of the president's staff informed them that "Dr. Butler is not speaking on the Burke case." The delegation then proceeded to Dean Hawkes' office, only to be told that he was away.⁶³

The day after the strike, 200 Hunter College students flooded President Butler's office with telephone calls during his lunch hour, protesting his refusal to reinstate Burke. The young women lined up at a telephone booth,

60. Barnard *Bulletin*, October 23, 1936; *The New York Times*, January 8, 1934; Columbia *Spectator*, January 8 and 11, 1934, and September 28, 1936. The New York *Post* published a letter from a Columbia graduate pointing out that Dean Hawkes had no difficulty "condoning . . . theatre-wrecking [and] pre-examination riots." New York *Post*, October 2, 1936, roll 128, ACLU Papers.

61. Columbia *Spectator*, September 28, 1936.

62. *The Campus*, October 23, 1936; Barnard *Bulletin*, October 23, 1936; *Daily Worker*, October 22 and 23, 1936; Columbia *Spectator*, October 21, 1936; *The New York Times*, October 21, 1936.

63. Columbia *Spectator*, October 21, 1936.

and one after the other placed a call asking to speak to Butler.⁶⁴ Butler's secretary told each of the callers that the president was "out."⁶⁵

Socialist Party presidential candidate Norman Thomas, a prominent civil libertarian, campaigning at Columbia shortly before the election in November, forcefully condemned Burke's expulsion. Thomas declared: "At Columbia, manners have become the highest good. This along with proper respect for the home of the President." He emphasized: "This intolerable situation has been accepted by the student body only under subtle coercion."⁶⁶

Because courts during the 1930s placed almost no limits on university administrators' power to discipline students, Burke dropped his lawsuit in October 1937. The large-scale campus protests, although receiving considerable coverage in the New York press, and even outside New York, could not influence the court.⁶⁷ Burke and Hays, however, were primarily concerned with bringing his expulsion to wide public attention. They wanted to expose university administrations' efforts to forge friendly ties with Germany's Nazified universities and their indifference to Nazi persecution of Jews. During most of the year prior to dropping his lawsuit, Burke was heavily engaged in the CIO's steelworkers' organizing campaign in Youngstown. This gave him very little time to devote to court hearings on the lawsuit in New York.

By November 1936, Burke was back in Youngstown organizing steelworkers. He was the target in the first outbreak of violence in the Youngstown campaign when three company thugs assaulted him as he distributed union fliers at the gate of a Republic steel mill in nearby Warren, Ohio. Attacked from behind, Burke was unable to defend himself. One assailant struck him with a blackjack, inflicting a deep laceration on the back of his head that required medical attention. The *Columbia Spectator* gave the assault front-page coverage.⁶⁸

64. *Ibid.*, October 23, 1936.

65. *Daily Worker*, October 23, 1936.

66. *Barnard Bulletin*, November 6, 1936.

67. *Columbia Spectator*, October 5, 1937. The campaign for Burke received press coverage across the country. The Nashville [Tennessee] *Banner*, for example, called the picketing of President Butler's offices a "spectacle which has not been witnessed in a Southern institution." The Hollywood [California] *Anti-Nazi News* strongly praised Burke for refusing to apologize for the anti-Nazi demonstration at Butler's mansion and insisted that he be reinstated. *Nashville Banner*, October 24, 1936, and *Hollywood Anti-Nazi News*, November 5, 1936, roll 128, ACLU Papers.

68. *Youngstown Daily Vindicator*, November 14, 1936; *Columbia Spectator*, November 16, 1936. Forty to fifty people witnessed the attack, which occurred at

President Butler and Dean Hawkes each took a parting slap at Robert Burke when the administration issued its annual report to the trustees at the end of 1936. Butler declared that Columbia gave high priority to imparting to students the qualities “of an educated American gentleman.” He emphasized that “character, conduct, and sound mental habits come first; [transmitting] information . . . is subordinate to them.” In the college dean’s section of the report, Hawkes, in a transparent reference to Burke, declared: “If after entering college it turns out that the student is so completely oblivious to what constitutes decent behavior as not only to be . . . hopelessly unmannerly, but to glory in his shame, he may be said to have failed in conduct.”⁶⁹

Butler and Hawkes’ understanding of character excluded the righteous who challenged the most barbaric regime in human history. Their view of character did not include those who chose to act honorably and confront Nazism, at great risk. Instead, their administration identified as men of character those who remained indifferent to the Hitler regime’s atrocities, or were even complicit in them, as Hans Luther was.

Robert Burke devoted the next three decades of his life to the labor movement. He had charge of the SWOC’s effort at Youngstown’s Republic

11:00 p.m. during a shift change. One of Burke’s assailants was believed to be a Republic company policeman in plainclothes.

69. “Report of the President of Columbia University” and “Columbia College, Report of the Dean for the Academic Year Ending June 30, 1936” in the *Annual Report of the President and Treasurer to the Trustees with Accompanying Documents for the Year Ending June 30, 1936* (Columbia University in the City of New York, 1936), 29, 64. Butler again justified sending a Columbia delegate to the University of Heidelberg’s 550th anniversary celebration in his annual report. He insisted that the Nazis had made no effort at Heidelberg to turn the festivities into “a political demonstration.” Butler conceded that Reich education minister Bernhard Rust made what he called a “partisan speech,” but claimed it was the only departure from the “dignity of the occasion.” Butler maintained that an address similar to Rust’s could have been delivered “in any country and at any celebration, academic or other.” He strongly condemned boycotting Nazi Germany’s universities. “Report of the President,” 25.

The *Spectator* lashed out at Butler’s insistence that he had been right to send a delegate to Heidelberg in an editorial entitled “Ein, Zwei, Drei, Heil!” It quoted *New York Times* articles and an editorial published during the Heidelberg festival that consistently described it as a Nazi propaganda exercise. The *Times*’s reporters noted how the Propaganda Ministry dominated the celebration; the paper had editorialized on the festival’s third day that “Heidelberg [University] is Nazi through and through . . . Nazi in the deliberate distorting of science, art, and philosophy to conform with the narrow ideology of fascism.” *Columbia Spectator*, January 4, 1937; *The New York Times*, June 28-30, 1936.

Butler served as president of Columbia from 1902 to 1945 and died in 1947.

plant during the Little Steel strike (May to July 1937), for which the Columbia ASU, mocking President Butler, awarded him an honorary Master of Labor Relations degree.⁷⁰ In 1939, Burke joined the staff of the New York City-based Local 65 of the CIO's Retail and Wholesale Workers Union.

The majority of Local 65's leaders and members were Jewish, and the union deeply appreciated Burke's principled stand against Nazism at Columbia, and what he had given up for it. Two of Local 65's members were arrested in Washington, D.C., in March 1938 for picketing the German embassy to protest Hitler's annexation of Austria. They were charged with violating a new Congressional act prohibiting the picketing of foreign embassies. Local 65 staged a two-day work stoppage to protest Germany's *Kristallnacht* pogroms in November 1938, not long before it hired Burke. Local 65's newspaper hailed Burke's "impressive reputation as a fighter—on every count: . . . as a Golden Gloves champ . . . [and] in the world-wide arena too," referring to his leadership of the anti-Nazi demonstration at President Butler's mansion.⁷¹ Burke helped Local 65 organize the corrugated-box industry in the New York area. In 1947, as director of Local 65's Warehouse Division, he led the first postwar sit-down strike in New York City, at Brooklyn's Industrial Container Corporation.⁷² Burke conducted organizing campaigns during the early 1950s for the Distributive, Processing, and Office Workers Union among migrant farm workers in California and Arizona and retail, hotel, and restaurant workers along Texas's Gulf Coast.

From the late 1950s until 1963, Burke was an official of New York City's Local 1199 of the Retail, Wholesale, and Department Store Union, AFL-CIO, among the unions most actively engaged in promoting civil rights. Burke had been involved in civil rights work as a Columbia student, when the ASU picketed two barbershops near the campus that refused service to African Americans the very week of the Heidelberg demonstration.⁷³ During a Local 1199 strike, Burke had the honor of meeting Martin Luther King Jr. at the airport in New York and escorting him to address the union rank-and-file. In 1963, Burke moved to California, where he worked

70. FBI Correlation Summary. Main File 100-110762. Subject: Robert Burke, February 28, 1958.

71. *New Voices*, April and December 1938; *Union Voice*, April 1, 1945.

72. *Union Voice*, October 26, 1947; *The New York Times*, October 22, 1947. Burke served in the U.S. army toward the end of World War II. He had tried to enlist in the Marines and as a paratrooper, but was disqualified by shoulder and knee injuries incurred as a boxer. In the army Burke was a truck driver, stateside. John Burke and Terry Burke, telephone interviews by Norwood.

73. *Columbia Spectator*, May 12, 1936.

in union campaigns among undocumented immigrant garment workers. He died there in 1988.⁷⁴

The Columbia administration has never apologized for expelling Burke, preferring to bury the matter. It continues to reject appeals to posthumously grant Burke his Columbia College diploma or an honorary degree. The *Columbia Spectator*, to its credit, in 2006 published my article “Burke’s Expulsion: Columbia’s Shame,” in which I urged Columbia’s administration to award Burke his degree.⁷⁵

Robert Burke was a righteous gentile of the 1930s, so horrified by Nazi barbarism that he was willing to sacrifice his hard-earned college education to challenge it directly. He displayed all the qualities of the “unsung heroes” that Martin Gilbert identified in his book *The Righteous*: “dislike of Nazism and its racial doctrines; a refusal to succumb to them, a refusal to be bullied, even by superior force; an unwillingness to allow evil to triumph.” Robert Burke believed that his most important priority was to awaken students and the public to the menace an increasingly powerful Nazi Germany posed to democracy and civil liberties, to the Jews, and to all humanity. He never looked back after the campaign to reinstate him as a Columbia student failed. Burke’s son Stephen recalled him saying: “I made my stand and then I moved on.” When Burke’s son John graduated from Columbia in 1966, he honored his father by presenting his diploma to him.⁷⁶

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74. Terry Burke to Norwood, August 7, 2010; Stephen Burke, telephone interview by Norwood, September 26, 2009.

75. *Columbia Spectator*, December 11, 2006. I have continued to press Columbia to admit that it wronged Burke—in an interview with the *Jerusalem Post*, in a plenary address to the Fortieth Anniversary Conference on the Holocaust and the Churches in Philadelphia in 2010, in *Inside Higher Ed*, the *Chronicle Review*, and the *Jewish Press*. *Jerusalem Post*, April 3, 2008; Elizabeth Redden, “In Search of Skeletons,” *Inside Higher Ed*, November 27, 2006; Stephen H. Norwood, “Columbia University and Free Speech,” *Chronicle Review*, April 2, 2010, B18; *Jewish Press*, December 8, 2006. A slightly expanded version of my plenary address was published as Stephen H. Norwood, “In Denial: American Universities’ Response to the Third Reich, Past and Present,” *Journal of Ecumenical Studies* 4 (Fall 2011): 501-509. The David S. Wyman Institute for Holocaust Studies has endorsed my appeal to grant Burke his degree.

76. Martin Gilbert, *The Unsung Heroes of the Holocaust* (New York: Henry Holt, 2003), 437; Terry Burke, telephone interview by Norwood; Stephen Burke, telephone interview by Norwood.

Palestinian Rights and Israeli Wrongs

David Matas*

Rights are claimed for the Palestinian people and wrongs where neither the rights nor the wrongs exist. Specifically, whole new categories of rights and wrongs are developed that only Israel has to respect; wrongs are created that only Israel inflicts. A discussion follows on the nature and extent of antisemitism.

Key Words: Arab, Israel, Jewish, Law, Palestinian

A. THE PATTERN

There is a troubling pattern of claimed Palestinian rights and Jewish wrongs where neither the rights nor the wrongs exist. Is it fair and accurate to describe this phenomenon as antisemitic?

Internationally recognized human rights belong to everyone by virtue of the fact that they are human. Internationally recognized human rights do not just belong to Palestinians or Jews or Canadians or any other particular national group. The very assertion of Palestinian rights is an assertion of exceptionalism, not universality.

The same is true of wrongs. A violation of human rights remains a violation whether the victims are Jews or Palestinians or Canadians or any other particular national group. A claim that an act affecting Palestinians is wrong where there is no claim of wrong for a similar act affecting others is also an assertion of exceptionalism.

No one person can do everything. There is a value of specialization in human rights as much as in any other area of human endeavor. There is a difference, however, between specialization—asserting a general right for one group and leaving to others the assertion of that right for other groups or combating a general wrong inflicted on one group and leaving to others the combating of that wrong inflicted on other groups—and exceptionalism—asserting a right that exists only for that group or claiming as wrongful treatment only when it affects one group in particular.

B. UNREAL RIGHTS

There is a whole litany of rights that are claimed only for Palestinians and no one else. These claimed rights are not really rights at all.

Every rights carries a correlative duty to respect the right. A right not respected means a wrong has been committed—i.e., a failure to comply with the duty to respect the right.

For all of these exceptional claimed Palestinian rights, the claimed duty is owed by the State of Israel. Israel is, for the non-respect of claimed Palestinian rights, the supposed wrongdoer. Because the claimed rights are not real rights, though, the claimed wrongs are not real wrongs.

The Right of Return. One example is the claimed Palestinian right of return.¹ This is an assertion of the right of Palestinians to move to Israel permanently from wherever they are, whatever their status is now in the territory in which they live, and whatever their status is or was in Israel.

If one thinks of this right being asserted generally, what is it? It seems to be the right of descendants to move to the country that now has jurisdiction over the territory in which their ancestors once lived. Yet, one would scour the international instruments in vain looking for such a right. Palestinian rights activists assert this right for Palestinians, but neither they nor anyone else asserts this right for any other group.

Rights of Refugees. There is a similar, related problem about the claimed rights of Palestinian refugees. Palestinian refugees are unlike any other. They have their own international institution responsible for their welfare, the United Nations Relief and Works Agency (UNRWA). More important, unlike other refugees, their status is hereditary. The UNRWA Web site states that “the descendants of the original Palestine refugees are also eligible for registration.”²

Second, they maintain this refugee status even if they hold nationality in another state. For every other refugee, refugee status is a form of surrogate protection, where there is no state of nationality able or willing to protect. That is not so for Palestinian refugees, who maintain refugee status even though they are nationals of states both willing and able to protect them. There are an estimated two million Palestinians who have refugee status with UNRWA despite having Jordanian nationality.³

Third, persons claiming refugee status who are not Palestinian are excluded from refugee protection if they have the substantive rights of nationality of the country in which they have taken up residence, even if

1. See David Matas, *Aftershock: Anti-Zionism and Antisemitism* (Toronto: Dundurn, 2005), chap. 1.

2. www.unrwa.org.

3. At the UNRWA Web site, click on “Fields” and then “Jordan.”

they are not nationals.⁴ That is not the case for UNRWA, which has no such exclusion clause. There are approximately half a million Palestinian refugees in Syria, who, according to the UNRWA Web site, “enjoy many of the rights of Syrian citizens.”

Fourth, other refugees are considered to have local integration as a durable solution. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), “there is no formal hierarchy among the durable solutions.” Resettlement and local integration have the same status as durable solutions, as does voluntary repatriation.⁵ The UNHCR states: “Particularly in post-conflict situations, it may take quite some time before peace and order are fully re-established . . . In such situations, refugees . . . may be better served by local integration or resettlement.”

Palestinian refugees in the West Bank and Gaza are locally integrated. In principle, then, because of that local integration, they should no longer need the aid of the international community to seek a durable solution. There are 1.1 million Palestinian refugees in Gaza and about 900,000 in the West Bank for whom UNRWA provides assistance, protection, and advocacy.

The only population of refugees under the mandate of UNRWA who arguably do not have a durable solution where they now live is Palestinian refugees in Lebanon. UNRWA, in fact, reports that “Palestine refugees in Lebanon do not enjoy several basic human rights.”

In spite of that finding, the position of the government of Canada is that Palestinian refugees have a durable solution in Lebanon. In the case of *El Biqai*, a Palestinian refugee applied to come to Canada but was refused by the local Canadian visa office on the grounds that he was receiving protection and assistance from UNRWA. The Refugee Convention excludes from its ambit refugees who receive the protection or assistance of another UN agency.⁶ The Canadian Federal Court, in October 2005, set aside this decision by consent, which was given on the basis that this Refugee Convention exclusion had not been legislated in Canada.⁷

4. Convention relating to the Status of Refugees, 189 United Nations Treaty Series 150, Article 1E.

5. UNHCR “Resettlement Handbook,” chap. 1, “Resettlement within UNHCR’s Mandate,” sec. 1.3.2, “Complementarities of the three durable solutions.”

6. Refugee Convention Article 1D.

7. *El-Biqai v. M.C.I.* IMM-1906-05, October 4, 2005, Mr. Justice Blanchard.

The refugee was then refused a second time in this appeal, because the visa office considered he had a durable solution in Lebanon. A challenge in the Federal Court of that second decision was unsuccessful.⁸

Fifth, other refugees have resettlement as a durable solution. Then-prime minister Jean Chrétien in April 2000 and foreign affairs minister John Manley in January 2001 offered to resettle Palestinian refugees in Canada. PLO spokesman Ahmed Abdel Rahman rejected the prime minister's offer, saying, "We reject any kind of settlement of refugees in Arab countries, or in Canada."⁹ John Manley, in response to his offer, was burned in effigy near the West Bank city of Nablus.¹⁰ Hussum Khader, head of the largest Palestinian Fatah militia in Nablus, said, "If Canada is serious about resettlement, you could expect military attacks in Ottawa or Montreal."¹¹

Sixth, every other refugee, in order to be eligible to seek protection from the international community has to renounce armed activity. A determination has to be made of the genuineness of that renunciation.¹² That is certainly not the case with UNRWA and Palestinian refugees. There is no ineligibility provision based on intent to use force, or actual use of force.

Seventh, non-Palestinian refugees cannot be complicit in acts of terrorism. The Refugee Convention excludes those about whom there are serious reasons for considering that the person has been guilty of acts contrary to the purposes and principles of the United Nations¹³; terrorism is such an act.¹⁴

That is not true, though, of Palestinian refugees. UNRWA has no exclusion or ineligibility clause based on complicity in terrorist acts.

This support for the rights of Palestinian refugees who, but for the fact they were Palestinians would not be refugees, is anomalous enough when one compares Palestinian refugees with the global refugee population. The contrast is even more striking when one compares Palestinian refugees with Jewish refugees created by the same armed conflict.

8. *El-Biqai v. M.C.I.* IMM-79-06, March 21, 2006, Ms. Justice Layden-Stevenson.

9. Robert Fife, "Policy Chaos as PM Stumbles Again," *National Post*, April 13, 2000.

10. Mike Trickey, "Angry at a Reported Offer of a Home, Palestinians Burn Manley in Effigy," *Ottawa Citizen*, January 19, 2001.

11. "Canadians Might Understand Now," *Canadian Jewish News*, February 22, 2001.

12. "Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum," United Nations High Commissioner for Refugees, September 2006.

13. Refugee Convention, Article 1F(c).

14. *Pushpanathan v. M.C.I.* (1998), 1 S.C.R. 982, para. 120.

There were more Jews displaced from Arab countries by this conflict than Arabs from the territory that now forms Israel. Folke Bernadotte, in his mediation report to the United Nations of October 1948, reported that there were 472,000 Arab refugees created by the conflict. He expected the number to rise to slightly over 500,000.¹⁵ Jews forcibly displaced from Arab countries because of the conflict numbered 820,000.¹⁶ There were an additional 57,000 Jews forcibly displaced from Iran.¹⁷

Moreover, Jews forcibly displaced from Arab countries and Iran were real refugees and not artificially defined ones. The Office of the United Nations High Commissioner for Refugees took the position that these victims “may be considered *prima facie* within the mandate of this office.”¹⁸

The Camp David accords, the Egyptian-Israeli Peace Treaty, and the resolutions of November 22, 1967—Security Council 242—refer to refugees generically. The historical record shows that this was done in order to encompass the Jewish refugee population. When it comes to advocacy of Palestinian refugee rights, however, redress for Jewish refugees typically is forgotten. The focus on one refugee population to the exclusion of the other when both were generated by the same conflict is an indicator that pursuit of respect for rights is not the primary objective.

C. UNREAL WRONGS

There is a similar litany of phony wrongs. The list of unreal wrongs attributed to Israel is even more extensive than the list of unreal rights attributed to Palestinians. These unreal wrongs all supposedly victimize Palestinians.

Occupation and Settlement. One such unreal wrong is the objection to Jews who used to live in Gaza now living in the West Bank. Palestinian rights activists invidiously call these Jewish residents/Israeli nationals “settlers” and label Israeli control of the West Bank and its former control of Gaza as

15. Progress Report of the Acting Mediator for Palestine, submitted to the secretary-general for transmission to the members of the United Nations, UN Document A/689, October 18, 1948.

16. Jewish Virtual Library.

17. “Jewish Population in Arab Countries 1948-2001.” In Maurice Roumani, *The Case of Jews from Arab Countries: A Neglected Issue* (World Organization of Jews from Arab Countries, 1983), and *American Jewish Yearbook: 1958, 1969, 1970, 1978, 1988, 2001* (Philadelphia: The Jewish Publication Society of America).

18. United Nations High Commissioner for Refugees Document No. 7/2/3/ Libya, which is the letter from Dr. E. Jahn for the Office of the High Commissioner to Daniel Lack, legal adviser to the American Joint Distribution Committee, on July 6, 1967.

“occupation.” The claim is made that the presence of these “settlers” in “occupied territory” violates the Geneva Conventions on the Law of War.

Jordan, when in control of the West Bank, and Egypt, when in control of Gaza, had the same legal status in relation to those territories as Israel does now for the West Bank and did for Gaza before it abandoned control. Yet, Palestinian rights activists never called Jordan or Egypt occupying powers.

The false labeling of Israeli control as occupation and Jewish/Israeli residents as settlers is not, though, the only problem here. The charge of international criminality of the state because of the voluntary movement of its citizens to occupied territory is unique to Israel. This is a wrong of which only Israel is accused.

The Geneva Convention relative to the Protection of Civilian Persons in Time of War does prohibit the forcible transfer of citizens of the occupying state to the territory of the occupied state.¹⁹ Not one of the people labeled as settlers has been forcibly moved the by government of Israel to the West Bank or Gaza.

One can see how topsy-turvy this discourse on occupation and settlement is by considering what happened in Gaza when Israel abandoned control in August 2005. The existence of Palestinian refugees had led to the charge against Israel of ethnic cleansing, despite the existence of over 1.5 million Arab citizens of Israel who live there in safety. When Israel left Gaza, it had to evacuate Israelis/Jews living in Gaza for their own protection. Left there after the Israeli departure, they almost certainly would have been slaughtered. The impact on the ground of the language of settlements and occupation is true ethnic cleansing, the total removal of all persons of another ethnicity.

The Fence. Israel built a fence to keep Palestinian suicide bombers out. The General Assembly sent a resolution to the International Court of Justice telling the court, in effect, to find the fence illegal.²⁰

The court judges are appointed to renewable nine-year terms by the General Assembly. One of the court judges, Nabil Elaraby from Egypt, before the reference said publicly that he considered the fence illegal, but the court refused to recuse him from the case.²¹ The court did what those

19. Refugee Convention, 75 United Nations Treaty Series 247, Article 49.

20. United Nations General Assembly Emergency Special Session Resolution ES-10/14, December 8, 2003.

21. International Court of Justice, Advisory Proceedings, “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.” Order of January 30, 2004. The title the court gave the case is itself indicative of the bias of the court. The title assumes that the construction is a wall and that at least some of the

who had hired them and would potentially rehire them told them to do: find the fence illegal. They reasoned that the fence went through territory that the Palestinian leadership claims would or should be theirs after a peace treaty (which they refuse to negotiate without preconditions) is settled.²²

The international community has done nothing similar for similar fences through contested territory. India has a fence through Kashmiri territory claimed by Pakistan; Saudi Arabia has a fence through territory claimed by Yemen; Turkey has a fence through territory claimed by Syria.²³ This wrong of building a fence to keep out suicide bombers, tententiously called a wall—though it is 97% fence and only 3% wall—through territory claimed by others is a wrong attributed to Israel and no other state.

Apartheid. Similarly, claimed discrimination against Arabs is inflated into a claim that Israel is an apartheid state. Some of the components of the claim, like the claimed wrong of the fence, are decontextualizations of anti-terrorist security initiatives. Others are overblown rhetoric.

The philosopher Immanuel Kant wrote that nothing straight can be constructed from the warped wood that makes up humanity. When it comes to respect for human rights, no state can claim 100% compliance. Human rights is an ideal. Humanity is imperfect.

International human rights advocacy needs to focus on those egregious wrongs that merit international concern or so risky for locals to attempt to remedy internally that external help is needed. Claimed Israeli wrongs fit neither of these categories. Israel has an independent judiciary, a free media, and a democratically elected government. There is a host of internal remedies constantly invoked for claimed Israeli wrongs. Any external effort to protest Israeli wrongs is a diversion from violations where external help is really needed.

Take, for instance, the claim that Israel is an apartheid state in part because Arabs cannot buy land owned by the Jewish National Fund (JNF). The JNF owns 13% of the land of Israel.²⁴ In 1960, the JNF signed a treaty with the State of Israel agreeing to lease JNF land to Jewish people only. This distinction was arguably justifiable even by equality standards as

territory through which it runs is occupied Palestinian territory. The issue the court considered it has to address was not whether these assumptions were true but what were the legal consequences of these assumptions, true or not.

22. International Court of Justice, Advisory Proceedings, “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.”

23. David Makovsky and Ben Thein, “Unilaterally Constructed Barriers in Contested Areas,” Peacewatch, No. 465, July 8, 2004, www.washingtoninstitute.org.

24. “Israel Lands: Privatization or National Ownership,” Jewish Virtual Library.

affirmative action.²⁵ Nonetheless, it was challenged in the Israeli Supreme Court successfully in the case of *Ka'adan* in 2000.²⁶

There are discriminatory or arguably discriminatory practices in virtually every state. One can point to many other democratic states where charges of discrimination are made and sometimes succeed in the courts. Yet only Israel is called an apartheid state, and this despite its willingness and ability to confront charges of discrimination head on and combat discriminatory practices and policies.

D. CONNECTION TO ANTISEMITISM

While these assertions of rights that are not rights and wrongs that are not wrongs is directed first against Israel, they have an impact on the Jewish community worldwide. Demonization of Israel, the Jewish state, quickly becomes demonization of the Jewish people for actual or presumed support for the demonized Jewish state.

Anti-Zionists will make a distinction between Zionists and Jews. Jews who join anti-Zionists in their denunciations of Israel are, to anti-Zionists, perfectly all right. Yet, that is a distinction without much of a difference. Zionism is the expression of the right to self-determination of the Jewish people. The number of Jews who are prepared to join the anti-Zionist movement is by the very nature of anti-Zionism—the refusal to accept for the Jewish people a right that every other people has—inevitably small.

Natan Sharansky has decried the three “Ds”—demonization, double standards, and delegitimization of Israel. While all these are at present with the phenomena discussed here, there is a fourth element at play. *The problem is not just that universal standards are applied differently to Israel. It is rather that whole new categories of rights and wrongs are developed to apply only to Israel. Rights are created that only Israel has to respect; wrongs are created that only Israel inflicts.*

Is this antisemitism? To answer this question, one has to consider how the meaning of antisemitism has itself evolved. Antisemitism is a term that was developed by the perpetrator community but has since been adopted by the victim community. The term *antisemitism* was originally developed by antisemites. Antisemitism means literally being opposed to Semitism. Semitism, to Wilhelm Marr and his League of Anti-Semites, was something wrong. They saw themselves in the right by opposing it.

The trouble with this opposition was that the Semitism that they opposed—a Jewish conspiracy to take over Germany and the world—did

25. Judgment of President Barak, para. 24.

26. *Ka'adan v. Israel Land Authority*, CA 6698/95.

not exist. They opposed an imaginary wrong and in so doing inflicted real wrongs on those they falsely imagined as doing wrong. Today, antisemites shy away from the term; it is instead the Jewish community that uses the term to describe its victimizers. One can see this even in the shift of spelling of the word from hyphenated to unhyphenated. The shift to the unhyphenated is a recognition of the fact that the old antisemites no longer exist.

There is a parallel between this original antisemitism and the claims of Palestinian rights and Israeli wrongs. Anti-Zionism, even though conceptually a particularized form of antisemitism—the denial to the Jewish people of all the people in the world one particular human right, the right of peoples to self-determination—has yet to assume the status of the more general concept of antisemitism. Anti-Zionism has yet to become a concept adopted by the victims and abandoned by the perpetrators.

Calling someone today an anti-Zionist is not as damning as calling someone an antisemite. Indeed, like the original antisemites of the nineteenth century, some people take pride in being called anti-Zionists. They apply to themselves the label anti-Zionists. The claims of Palestinian rights advocates today is akin to the claim of antisemites of the 19th century, a claim of unsubstantiated rights and wrongs where the Jewish victim is portrayed as the perpetrator and the advocate claims only to be urging protection against this imaginary perpetrator.

Using the language of human rights and violations is not in itself a defense to the charge of antisemitism. Take the classic antisemitic myth that Jews kill Christian babies for their blood, to be used in the baking of unleavened bread, matza, for the Jewish holiday of Passover. Those promoting the myth might call themselves children's rights advocates; yet, they would still be antisemites.

A more modern definition of antisemitism throws some light on the question. The European Union Monitoring Centre on Racism and Xenophobia, renamed the European Union Agency for Fundamental Rights, defines antisemitism as:

Examples of ways in which antisemitism manifests itself with regard to the state of Israel, taking into account the overall context, could include:

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.

This formulation encompasses the phenomenon addressed here of particularized rights, which only Israel is expected to respect, and particular-

ized wrongs, of which only Israel is guilty. One argument to the contrary—that these claims of exceptionalism for Palestinians should not be seen as antisemitism—is that labeling this exceptionalism in this way would generate an undue restriction on freedom of speech.

Free-speech absolutists oppose restrictions on incitement to hatred on even the most vile antisemitism. So advocacy of freedom of speech is not in itself an answer to a charge of antisemitism; instead, it is an argument that, whether antisemitic or not, the impugned discourse should be free.

A label of antisemitism, though, does have a damping effect on discourse. Those who are not free-speech absolutists may well accept the barring of Nazi-type eliminationist antisemitic propaganda, yet balk at the barring of the more modern forms of anti-Jewish discourse. The issue then becomes not so much the label as the impact of the label. Labeling has to be instrumentalized.

Incitement to hatred has to be combated by a variety of means, from education to criminalization, with civil remedies in between. Banning is a last resort. The first resort should be countering disinformation with information. Banning discourse that is antisemitic but not widely understood as such jumps to the last step first. It can be all too easily met with incomprehension by those who do not know.

Labeling a particular form of discourse as antisemitic raises two questions. The first question is whether the discourse is antisemitic; the second question is whether the discourse should be banned. If there is a general consensus that the discourse is antisemitic, then we are left only with the second question. When there is uncertainty about the answer to the first question, however, then asserting that a particular form of discourse is antisemitic looks premature, an attempt to invoke banning before the question of whether something falls within the banned category is resolved. In this context, the antisemitic label both illuminates and obscures. It illuminates because it shows how problematic the contested discourse is; it also obscures because it shifts the terrain of debate from the nature of the discourse to the worth of banning.

The working of the law of banning of hate speech represents a consensus by society. In order to make the law work, that consensus has to be built. The assertion of particularized Palestinian rights and Israeli wrongs is a packaged form of discourse that needs unpacking to explain how problematic it is. Call that combating antisemitism or not, it needs to be done.

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Hate Speech, Genocide, and Revisiting the “Marketplace of Ideas”¹ in the Digital Age

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This paper suggests that the marketplace of ideas doctrine does not lend itself to the digital age; the exchange of information on the Internet in particular operates in a manner that appears to significantly undermine the marketplace paradigm. This is alarmingly true of insidious antisemitic rhetoric, nourished offline by online activity and disinformation. Consequently, it is imperative that democracies take corrective action to prevent infringement of affirmative freedom of speech and to protect victims’ rights of expression, dignity, equality, and, ultimately, the life and security of the person.

Key Words: Comparative Law, Cyberlaw, Freedom of Expression, Hate Speech, Internet Law, Internet Policy, Marketplace of Ideas Doctrine

This is a time when historical truth struggles to endure in the face of attacks insidiously couched in human rights rhetoric. An example of this tactic is Iranian president Mahmoud Ahmadinejad’s recurring and unequivocal assertions that Israel “should be wiped off the map,”² an incitement to ultimately commit genocide against the Israeli people and Jewish homeland,³ which was—not coincidentally—tactically justified in human rights

1. See *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting) (“... [T]hat the best test of truth is the power of the thought to get itself accepted in the competition of the market . . .”).

2. Ewen MacAskill and Chris McGreal, “Israel Should Be Wiped Off Map, Says Iran’s President,” *The Guardian*, October 27, 2005, 17, <http://www.guardian.co.uk/iran/story/0,12858,1601413,00.html>.

3. Such an incitement was in violation of several international treaties and conventions. See U.N. Charter art. 2, para. 4 (“All members shall resolve their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.”); Convention on the Prevention and Punishment of the Crime of Genocide, U.N. GAOR, 3d Sess., 179th plen. mtg., at 174, U.N. Doc. A/260 (December 9, 1948) (Article 3 states that genocide is an act that “shall be punishable”); Rome Statute, International Criminal Court, July 17, 1998, art. 33 para. 2, 2187 U.N.T.S. 3 (“... [O]rders to commit genocide or crimes against humanity are manifestly unlawful”).

terms, as freedom of expression *inter alia*.⁴ These occurrences are by no means isolated. Rather, they echo similar calls for the Jewish state's annihilation during the so-called "Apartheid Week," which itself is incredulously masked and promoted as a human rights event.⁵

Indeed, genocidal affirmations of various incarnations are increasingly cast, for example, in human rights terms⁶ as a religious right or a right of the oppressed to self-defense or self-determination.⁷ Furthermore, they are often preceded by the denial of previous atrocities perpetrated against the vilified group.⁸ Denial of victimization therefore becomes a *first* rather than

4. See "Holocaust Denial Sparks Outrage," *BBC News*, December 14, 2005, http://news.bbc.co.uk/1/hi/world/middle_east/4529198.stm ("Mr[.] Ahmadinejad made the comments while speaking on live TV in the south-eastern city of Zahedan. 'They have created a myth today that they call the massacre of Jews and they consider it a principle above God, religions and the prophets . . .'").

5. See, e.g., "Human Rights Demonstration," Israeli Apartheid Week, <http://apartheidweek.org/en/node/431> (last accessed August 2, 2011) (exemplifying the widespread and well-organized nature of Israeli Apartheid Week); Israeli Apartheid Week Information Booth, Israeli Apartheid Week Montreal, <http://montreal.apartheidweek.org/fr/node/457> (last accessed August 2, 2011) (showing further evidence of the Israeli Apartheid Week's expansive reach). "Apartheid Week" is a "vicious campaign of unrestrained Israel-bashing which has a long record of intimidating students and other bystanders . . ." See "Expose the Bullies of Israel Apartheid Week and Their Double Standards," CIC Scene, <http://www.cicweb.ca/scene/2011/03/expose-the-bullies-of-israel-apartheid-week-and-their-double-standards/> (offering a more detailed explanation and critique of Apartheid Week).

6. Canadian prime minister Stephen Harper's speech on Parliament Hill to a gathering of international parliamentarians and experts attending a conference aimed at combating antisemitism is on point. See "Excerpt: Harper's Speech on Israel, Anti-Semitism," *National Post*, November 8, 2010, <http://news.nationalpost.com/2010/11/08/excerpt-harpers-speech-on-israel-anti-semitism/> ("Harnessing disparate anti-Semitic, anti-American and anti-Western ideologies, it targets the Jewish people by targeting the Jewish homeland, Israel, as the source of injustice and conflict in the world, and uses, perversely, the language of human rights to do so.").

7. See, e.g., Hamas Covenant Translation, available at http://avalon.law.yale.edu/20th_century/hamas.asp. ("Israel will exist and will continue to exist until Islam will obliterate it . . ."). See also Michael Herzog, "Can Hamas Be Tamed," *Foreign Affairs* (March/April 2006), <http://www.foreignaffairs.org/20060301faessay85207/michael-herzog/can-hamas-be-tamed.html>.

8. Irwin Cotler, "Human Rights and the New Anti-Jewishness," 38 *Justice* 24, 26 (Spring 2004), <http://www.intjewishlawyers.org/main/files/Justice%20No.38%20Spring%202004.pdf>. See also Irwin Cotler, "Human Rights and the New Anti-Jewishness," *FrontPageMagazine.com*, February 16, 2004 (hereinafter Cotler, *Frontpage*), <http://www.frontpagemag.com/Articles/ReadArticle.asp?ID=12191> (referring to ". . . existential or genocidal anti-Semitism"). "Islamic religious leaders issue 'fatwas,' execution warrants for the destruction of Israel and the killing of

a final stage in the genocidal “process,” as Gregory Stanton correctly explains.⁹

Quite simply, it would appear that, in the aftermath of the Holocaust, the reconceptualization of democracy from procedural to substantive—or what Lorraine Weinrib eloquently deems a new “constitutional paradigm”¹⁰—is increasingly subject to a disturbing distortion. The immediate purpose of constitutionally recognizing and enshrining rights such as dignity and equality at the domestic level was presumably to render devoid of legal force any majoritarian decision unjustifiably violative of these supreme values.¹¹ This postwar “constitutionalization,” intended to protect

Jews, as a religious obligation, making ‘Israel emerge as the Salman Rushdie of nations’ ”; Paul Lungen, “Cotler Receives Plaut Humanitarian Award,” *The Canadian Jewish News*, November 5, 2003, http://www.cjnews.com/index2.php?option=com_content&task=view&id=4962&pop=1&page=0&Itemid=86.

9. See Gregory H. Stanton, “The Eight Stages of Genocide,” Genocide Watch, <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html> (enumerating stage 8 as: “DENIAL is the eighth stage that always follows a genocide. It is among the surest indicators of further genocidal massacres.”). Stage 3 is also relevant to this discussion: “DEHUMANIZATION overcomes the normal human revulsion against murder.” Ibid. See also Irwin Cotler, “The Human Rights Revolution and Counter-Revolution: A Dance of the Dialectic,” 44 U.N.B.L.J. 357, 369 (1995) (“ . . . [T]he Holocaust denial movement, the cutting edge of antisemitism old and new as Bernie Vigod would put it, is not just an assault on Jewish memory and human dignity in its accusation that the Holocaust is a hoax, but it is an international criminal conspiracy to cover up the worst crimes in history. Here is the most tragic, bitter and ironic historiography of the Holocaust, a historiography in its ultimate Orwellian inversion. For we move from the genocide of the Jewish people to a denial that the genocide ever took place; then, in a classic Orwellian cover-up of an international conspiracy, the Holocaust denial movement whitewashes the crimes of the Nazis, as it excoriates the crimes of the Jews. It not only holds that the Holocaust was a hoax, but maligns the Jews for fabricating the hoax.”).

10. Lorraine E. Weinrib, “The Postwar Paradigm and American Exceptionality,” in *The Migration of Constitutional Ideas*, Sujit Choudry, ed. (Cambridge: Cambridge University Press, 2006), 89 (affirming that the “postwar constitutional paradigm” gave rise to the emphasis on equality of citizenship and respect for inherent human dignity). See also Lorraine E. Weinrib, “The Supreme Court of Canada in the Age of Rights: Constitutional Democracy, the Rule of Law and Fundamental Rights Under Canada’s Constitution,” 80 *Can. Bar Rev.* 699, 701 (2001) (hereinafter Weinrib, *Supreme Court*) (speaking about the postwar redesign of the democratic state); Lorraine E. Weinrib, “Canada’s Rights Revolution: From Legislative to Constitutional State,” 33 *Israel Law Review* 13, 14 (1999) (discussing the significance of the transition from procedural to substantive democracy).

11. See Aharon Barak, “Foreword: A Judge on Judging: The Role of a Supreme Court in a Democracy,” 116 *Harv. L. Rev.* 16, 149 (2002) (“We, the judges in modern democracies, are responsible for protecting democracy both from terrorism

the vulnerable or unpopular from the procedural manipulation of democracy, risks being progressively inverted to justify the “freedom” to deny and promote genocide. Even worse, such assertions can be inconspicuously buried in human rights rhetoric,¹² effectively disarming any critics who would dare accuse its proponents of racist incitement.

Constitutionalism—the anticipated safeguard against the devastation of democracy from within—may itself be co-opted for that very purpose. Inversions of this nature, particularly the usurpation of human rights language toward genocide denial and incitement, form the backdrop of my reflection today.

This paper further suggests that the marketplace of ideas doctrine,¹³ so prevalent in American thinking and case law, does not lend itself to the digital age—where truths are virtually indistinguishable from lies and racist incitement (the latter benefitting from disproportionate exposure and “whitewashing”)—and therefore begs rethinking.

and from the means the state wants to use to fight terrorism.”); Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977) (arguing that individuals have a fundamental right to equal respect and concern, owed to them by the government); Weinrib, “Supreme Court” (note 10), at 710 (explaining Canada’s transition to rights-based democracy, as well as the “age of rights” and the implied bill of rights); Joseph E. Magnet, “The Canadian Charter of Rights and Freedoms: Reflections on the Charter After Twenty Years,” in *The Canadian Charter of Rights and Freedoms: Reflections on the Charter After 20 Years*, ed. J. E. Magnet, G. Beaudoin, et al. (Toronto: LexisNexis Butterworths, 2003), 19 (explaining the belief system of the Westminster model of majoritarian political process, mainly that its proponents reject expansion of the judicial role to enforce rights guarantees).

12. See, e.g., Richard H. Weisberg, *Vichy Law and the Holocaust in France* (New York: NYU Press, 1996), 12 (articulating France’s challenge in balancing the push for constitutional reform centered around human rights and maintaining political tradition).

13. See *Abrams v. United States* (note 1); see, e.g., *Reno v. ACLU*, 117 S. Ct 2329, 2333 (1997) (The court rejected the government’s argument that it had a “significant” interest in fostering the Internet’s growth sufficient to infringe on First Amendment rights by limiting the communication of certain “offensive” forms of online material.).

I. MANIPULATING HUMAN RIGHTS DISCOURSE IN ORDER
TO SUBVERT DEMOCRACY

With regard to the co-opting of what I will call the Henkian narrative,¹⁴ the difficulty lies not with the advent of a rights culture, but with the potential for its cynical manipulation. In the words of Andreas Kalyvas: “In a democratic age, where the idea of popular self-government enjoys a vast ideological hegemony. . . the effective challenge can only come from within.”¹⁵ Therefore, Kalyvas continues, instead of directly attacking democracy, genocide deniers and proponents of violence against vulnerable peoples opt for a more deceptive and cunning strategy of inner attrition.¹⁶

An early example of the manipulation of human rights rhetoric in Canada is that of Ernst Zundel, a Holocaust denier and one of the largest distributors of hate literature in the world. In the multiple proceedings against him, Zundel consistently posed as the noble champion for freedom of expression. As Mark Freiman eloquently recounts, Zundel and his attorney appeared in bulletproof vests, acting as victims of what they characterized as the enemies of free speech and historical truth.¹⁷

Moreover, blatantly racist rhetoric,¹⁸ masked as the exercise of constitutionally enshrined rights, is widespread within institutions of higher learning, epitomized by recurring high-profile events such as “Israel Apartheid Week.” Its disturbing but clear implication is that Israel—the ancestral home to a people victimized in unspeakable proportions by the greatest

14. Professor Louis Henkin is known as the “Father of Human Rights Law.” See, e.g., Clyde Haberman, “Lessons in a Life Well Lived, and Values Upheld,” *The New York Times*, October 19, 2010, <http://www.nytimes.com/2010/10/19/nyregion/19nyc.html>.

15. Andreas Kalyvas, “Carl Schmitt and the Three Moments of Democracy,” 21 *Cardozo L. Rev.* 1525, 1528-29 (1999-2000).

16. *Ibid.*

17. Mark Freiman, “Litigating Hate on the Internet,” Canadian Human Rights Commission, http://www.ccdp-chrc.ca/proactive_initiatives/hoi_hsi/page6-en.asp (last accessed August 18, 2011).

18. See, e.g., Paul Lungen, “Police Asked to Investigate Anti-Israel Protest,” *The Canadian Jewish News*, January 22, 2009, http://www.cjnews.com/index.php?option=com_content&task=view&id=16092&Itemid=86/ (providing a video released by the Canadian Jewish Congress, some protesters are heard repeating the medieval antisemitic libel that Jews drink blood). One woman is seen yelling, “Jewish child . . . you’re going to f***ing die, Hamas is coming for you.” *Ibid.* See also Canadian Jewish Congress, Toronto, Canada, “CJC Exposes Incitement to Hatred and Violence at Pro-Hamas Rallies,” news release, January 14, 2009, <http://www.cjc.ca/2009/01/14/cjc-exposes-incitement-to-hatred-and-violence-at-pro-hamas-rallies/>.

racist enterprise —is *itself* a racist entity that must be dismantled as a “human rights” gesture. The campaign further insinuates that supporters of the Jewish state (including but not limited to Jewish and Israeli students and faculty who have not disowned their heritage) must be greeted with opprobrium as proponents of vile racism by any peace-loving individual (as would, for example, a segregationist South African).

Disturbing as well are the antisemitic affirmations voiced on certain campuses in the context of these events. These affirmations not only operate to intimidate and silence Jewish students on campus but are, as previously noted, progressively cloaked in human rights discourse. Classic anisemitic, even genocidal, motifs are made palatable to the well-meaning ear when craftily phrased in terms of freedom of expression or a right of the oppressed to self-determination. This incitement, evoking familiar themes of Jewish power and domination,¹⁹ is often preceded by the denial of atrocities perpetrated against the vilified group and veiled in rights rhetoric.

More practically speaking, the human rights narrative disturbingly usurped by proponents of racist incitement and discourse misleadingly but convincingly suggests that the only rights at stake and worthy of protection are their own—to the exclusion of the rights of the vilified group to equality and to an environment of dignity, free of harassment.²⁰

In other words, the narrative in this context rests on the premise that restraints on inciters’ speech *alone* pose a threat to a constitutionally protected value. Instead, in keeping with the Canadian Supreme Court’s deci-

19. For example, posters on campuses often paint Jewish might as the source of world conflict or evoke blood-libel imagery, with Arab children substituting their historical Christian counterparts. See Cotler, note 8, 28 (noting an indicator of a new anti-Jewishness is apparent in the new “totalitarian Arab anti-Semitism,” evidenced by the “critical mass of this trafficking hate—this teaching of contempt and demonizing of the other in the mosques . . .” among other factors). See also Cotler, Frontpage, note 8 (referring to “existential or genocidal anti-Semitism”); see also, e.g., Adina Levine, “Harvard Prof Condemns ‘Misguided’ Political Attacks Against Israel,” *Harvard Law Record*, December 4, 2003, <http://www.hlrecord.org/2.4463/harvard-prof-condemns-misguided-political-attacks-against-israel-1.579953> (last accessed September 29, 2009).

20. See, e.g., “Students Threatened with Beheading at U of T’s Israeli Apartheid Week,” *The Jewish Tribune*, March 10, 2009, http://www.jewishtribune.ca/Tribune/V2/index.php?option=com_content&task=view&id=1454&Itemid=38 (describing how at the University of Toronto, as the “birthplace of Israeli Apartheid Week,” an incident occurred where a Jewish student was threatened with beheading). See, e.g., www.peaceoncampus.ca (detailing intimidating acts on campuses); Karen Eltis, Parliamentary Panel Inquiry Submission, www.cpcca.ca/eltis.pdf (providing a more detailed report of such incidents on Canadian campuses).

sion in *R. v. Keegstra*,²¹ it may be argued that if permitted to proceed uninhibited, certain forms of speech—particularly racist and harassing falsehoods such as “Israel Apartheid”²² or the depiction of the Jewish state as a bloodthirsty Nazi state—serve not only to undermine Jews’ equality and dignity, but also effectively threaten their freedom of speech. It muzzles all who would disagree with certain (and ironically racist) positions and prevents them from participating in community life and debate.²³

On this point, a U.S. court dealing with antisemitic comments in the workplace recently found that the *accumulation* of vilifying and derogatory comments creates an atmosphere of fear, silencing, and shame for victims exposed to this propaganda.²⁴ Ultimately, such demonizing leads to—and subsequently excuses—barbarous acts such as the Toulouse school massacre, the firebombing of a Jewish school in Montreal,²⁵ and the horrific torture and murder of young Ilan Halimi in France, who was presumably targeted and brutalized simply because he was Jewish.²⁶

With this in mind, democracies are duty-bound to take corrective action to not only prevent infringement of the freedom of speech of inciters (as most constitutional democracies and their institutions have done already), but also to protect victims’ affirmative rights to expression, dignity, equality, and, ultimately, the life and security of the person. In this

21. *R. v. Keegstra* (1990) S.C.R. 697.

22. The term “Israel Apartheid” absurdly compares a state that boasts members of its Arab minority on its Supreme Court and as deputy speaker of its Parliament with a state where black citizens were denied every possible basic human right, let alone the highest political or judicial office.

23. See also “Excerpt,” note 6 (“Anti-Semitism has gained a place at our universities, where at times it is not the mob who are removed, but the Jewish students under attack. And, under the shadow of a hateful ideology with global ambitions, one which targets the Jewish homeland as a scapegoat, Jews are savagely attacked around the world—such as, most appallingly, in Mumbai in 2008.”).

24. See *Cutler v. Dorn*, 955 A.2d 917, 920 (2008) (reinforcing the states’ strong policy against any form of discrimination in the work place, the court held in favor of plaintiff’s allegation of discrimination, emphasizing: “The threshold for demonstrating a religion-based, discriminatory hostile work environment is no more stringent than the threshold that applies to [a] sexually or racially hostile workplace environment claim.”).

25. “Teen Pleads Guilty to Jewish School Firebombing,” *CTV News*, December 16, 2004, <http://www.ctv.ca/CTVNews/CTVNewsAt11/20041216/firebombing041216/>.

26. Kim Willsher, “Brutal Murder Was Anti-Semitic Crime Says Sarkozy,” *The Guardian*, February 2, 2006, 17, <http://www.guardian.co.uk/world/2006/feb/22/france.mainsection>.

case and in the balance of rights, the latter must prevail.²⁷ In the words of Professor Shalom Lappin: “If one group is permitted to engage in violent harassment of another without the decisive intervention then the conditions for a free and unfettered exchange of ideas are completely undermined, and the primary purpose of . . . democracy is betrayed.”²⁸

Plainly put in the broadest abstract terms, and in terms of the applicable normative framework, the balancing is not between freedom of speech—the “First Freedom”—and some other ill-defined interest. It is instead a question of *rights versus rights*,²⁹ as well as the proper balance to be achieved between freedom of expression (freedom from improper infringements) and the right to express oneself (proffered as an affirmative right), integral to social equality.

As Canadian law professor Jean-Francois Gaudreault-Desbiens powerfully argued in a different context: “[T]he dilemma [of inhibiting speech] becomes *a duty to regulate against abusive forms of expression*, because a constitutional democracy cannot tolerate radical denials of the humanity of some of its citizens . . .” (emphasis added).³⁰ The danger of hijacking human rights narratives in the interest of racist incitement is not unprecedented. The lessons of France’s Vichy regime, which, as Richard Weisberg demonstrated, appropriated legal language associated with

27. See Aharon Barak, *Purposive Interpretation in Law* (Princeton: Princeton University Press, 2005), 178-80 (explaining the concept of vertical versus horizontal balancing).

28. Shalom Lappin, professor, King’s College, letter to Dr. Mamdouh Shoukri, president and vice chancellor, York University, http://thetherewaslight.com/412_uk-professor-cancels-talk-york-university-failure-condemn-attack/. Lappin courageously canceled his scheduled appearance at York University and sent Shoukri this letter of withdrawal, condemning the institution’s lamentable failure to take much-needed measures to protect members of the campus community from the intimidation served under the guise of a “political” anti-Zionist stance. He further chastised the administration for its double standard, safeguarding the intimidators’ freedom of speech while doing nothing to protect the affirmative rights to speech, dignity, equality, and even physical integrity (safety) of the attacked and vulnerable.

29. Irwin Cotler, “Terrorism, Security and Rights: The Dilemma of Democracies,” 14 *Nat. J. Constit. Law* (2001-2002). 1-2. Professor Cotler argues that counter-terrorism measures and legislation, for instance, have “been characterized—if not sometimes mischaracterized—in terms of national security versus civil liberties, a zero sum analysis, when what is involved here is ‘human security’ legislation that purports to protect both national security and civil liberties, including the most fundamental of rights: the right to life, liberty, and security of the person.”

30. Jean-Francois Gaudreault-DesBiens, “From Sisyphus’s Dilemma to Sisyphus’s Duty? A Meditation on the Regulation of Hate,” 46 *McGill L. J.* 1117, 1117 (2000-2001).

profound pre-existing social values in order to seamlessly subvert those very principles and lay the foundation for their destruction, are greatly informative.³¹

If constitutionalism is to serve the purpose for which it was intended—to safeguard substantive democracy—we must not be fooled by the cynical invocation and manipulation of human rights values. History teaches the importance of the precautionary principle as it relates to incitement to hatred against historically vulnerable and unpopular groups. The Canadian Supreme Court has embraced this view by upholding carefully drafted anti-hate provisions. It bears repeating that in Canada, the willful promotion of hatred under certain circumstances is deemed a justifiable and proportional limit on free expression in light of its deleterious effects upon the dignity and equality of the vulnerable and society as a whole. The hope is not to criminalize hate speech elsewhere per se, but to raise awareness of the problem and to prompt meaningful intervention. The current challenge for political leaders, university administrators, and particularly civil society is to prevent constitutionalism from being undermined by the very narrative it conceived.

II. ENTER THE DIGITAL AGE

The Internet, particularly the so-called Web 2.0,³² and information sharing via social networking, blogging, and similar innovative, interactive endeavors, only serve to radically compound the above-mentioned difficulties. The ability to reach and corrupt even the most educated³³—let alone innocent—minds by distorting information respecting “race,” particular genocides, or the Holocaust itself is amplified by the lack of editorial oversight online.³⁴ It is indeed the medium’s very structure that tends to bestow the appearance of legitimacy and veracity on even the most mendacious of

31. See Weisberg, note 12, 63 (discussing the subversion and misappropriation of legal language during the Vichy regime more generally). See also Vivian Grosswald Curran, “The Legalization of Racism in the Constitutional State: Democracy’s Suicide in Vichy France,” 50 *Hastings L.J.* 1, 2 (1998) (adding further discussion to the legal language during the Vichy regime).

32. For a general description, see Laurence Lessig, *Code Version 2.0* (New York: Basic Books, 2006).

33. See Gaudreault-Desbiens, note 30, 1118.

34. See generally Russell L. Weaver, *From Gutenberg to the Internet: Free Speech, Advancing Technology and the Implications for Democracy* (Carolina Academic Press, forthcoming), <http://www.louisville.edu/sites/www.louisville.edu/files/weaver-gutenberg-internet.pdf>.

sites, in the absence of gatekeepers or other traditional controls.³⁵ Therefore, as a medium, it may help legitimate the most pernicious forms of hate and incitement, if only due to the arduous task of distinguishing between reliable, authoritative cyber sources and those peddling racism and fabrications,³⁶ under the guise of respectability, that the networked environment uniquely imparts.

Now, “online” truth, which with the “Internet of Things”³⁷ extends far beyond the computer screen to everyday items, is both easily ingested *on par* and confounded with insidious lies, thus arguably undermining the “marketplace of ideas” model that has of course predominated in the United States.³⁸ Accordingly, some, including distinguished constitutional law professor and staunch First Amendment defender Anthony Lewis, now suggest that “[i]n an age where words have inspired acts of mass murder and terrorism, it is not as easy for me as it once was to believe that the only remedy for evil counsels, in [Justice] Brandeis’s phrase, should be good ones.”³⁹

35. See, e.g., Russell L. Weaver, “Brandenburg and Incitement in a Digital Era,” 80 *Miss. L.J.* 1263, 1263-64 (2011) (articulating how easy access to technology has led to the decimation of communication “gate-keeping,” causing political and social consequences and the use of the Internet as a forum by extremist groups to “propagate hate speech . . .”).

36. This is not surprising, since the most popular “go to” address for cyber research seems to be Wikipedia (or a Google search leading to Wikipedia), a site that itself “expressly makes no guarantee of the validity of the information it contains.” Wikipedia: General Disclaimer, http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer (last accessed August 11, 2011). ([Instead,] [t]he “About” page expressly warns users that not all articles are “encyclopedic quality from the start” and “may contain false or debatable information.” Wikipedia: About, <http://en.wikipedia.org/w/index.php?title=wikipedia:About&oldid=329127169> [last accessed August 2, 2011]).

37. See, e.g., Kevin Ashton, “That ‘Internet of Things’ Thing,” *RFID Journal*, July 22, 2009, Abgerufen (arguing that data on the Internet is subject to deficiencies caused by the individuals who provide it without verifying its accuracy). See also Stephan Haller, “The Internet of Things Beyond the Buzz: Use Cases and Industry Trends,” *SAP Research*, September 2, 2009 5, <http://rainbow.i3s.unice.fr/~tigli/doku/lib/exe/fetch.php?media=keynote-haller.pdf> (“A world where physical objects are seamlessly integrated into the information network, and where the physical objects can become active participants in business processes. Services are available to interact with these ‘smart objects’ over the Internet, query and change their state and any information associated with them, taking into account security and privacy issues.”).

38. The “marketplace of ideas” doctrine has been transposed to the Internet by successive case law.

39. Anthony Lewis, *Freedom for the Thought We Hate: A Biography of the First Amendment* (New York: Basic Books, 2008), 166.

This is particularly true on the Internet. In other words, new technologies exacerbate some of the difficulties traditionally associated with the marketplace doctrine,⁴⁰ especially given the Internet's infinite memory and potential for distorting information, cloaking falsehoods in the guise of truths, and portraying racism as "human rights."

Most recently (and of particular note in the United States, which has to many minds shunned balancing and proportionality analysis),⁴¹ New York University law professor Jeremy Waldron tendered the equality rights of victims as a countervailing interest to inciters' freedom of speech. In his words, "[T]he question is about the direct targets of the abuse. Can their lives be led . . . and their worst fears dispelled, in a social environment polluted by these materials?"⁴² While of course very prevalent in most sister democracies, such an approach is arguably quite novel in the United States.

Presumably that is all the more true in the digital age: "The Internet is arguably a *true marketplace of ideas*, and one where 'dangerous words' may have a *disproportionate* impact."⁴³ Accordingly, the rationale of even-handedness (ostensibly affording all speakers a platform and allowing the listener/reader to independently decide), though appealing at first glance, might in the online context merely provide an unfair advantage to those inciting hate or genocide, in turn allowing these "views" to prevail, as they flood the networked environment with their message, while good people proverbially do (or say) nothing. In other words, the digital realm dispro-

40. The marketplace doctrine has been critiqued by scholars repeatedly outside the cyber-context. See, e.g., former Chief Justice Dickson's majority opinion in Canada's leading hate speech case, *R. v. Keegstra* [1990] 3 S.C.R. 697, 748 (he stated: "[I]n my view the international commitment to eradicate hate propaganda and, most importantly, the special role given equality and multiculturalism in the Canadian Constitution necessitate a departure from the view, reasonably prevalent in America at present, that the suppression of hate propaganda is incompatible with the guarantee of free expression.").

41. See, e.g., Iddo Porat and Moshe Cohen-Eliya, "American Balancing and German Proportionality: The Historical Origins" (unpublished manuscript, September 23, 2008), <http://ssrn.com/abstract=1272763> (discussing the differences between the U.S. and German approaches to judicial "balancing" and the [formal] rejection of proportionality analysis by American courts).

42. Jeremy Waldron, "Free Speech and the Menace of Hysteria," *The New York Review of Books*, May 29, 2008, 221.

43. Candida Harris, Judith Rowbotham, and Kim Stevenson, "Truth, Law and Hate in the Virtual Marketplace of Ideas: Perspectives on the Regulation of Internet Content," <http://www.tandfonline.com/doi/abs/10.1080/13600830902814943>.

portionately magnifies the potential impact of what otherwise would be an outlier or marginal voice, causing it to appear mainstream.⁴⁴

44. For example, recurring and easily recognizable antisemitic themes can be found on various blog discussions. Three prominent themes are:

Disproportionate power and influence: Jews wield excessive control/power over society/government. The claim that Jews wield disproportionate power and influence over culture, the economy, media, and especially the institutions of government, a power that is injurious to the nation—often rising to the level of a Jewish conspiracy—is clearly antisemitic in nature. The U.S. State Department’s 2008 Report on Global Anti-Semitism notes that antisemitism includes “stereotypical allegations about Jews as such or the power of Jews as a collective—such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.” U.S. State Department, *2008 Report on Global Anti-Semitism*, <http://www.state.gov/documents/organization/102301.pdf>; Adam Levick, “Anti-Israelism and Anti-Semitism in Progressive U.S. Blogs/News Websites: Influential and Poorly Monitored,” Institute for Global Jewish Affairs, January 1, 2010, [http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=\]ol\]0&IID=3211&TTL=Anti-Israelism_and_AntiSemitism_in_Progressive_U.S._Blogs/News_Websites:_Influential_and_Poor](http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=]ol]0&IID=3211&TTL=Anti-Israelism_and_AntiSemitism_in_Progressive_U.S._Blogs/News_Websites:_Influential_and_Poor).

Within polite circles, Jews are no longer accused of “poisoning the wells.” Yet they are still often accused of running Hollywood, controlling the financial system, and manipulating U.S. foreign policy and public debate to blindly support Israel. This latter claim, in particular, is all too common in the commentary reviewed in this paper.

Compromised loyalty: Jews are more loyal to Israel than to the United States. One of the oldest antisemitic staples is that Jews are not sufficiently loyal to the countries where they reside and instead are more loyal to Israel. Indeed, this notion underlay the failure of European emancipation. From the Dreyfus affair in France through the Nazis’ rise to power, Jews—no matter how devoted they actually were to their host countries—were viewed as outsiders lacking in national loyalty. Such *ad hominem* attacks against American Jews who support Israel are common within the blogs in question. The “Working Definition of Anti-Semitism” of the European Monitoring Centre on Racism and Xenophobia defines as antisemitic thus: “accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.”

Israel as Nazi Germany. Since Israel has only been a state for sixty-one years, this is a much more recent manifestation of antisemitism. In most working definitions of antisemitism, however, charges that Israel’s behavior can be compared with the actions of Nazi Germany are considered antisemitic. A recent report by the Anti-Defamation League shows that such comparisons are increasingly common among anti-Israeli activists. Protests against Israel’s Gaza offensive in 2008-2009 included banners and slogans likening Israeli soldiers to German troops, the Gaza Strip to Auschwitz, and the Star of David to the swastika. As the *U.S. State Department Report* notes: “the demonization of Israel, or vilification of Israeli leaders, sometimes through comparisons with Nazi leaders, and through the use of Nazi

The absurd result of such a policy can be seen in the case of a racist anti-Muslim page posted on Facebook, as discussed by Rabbi Abraham Cooper at the recent Ottawa conference on global antisemitism. Muslims rightly complained, and the company initially agreed to take down the offensive page. Cooper's organization praised Facebook for so doing and asked that they do the same with a similarly racist site targeting Jews. Not only did the company refuse, but in the purported name of fairness and freedom of speech, it claimed that it was an error to take down the initial page (!) and proceeded to reinstitute the despicable anti-Muslim site as well, supposedly in the name of fairness and free speech.

III. WHAT MUST WE DO THEN? A FINAL THOUGHT

The exchange of information on the Internet operates in a manner that appears to significantly undermine the marketplace paradigm by amplifying outlier sources, thus giving them disproportionate force and bestowing upon them undeserved legitimacy. Plainly put, online, a scholarly article appearing in a peer-reviewed publication and reflecting the consensus on a given historical or scientific point is presented on par with what may be an entirely uneducated—even disturbed—individual's mad ravings, with little way for the young and uninitiated to distinguish between the two; for on the Internet, “nobody knows that you're a dog.”⁴⁵ Consequently, recognizing the augmented role of digital speech in shaping culture, particularly when it is disseminated in an unprecedented manner, prompts us to rethink speech theories developed with the traditional yet arguably archaic “marketplace of ideas” in mind.

As a result, it is an opportune time to revisit and, perhaps, even—in the case of the United States—adapt our theoretical paradigms of regulating expression in the digital age. While some consider it futile,⁴⁶ even “un-American,” others, even in the United States, increasingly question the

symbols to caricature them, indicates an antisemitic bias rather than a valid criticism of policy concerning a controversial issue.” U.S. State Department, *2008 Report on Global Anti-Semitism*.

45. Peter Steiner, drawing, *The New Yorker*, July 5, 1963, 69, <http://www.unc.edu/depts/jomc/academics/dri/idog.html>.

46. See United States Commission on Security and Cooperation in Europe (Hel-sinki Commission), “Hate in the Information Age,” (briefing), http://csce.gov/index.cfm?FuseAction=ContentRecords.ViewTranscript&ContentRecord_id=426&ContentType=H,B&ContentRecordType=B&CFID=11806025&CFTOKEN=93311528 (detailing the attitude of Christopher Wolf, chair of the Internet task force of the Anti-Defamation League and the International Network Against Cyberhate).

soundness of a rationale such as this, both normatively and descriptively,⁴⁷ given that in practice balancing and regulating does, to many minds, already occur. As Professor James Weinstein observes:

One serious problem with the marketplace-of-ideas rationale is that the premise that a completely unregulated market of ideas will lead to discovery of truth is highly contestable. A more profound problem with characterizing the marketplace-of-ideas rationale as a core free-speech norm is that it justifies free speech in terms of the good it will produce for society as a whole, not as a true individual right.⁴⁸

While a debate on the scope and purpose of the First Amendment far exceeds the very modest scope of this endeavor, I cite this passage only to underscore the difficulties associated with a “marketplace” rationale when applied to the networked environment in particular.

For our more narrow purposes, Professor Jack Balkin, a prolific scholar focusing on Internet governance, argues that since digital speech alters our perspective on freedom of speech . . . [and] technical innovation alters the social conditions of speech, we too must change the focus of free speech theory in a manner that would encompass “a larger concern with promoting a democratic culture.”⁴⁹

While some, as noted, invoke the supposed futility of regulating online behavior,⁵⁰ the symbolic value of the collective condemnation of racist

47. Weaver, note 35.

48. James Weinstein, “Participatory Democracy as the Central Value of American Free Speech Doctrine,” 97 *Va. L. Rev.* 491, 502 (2011).

49. Jack M. Balkin, “Digital Speech and Democratic Culture: A Theory of Freedom of Expression for the Information Society,” 79 *N.Y.U. L. Rev.* 1, 6, 52 (2004).

50. See, e.g., “Hate in the Information Age,” note 46 (“ . . . And it’s a fact that the blessings of our First Amendment also make the United States a safe haven for almost all kinds of hate speech. Therefore, shutting down a Web site in Europe or Canada through legal channels is far from a guarantee that the contents have been censored for all time. The borderless nature of the Internet means that, like chasing cockroaches, squashing one does not solve the problem when there are many more waiting behind the walls or across the border.”). Regarding Internet exceptionalism: “We present a strong resistance to Internet exceptionalism, or any arguments that new technologies can only be understood using novel intellectual frameworks. Like other revolutionary communication technologies, the Internet has changed the way we live, and [is] fostering undreamt of new forms of social organization and interaction. But also like other revolutionary communication technologies, the Internet has not changed the fundamental roles played by territorial government. We are optimists who love the [I]nternet and believe that it can and has made the world a better place. But we are realistic about the role of government and power in that future, and realists about the prospects for the future.” Tim Wu, “Is Internet

incitement cannot be discounted, particularly in terms of a communal statement helping to distinguish lies, such as genocide denial, from historical truths, a distinction even more important in an age where human rights discourse is being cynically inverted.

Legal historians observe that law represents the moral hegemony, thus assuming both a symbolic and an instrumental social function.⁵¹ Moreover, law and history are intertwined, for law, not unlike history, recounts facts and injects them with new meaning; thus, any legal decision—even symbolic—can play a powerful role in establishing the truth in the collective consciousness.⁵² In this manner, law joins the voices that build historical narrative; cases are not just decisions but become part of the historical record. Accordingly, courts' recognition of past genocides, chronicling and condemning the incitement leading thereto and sanctioning their denial, serves a particularly valuable purpose. It might in fact empower civil society and its most courageous members to rise up and “to condemn and react powerfully against the experience of discrimination,”⁵³ particularly with regard to ostracized groups.

Exceptionalism Dead?,” in *The Next Digital Decade: Essays on the Future of the Internet*, Berin Szoka et al., eds., <http://www.nyu.edu/projects/nissenbaum/papers/The-Next-Digital-Decade-Essays-on-the-Future-of-the-Internet.pdf>. “Can the Internet remain, in this sense, exceptional? Whatever the Internet’s original ideas, it is easy to argue that all this, too, shall pass. The argument from transience suggests that all that seems revolutionary about the Internet is actually just a phase common to speech inventions. In other words, the Internet is following a path already blazed by other revolutionary inventions in their time, from the telephone to radio. Such disruptive innovations usually do arrive as an outsider of some kind, and will pass through what you might call a ‘utopian’ or ‘open’ phase—which is where we are now. But that’s just a phase. As time passes, even yesterday’s radical new invention becomes the foundation and sole possession of one or more great firms, monopolists, or sometimes, the state, particularly in totalitarian regimes like the Soviet Union or the Third Reich. The openness ends, replaced with better production value and tighter controls. It is, in other words, back to normal, or at least what passed for normal for most of human history.” Wu, 185.

51. Daniel Gutwein et al., eds., *Mishpat ve'istoriya* [Law and History] (Jerusalem: Merkaz Zalman Shazar Le-Toldot Yisrael, 1999). See also Haim H. Cohn, “*Din emet le'amito*” [*The True Justice*] in *Gevuroth le' Shimon Agranat* [Essays in Honor of Shimon Agranat], Ruth Gavison et al., eds. (Jerusalem, 1986) (discusses the impact of law on the historical record and the history-making or history-keeping function of case law).

52. See Asher Maoz, “Historical Adjudication: Courts of Law, Commissions of Inquiry, and “Historical Truth,” 18 *Law & Hist. Rev.* 559 (2000) (discussing the intertwined nature of history and the law).

53. These are the words of Professor Nathalie Des Rosiers, who takes a somewhat different view of hate speech. Her words, however, on the importance of civil

Given what was said about the Internet and its facilitation of incitement, as well as the rewriting of history, it is crucial that the law—and civil society first and foremost⁵⁴—do its part in ensuring that the instances of genocide and crimes against humanity in the twenty-first century are not “white-washed or ignored.”⁵⁵

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society condemning such parlance are most instructive, for in the end (and without discounting the importance of legal mechanisms prohibiting incitement), only a powerful civil society can avert hate: individual Canadians and Canadian civil society should be empowered to openly and robustly criticize speech they see as discriminatory. Fostering a culture of human rights and a culture of counter-speech requires education, sensitization, and increased awareness.

54. See Nathalie Des Rosiers, “Rejecting Hate—Responsibility for Equality in a Free Society,” *Canadian Diversity (Diversité canadienne)*, 49 (2010), <http://ccla.org/wordpress/wp-content/uploads/2009/10/Responsibility-for-Freedom1.pdf> (stating that the government, *civil society*, and individuals should be “extremely” concerned about allegations of rising prejudice against and identifiable group [emphasis added]).

55. See John Shamsey, “80 Years Too Late: The International Criminal Court and the 20th Century’s First Genocide,” 11 *J. Transnat’l. L. & Pol’y* 327, 376 (2002) (explaining that legislatures and historians often succumb to political pressure, and therefore an entity is needed to monitor crimes against humanity and ensure they don’t go unrecognized).

Do Political Cartoons Reflect Antisemitism?

Florette Cohen*

Antisemitism is resurgent. The Modern Antisemitism Israel Model (MASIM) proposes that mortality salience increases antisemitism and that antisemitism often manifests as hostility toward Israel. The study demonstrates that mortality salience in conjunction with a bogus pipeline manipulation increased perceived justification for offensive political cartoons of Israel. Results suggest that Jews constitute a unique cultural threat to many people's worldviews, and that antisemitism and hostility to Israel are related.

Key Words: Antisemitism, Cartoons

Currently, there is little disagreement that the specter of ongoing violence in the Middle East is of great concern throughout much of the world. It is at the heart of international peace processes and continues to interfere with global economies (Aita 1997; Cohen and Solomon 2011; Pyszczynski et al. 2006). Of late, however, the resurgence of antisemitism accompanying the Middle East turmoil has also become apparent. Antisemitism is increasing (Kessler 2011). This is true not only in the Middle East, where animosity toward Jews is linked to hostility toward Israel (Matas 2005), but also in the liberal West (Baum 2009; Cohen et al. 2011; Kaplan and Small 2006).

Terrible double standards have been imposed by the international community as far as Israel is concerned. While many insist that Israel and the Zionists are responsible for horrific genocidal crimes against the Palestinians in the Occupied Territories, the numbers tell a different story. Over the past 12 years, the Israeli Center for Human Rights in the Occupied Territories put the Palestinian death toll at 6,473 (B'Tselem 2012). This number accounts for militants and civilians. The international answer has been to boycott over 50 Israeli products, academics, and artistic venues. In contrast, over the past 12 months the UN has estimated that the Syrian regime is responsible for over 10,000 civilian deaths, 20,000 displaced persons, and 40,000 detained prisoners (*The New York Times* 2012). The international response—zero boycotts.

If we look past the Middle East to a similar scenario in China, we can compare Israeli-occupied Palestine to Chinese-occupied Tibet. During the 2008 Tibetan uprising, Amnesty International reported hundreds of civilian

deaths and over 1,000 civilians unaccounted for (CNN 2008). Although there was talk and threats of boycotting products and the summer Olympics, none came to fruition (Lungescu 2008). Despite the inconsistency of the international community regarding human rights violations, many major works on stereotypes, prejudice, and discrimination have paid relatively little attention to antisemitism and its relationship to anti-Israel sentiment (e.g., one can find little or no mention of antisemitism in Fiske 1998; Jost and Banaji 1994; or many other recent reviews).

This lack of attention reflects the inconsistency of public opinions as well. A personal story may serve to demonstrate the point. Several years ago I subscribed to a local New York newspaper, both print and online. On March 25, 2009, I opened my e-paper to reveal the vilest of syndicated cartoons by American cartoonist Pat Oliphant (Figure 1). The cartoon (published by *The New York Times*, the *Washington Post*, Slate, and Yahoo! News, among others) depicted a headless soldier wielding a sword and pushing a sharklike toothy monster shaped like the star of David with its sights set on a fleeing Gazan woman carrying a baby, all within the confines of the Israeli flag (eyeonthepost.org 2009). The media outlets eventually removed the cartoon from their sites, but little fuss was made over the cartoon.

In contrast, Kurt Westergaard's cartoon depicting the prophet Mohammed wearing a bomb in his turban (Figure 2) triggered violent riots around the world. The cartoon, printed in the Danish *Jyllands-Posten* newspaper in September 2005, was considered "offensive" and sent Westergaard into hiding for fear of his life (nodhimmitude.com 2008).

There seems to be a double standard with regard to Israel and public opinion—the question is why? Why is it acceptable to demonize Israel? Is demonization of Israel a form of antisemitism? How can we know? To answer these questions, we must first understand the psychology of antisemitism and the methods used by social psychologists to test hypotheses based on these questions.

PSYCHOLOGY OF ANTISEMITISM

Antisemitism is a peculiar social phenomenon, in that many of the stereotypes associated with it are mutually exclusive, and shift radically across time and space. Jews have been condemned for being radical Communists, and for being avaricious capitalists. Fascists in Nazi Germany and in 1980s Argentina accused their nations' Jews of having hidden loyalties to socialist regimes (Rein 2003), whereas the Soviet Union regularly persecuted its Jews for harboring secret sympathies for the West (Weitz 2001). Jews have been chastised as corruptly cosmopolitan and as insular traditionalists, as

heretical free-thinkers and as mystical obscurantists, as weak, ineffectual, and effete, and as stealthily advancing toward worldwide domination (Bernard 2006; Johnson 1987, 310).

Some scholars of antisemitism see a method in these contradictions. Antisemitism may serve to create a tangible target upon which non-Jews project their own fears, especially fears that arise during times of social disruption (Cohn-Sherbok 2002). Indeed, attacks against Jews spiked during the Crusades, the Black Plague, in France following the Franco-Prussian War, in Russia in the years preceding the Bolshevik revolution, in Germany following World War I, in the United States during the Depression, in the Soviet Union during the Cold War, and in South America during the transition from dictatorships to democracy. Currently, anti-Jewish sentiment is spreading rapidly throughout the Muslim Middle East, which is itself undergoing massive social change (Glaeser 2005).

Why this correspondence between antisemitism and social transition? Tolerance for others' opinions, especially those that challenge one's own deeply held personal values, are tied to people's own feelings of certainty or worth (Cohen, Aronson, and Steele 2000). When people feel less secure, they become less tolerant of those whose views, perspectives, or beliefs are different from their own. Yet these findings themselves beg the question of why insecurity leads to intolerance toward Jews.

The current line of research examines the psychological underpinnings of prejudice and ethnic discord in the context of the Israeli-Palestinian conflict based on the Modern Antisemitism-Israel Model (MASIM; Cohen et al. 2011). The MASIM was designed based on a juxtaposition of Terror Management Theory (TMT; Greenberg, Pyszczynski, and Solomon 1986) and modern prejudice theory (Sears and Kinder 1971). Specifically, the present study tested the hypotheses that uniquely human fears of death serve to perpetuate expressions of antisemitism (a-s) and anti-Israeli sentiment as expressed in political cartoons.

TERROR MANAGEMENT THEORY

Death denial. According to terror management theory (Greenberg, Pyszczynski, and Solomon 1986), human beings, like all other animals, are driven to survive. Because of their complex cognitive capabilities, however—specifically, the ability to think abstractly and symbolically, culminating in explicit self-consciousness—humans are uniquely aware of the inevitability of death and the ever-present potential for lethal experiences, which creates the potential for paralyzing terror. Terror is the emotional manifestation of the self-preservation instinct in an animal intelligent enough to know that it will someday die (cf. Zilboorg 1943).

TMT posits that to “manage” this potentially debilitating terror, humans created cultural worldviews: symbolic conceptions of reality shared by individuals in a group. Cultural worldviews minimize death anxiety by imbuing the world with order, meaning, and permanence, and by providing a set of standards of valued behavior that, if satisfied, confers self-esteem and ultimately death transcendence through symbolic and/or literal immortality. Thus, from the perspective of TMT, individuals manage their terror by maintaining faith in the cultural worldview and living up to the standards of value that are part of that worldview.

Cultural worldview. Though the cultural worldview is treated as absolute reality by those who subscribe to it, it is actually a fragile social construction (cf. Berger and Luckmann 1967; McCall and Simmons 1966) requiring continual validation from others in order to be sustained, especially when confronted with reminders of mortality. This validation occurs mainly through the process of social consensus (Festinger 1954; Kelley 1967). Thus, the mere existence of people with similar worldviews bolsters the individual’s faith in the validity of his or her own worldview, thereby increasing its effectiveness as an anxiety buffer. Likewise, the mere existence of people with dissimilar worldviews threatens the individual’s faith in his or her own worldview, thereby undermining its effectiveness as an anxiety buffer. Thus, people generally prefer ideas and people that conform to their worldviews and derogate ideas and people that deviate from them.

Cultural worldview and antisemitism. TMT may be particularly useful for understanding antisemitism because outbreaks of antisemitism have often occurred following major social disruptions—military defeats, epidemic lethal disease, and massive economic deterioration. In all cases, either death, some threat to people’s most cherished beliefs, or both become salient. TMT suggests that, under such circumstances, many people will attempt to protect themselves by affirming their core values. Jews’ survival, their financial success, and their unique moral and religious beliefs threaten the worldview of others. This threat is parried by denigrating Jews (i.e., expressing antisemitic attitudes).

The basis for predicting cultural hostility toward Jews includes all the well-established reasons for outgroup hostility, in addition to some singular ones. Outgroups might not share the same attitudes and beliefs as ingroups; outgroups compete for resources; outgroups are perceived as more different from ingroups than they really are; outgroups are often seen as less deserving of trust than are ingroups; and so forth (classic work by Allport 1954; Brewer 1979; Rokeach 1951; Tajfel 1969; and many others) all attest to these processes. Indeed, many of the classic stereotypes of Jews fit these phenomena like a glove (“Jews are clannish, grasping,” if a common exam-

ple). This generic outgroup hostility begins to explain why they are potentially threatening.

In support of this view, Greenberg et al. (1990) demonstrated that, consistent with TMT predictions, when Christians thought about their own death (mortality salience) their trait ratings of fellow Christians became more positive and their trait ratings of Jews became more negative. Across all measures, the Christian was rated more positively than the Jew only in the mortality salient condition. Similarly, mortality salience led American college students to increase their agreement with the statement that “the holocaust in Nazi Germany was God’s punishment for the Jews” (Kunzendorf et al. 1999, as cited in Schimmel et al. 1999).

While TMT paints a grim picture of people in general, it cannot completely explain the history of pervasive victimization suffered by Jews from antiquity to the modern day. From a TMT perspective, the straightforward explanation for antisemitism is simple—when focused on their own mortality, and in need of the protections that their worldviews provide, non-Jews may become more hostile toward Jews, because Jews represent a challenge to their worldviews by being outgroup members. There are quite a large number of religious and historical reasons, however, to believe that Jews are potentially more threatening than other outgroups and may indeed constitute a unique cultural threat. The suggestion that Jews pose a unique threat remains true today to the point that it caused the American delegates at last year’s OSCE (Organization for Security and Cooperation in Europe) meeting on contemporary antisemitism to insist that antisemitism be recognized as a unique form of prejudice (for a complete review, see Cohen et al. 2009; 2011; Wistrich 2008).

SUBTLE MODERN PREJUDICES

The tenor of most TMT research suggests that reminders of death will increase prejudice and hostility toward different others. However, although blatant forms of antisemitism do exist, prejudice in general is often stigmatized. As such, people may often try to deny or hide their prejudices. Although a person may appear friendly and tolerant, hostility may be lurking not far from the surface. The terms *modern* or *symbolic racism* were developed because people stopped saying “Blacks are despicable and should not be allowed in our schools or restaurants.” Instead, they simply opposed government policies to promote racial equality, and they opposed candidates supporting those policies (Kinder and Mendelberg 1995; McConahay 1986; McConahay and Hough 1976; Sears and Kinder 1971).

Just as people veil their racism and anti-Black prejudice (e.g., by opposing busing and affirmative action), people may similarly veil their

antisemitism by opposing Jews' national aspirations. If one is a racist, opposing affirmative action is a safe way to express it; if one is an antisemite, opposing Israel is a safe way to express it. For example, Israel has been involved with numerous wars over the last sixty years. Some of them have been offensive, while others have been defensive. Unfortunately, though, even Israeli wars of self-defense may be twisted into evidence of Israeli imperialism and oppression and the "racist" nature of Zionism (Kotek 2003).

THE MODERN ANTISEMITISM-ISRAEL MODEL (MASIM)

The Modern Antisemitism-Israel Model (Cohen et al. 2011) is a juxtaposition of TMT and modern prejudice theory. The MASIM predicts that when mortality is salient, Jews are commonly perceived as threatening to one's worldview because they are different from non-Jews in their beliefs and behaviors, thus leading to an increase in antisemitism, which can manifest itself in two ways. It can develop into expressions of antisemitism such as verbal slurs, defamation of property, or bodily harm; or, because prejudice (antisemitism) is stigmatized, it can manifest itself through the application of double standards, demonization, and delegitimization (a product of double standards and demonization) of Israel, the Jewish state. As such, those who harbor antisemitic attitudes may increase hostility to Israel.

The model predicts that mortality salience leads to increased antisemitism, and that increased antisemitism leads to decreased support for Israel. Thus, the model also predicts that antisemitism may partially mediate effects of mortality salience on attitudes toward Israel. Such mediation, however, is predicted to be only partial because the model also predicts that mortality salience can increase opposition to Israel for reasons having nothing to do with antisemitism. This is because Israel, as a combatant for over 60 years, may be regarded as perpetrating human rights violations. Mortality salience activates worldview defenses, and worldviews typically include moral codes. For these reasons, mortality fears lead to more punitive attitudes toward those committing moral transgressions (Greenberg et al. 1990). Mortality salience, therefore, may decrease support for Israel due to heightened moral sensibilities, rather than to the arousal of latent antisemitism.

The model also posits that a reverse causal path exists. Although concern for human rights violations may lead to reduced support for Israel for reasons having nothing to do with antisemitism, it may then actually trigger an increase in antisemitic prejudices (Baum 2009; Frindte, Wettig, and Wammetsberger 2005; Kaplan and Small 2006).

Studies (Cohen et al. 2009) have demonstrated that: 1) participants expressed significantly greater levels of antisemitism and lower levels of pro-Israeli sentiment when reminded of their mortality and when told that they would be caught in the act of lying; 2) Antisemitism partially mediated the effects of mortality salience x bogus pipeline manipulation on opposition to Israel; 3) mortality salience increased the perceived size of Israel, but not of other countries; and 4) mortality salience increased opposition to Israeli oppression more than it increased opposition to Russian or Indian oppression.

A MASK ON PREJUDICE

Based on the findings of Cohen et al. (2009; 2011), it seems likely that hostility toward Jews and Israel in response to reminders of death will often be expressed in subtle and indirect ways that are plausibly interpretable as something other than prejudice.

The present study tested the MASIM model through the hypothesis that, as a subtle form of antisemitism, expressions of hostility toward the Jewish state will be magnified by a mortality salience induction. Therefore, a subtle expression of antisemitism and anti-Israel sentiment and opposition to Israel in the form of demonization and double standards applied to it was assessed through obtaining the impressions on two political cartoons. Political cartoons typically use visual metaphors and caricatures to draw attention to important social and political issues by using a humorous or emotional picture. Often during times of war such depictions are used to sway the public opinion in their favor; Benjamin Franklin's *Join or Die* (1754), for example, depicting a snake cut up into several sections, was used in support of the French and Indian War and then during the Revolutionary War.

Political cartoonists in the Arab media often depict the United States and its leaders as exterminators of the Muslim world (Marcus and Crook 2004). For example, a popular British cartoon that depicts former prime minister Ariel Sharon eating babies is a form of demonization, but it is a very old form of demonization. This cartoon draws heavily on the medieval Jewish blood libels, in which Jews were accused of murdering non-Jewish children in order to use their blood to prepare Passover matzos. There are many other examples of modern political cartoons portraying Israel and Israelis as animals, insects, or cannibals (Kotek 2004). These cartoons are striking in several ways. First, on their face, they seem to reflect the virulent type of loathing that often characterizes deep-seated bigotries. Second, they were obtained from mainstream presses from a variety of countries (American, British, Egyptian). Third, many have a haunting similarity in substance, style, and motif to Nazi-era cartoons depicting Jews in a manner

widely recognized as reflecting the most virulent form of antisemitism (Lustige Blatter 1942).

The vile nature of these cartoons may suggest that antisemitic attitudes may run wide and deep, and they raise the possibility that these cartoons reflect more than mere opposition to Israel. While it is possible that other countries, cultures, or peoples are similarly depicted as widely and as frequently in such a revolting manner, these real-world examples are also consistent with the perspective suggesting that hostility to Israel may be expressed with such virulence that it is most likely powered, at least in part, by antisemitism. Thus, one purpose of this study was to test the hypothesis derived from the MASIM that, when we encounter reminders of death, revolting cartoons of human rights transgressors should be viewed as more justified. A second purpose was to demonstrate that because mortality salience also increases antisemitism and demonization of Israel, it should disproportionately increase support for the anti-Israeli political cartoons more than for those of another country.

HYPOTHESES

H1: If offensive political cartoons are indeed an expression of prejudice then participants will view the cartoons of both the Chinese and Israelis as more justified under bogus pipeline conditions.

H2: If mortality salience increases our sense of belief in a moral world order, then mortality salience should also lead to an increase in agreement, with offensive cartoons demonizing countries violating human rights (subtle forms of hostility).

H3: If mortality salience increases antisemitism, then it should increase hostility toward Israel more than it does toward other countries.

METHODS

One hundred and seventy-six participants were recruited from a Northeastern university psychology course. Participants received course credit for their participation, which lasted about 20 minutes. Participants were run in one session. Fourteen Jewish participants and 6 Chinese participants were removed from analyses, leaving a total of 156 participants. Four participants were dropped due to missing data; participants included 97 females and 54 males. Ten identified themselves as African-American, 26 as (non-Chinese) Asian-American, 17 as Latino, 82 as White, and 12 as belonging to other ethnic groups. One hundred and four identified themselves as belonging to one of the many Christian faiths, 12 as Hindu, 5 as Muslim, 1 as (non-Chinese) Buddhist, and 29 as "other."

EXPERIMENTAL DESIGN AND PROCEDURE

The present study employed a 2 (mortality salience: death vs. exam) x 2 (bogus pipeline: camouflage vs. bogus pipeline) x 2 (target country: Israel vs. China) independent groups design.

Bogus pipeline. Half the subjects were made to believe that the purpose of the experiment was simply to study a variety of attitudes (“camouflage”), and others were made to believe that the purpose of the experiment is to study attitudes and that any lies about their true attitudes can be detected (“bogus pipeline”).

The participants in the camouflage condition were led to believe that experimenters were looking for attitudes on social and political issues. Accordingly, the cover page in the camouflage condition neither made it very obvious that prejudice was being measured nor pointed out that questionnaires can catch people lying. It was, therefore, a control condition.

Participants in the bogus pipeline condition received the same information about the survey as did those in the camouflage condition, with one crucial difference. They were also informed that the study was focused on attitudes, but they were led to believe that any deception on their part (lying to appear unprejudiced) would be detected by sophisticated methods developed by psychologists. In keeping with the cover story, participants then completed a series of personality measurements (to be used as filler questionnaires).

Mortality salience. In the mortality salience (MS) condition, participants responded to two open-ended questions relating to their own mortality, which read as follows: “Please describe the emotions that the thought of your own death arouses in you.” And, “Write down as specifically as you can what you think will happen to you physically when you die.”

Pain salience. In the pain salience (PS) condition (control), participants responded to parallel questions regarding thoughts of pain as follows: “Please describe the emotions that the thought of intense physical pain arouses in you.” And, “Write down as specifically as you can what you think will happen to you as you experience pain and when it’s over.” Pain salience provided an apt control condition because, as demonstrated in previous TMT studies, thoughts of physical pain are an unpleasant as well as anxiety-provoking, yet non-lethal, event.

PANAS-X. Given that previous TMT research demonstrated that MS manipulations emerge after a short delay and distraction (Greenberg et al. 1994), following the MS manipulation participants completed the PANAS-X (Watson and Clark 1992) to assess the affective consequences (or lack

thereof) of the MS manipulation, and a short literary passage used in previous studies to provide the delay and distraction.

Readings and questions. Participants then read a short vignette discussing either Israeli brutality toward Palestinians or Chinese brutality toward a group of monks in Tibet. They were then shown two cartoons presented in random order (to rule out the possibility of order effects). The first depicted the prime minister of Israel or China eating Palestinian or Tibetan children (Figures 3 and 4, respectively). The second depicts a Jew or a Chinese man controlling the world at the expense of the Palestinian or the Tibetan (Figures 5 and 6, respectively).

Participants then replied to three questions asking participants, on a scale of 1-5, to what degree they felt the cartoons of either Israeli (Jewish state) leader or the cartoons of Chinese leader is justified (Cronbach's $\alpha = .82$): "Do you believe this representation to be an accurate portrayal of the Israeli-Palestinian conflict?"; "Based on the passage you just read, how justified is the following cartoon?"; and "Do you find this cartoon offensive?." In order to keep participants' score on the original 1-5 point scale, participants' responses to the three questions were summed and divided by 3. This average constituted each participant's score on this scale. Participants then provided demographic information and were debriefed and thanked for their participation.

RESULTS

Preliminary analyses. An initial series of univariate ANOVAs, using mortality salience (death, pain) by bogus pipeline (bogus pipeline, camouflage) by each of the demographic characteristics was performed. Because there were too few non-Whites and non-Christians to assess general effects of ethnicity or religion, participants' ethnicity was recoded into White vs. non-White, and their religion was recoded into Christian vs. non-Christian. A series of univariate ANOVAs (four cartoons [Israeli/Chinese leader, Israeli/Chinese world]) by 2 orders (leader first, world first) by three sets of demographics (sex, ethnicity, religion) yielded only 3 out of 24 possible interactions of a demographic variable with mortality salience and bogus pipeline and, therefore, are not discussed further.¹ All subsequent analyses

1. There was a significant interaction of race (White, non-White) with bogus pipeline for evaluation of the world cartoon, $F(1,146) = 3.97, p = .048$. There was a race difference under camouflage conditions ($M_s = 2.33, 2.06$, for Whites and non-Whites respectively, $t[146] = 3.15, p < .01$), but there was no race difference under bogus pipeline ($M_s = 3.02, 3.08$ for Whites and non-Whites, respectively $t[146] = 1.08, p > .1$).

were conducted as 2 (mortality salience) x 2 (bogus pipeline) x 2 (country) ANOVAs.

To determine if mortality salience affected mood, an analyses of variance was performed on an abridged version of the PANAS-X, including Positive Affect and Negative Affect. Consistent with previous TMT research demonstrating that mortality salience did not influence affect, there were no significant differences found for any of these analyses (p values > .1). Means, standard deviations, and intercorrelations among variables are presented in Table 1.

Cartoons. This study produced a main effect for the bogus pipeline manipulation $F(1,150) = 5.16, p = .03$ for the leadership cartoon and a significant main effect for the world cartoon $F(1,148) = 8.93, p = .003$. Participants in the camouflage condition evaluated them as being less justified (respective leadership and world means: $M = 2.60; M = 2.61$), while when told they would be caught lying, participants viewed the cartoons as more justified (respective leadership and world means: $M = 2.88; M = 3.03$).

Analyses yielded a significant MS x country interaction for the leader cartoon $F(1,150) = 7.53, p = .007$. In accord with the second hypothesis, participants in the mortality salience condition rated the cartoon of the Israeli leader eating Palestinian babies as more justified than in the control condition ($M = 2.90, SD = .95$ v. $M = 2.50, SD = .83, t[147] = 2.18, p < .05$). This was not the case with those rating the cartoons of the Chinese leader eating Tibetan babies ($M = 2.61, SD = .75$ v. $M = 2.84, SD = .64, t[147] = 1.30, p > .1$).

Both the leader and world cartoons yielded an unpredicted significant three-way mortality salience x bogus pipeline x target country interaction—respective leadership and world F s: $F(1,150) = 6.31, p < .02, F(1,148) = 4.13, p < .05$ (see Tables 1 and 2 for means and standard deviations).

Based on these findings, the cartoon conditions were combined to form a single cartoon condition. In line with the first hypothesis, analyses yielded a significant main effect for the bogus pipeline manipulation $F(1,149) = 11.23, p = .001$. Participants did indeed view both the offensive Chinese

There was also a significant interaction of gender (male, female) with mortality salience for evaluation of the world cartoon, $F(1,148) = 4.15, p = .044$. There was a gender difference under mortality salience (M s = 2.60, 3.12, for males and females respectively, $t[148] = 2.61, p = .01$), but there was no gender difference under pain conditions (M s = 2.77, 2.72 for males and females, respectively $t[146] = .25, p > .1$).

Future research might want to further explore these types of race and gender differences regarding evaluations of political cartoons; they are, however, beyond the scope of the present research and are not discussed further.

and Israeli cartoons as more justified in the bogus pipeline condition ($M = 2.95$, $SD = .61$) than in the camouflage condition ($M = 2.59$, $SD = .71$).

These main effects were qualified by a significant three-way mortality salience, bogus pipeline, and target country interaction $F(1,149) = 11.23$, $p = .001$. Based on these findings, the hypothesis—that levels of justification for the cartoons would be highest in the mortality salience/bogus pipeline/Israel group—was tested with a one-degree of freedom contrast in which the mortality salience/bogus pipeline/Israel cell was coded as 7, and all other cells were coded as -1 . Cell means and contrast coefficients are presented in Table 3.

The pattern of cell means (see Table 3) clearly supported the hypothesis. Mean attitude toward Israel was 3.41 in the mortality salience/bogus pipeline cell, whereas it was near 2.79 in all of the other cells. Furthermore, the one-degree-of-freedom contrast was significant, $t(141) = 4.17$, $p < .001$. This contrast, therefore, strongly supports the claim that mortality salience in conjunction with the fear of being caught lying to appear unprejudiced increased demonization of Israel more than for other countries.

DISCUSSION

The present study tested the hypothesis that expressions of hostility toward the Jewish state would be magnified by a mortality salience induction. Expressions of antisemitism and anti-Israel sentiment in the form of demonization were assessed through obtaining the impressions of two offensive political cartoons. Results showed that mortality salience in conjunction with a bogus pipeline manipulation increased perceived justification for offensive political cartoons of Israel but not China. These effects may be interpreted as an effect of mortality salience on moral sensibilities and disdain for transgressors of human rights. Because there were no effects for China, however, the best interpretation of the results is that the antisemitism aroused by mortality salience led to these findings (see Figure 7).

Even with media reports of antisemitism on the rise, social psychological research has yet to resume its once prominent emphasis on understanding antisemitism (Bachner 2003). This is, however, an unfortunate state of affairs, which the present paper begins to rectify. This research extended the findings of Cohen et al. (2009) and provided insight into the psychological underpinnings of antisemitism.

First, it demonstrated that under the right (wrong) conditions, antisemitism readily emerges. Denials of antisemitism, therefore, cannot necessarily be taken at face value. Opposition to Israel is a good/convenient method for expressing antisemitism without seeming to do so.

Second, the hypotheses derived from the MASIM model were built on the original tenets of terror management theory and presented preliminary experimental evidence to support the model. Given the recent rise in the salience of terrorist acts against civilians in the West (e.g., World Trade Center, Spanish train attacks, London bus bombings), it seems likely that mortality salience has been chronically raised. If so, then the current model provides a strong explanation for recent acts of antisemitism (*BBC News* 2012).

MASIM contributes one explanation toward establishing the relationship between antisemitism and opposition to Israel. Because war, conflict, and extreme economic conditions—unprecedented since the Great Depression (Wills August 1, 2009)—raise mortality salience concerns, antisemitic attitudes may be triggered. Higher levels of antisemitism, in turn, increase hostility toward Israel. And bitter public condemnation directed at Israel may feed back to increase antisemitism. The major advances within social psychology over the last 50 years (i.e., since the last major wave of antisemitism research) provide an extraordinary opportunity to understand the sources and consequences of antisemitism. They also will undoubtedly help detect the sometimes veiled manner with which antisemitism is expressed, and the conditions under which opposition to Israel reflects and does not reflect antisemitism.

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APPENDIX A

OPINION SURVEY

Violence against Palestinians/Tibetan groups by Israeli/Chinese security forces is not new; it has accompanied the occupation for many years. Recently, however, a significant increase in the number of beatings and instances of abuse has occurred, in part because of increased friction between Palestinians/Tibetans and Israeli/Chinese security forces. According to many testimonies given to human rights organizations, the security forces use violence, at times gross violence, against Palestinians/Tibetans unnecessarily and without justification.

Most cases involve a “small dose” of ill treatment such as a slap, a kick, an insult, a pointless delay at checkpoints, or degrading treatment. These acts have become an integral part of Palestinian/Tibetan life in the Occupied Territories/Tibet. From time to time, however, cases of severe brutality occur.

Many instances of abuse are not exposed because they have become the norm, and, for Palestinians/Tibetans, filing complaints is very time consuming. Furthermore, many Palestinians/Tibetans even refrain from filing complaints in cases of severe brutality because they fear that filing the complaint will only bring more harm on themselves. Based on past experience, many do not file complaints because of lack of trust in the system—a system that tends not to believe them, and that tends to protect rather than prosecute those who injured them. The numerous restrictions on movement imposed by Israel/China in the Occupied Territories/Tibet make it very difficult for Palestinians/Tibetans who want to file complaints to do so. Please look at the pictures on the following page and then answer the questions that follow.

TABLE 1
Means, standard deviations, and intercorrelations for variables.

<i>Variable</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Cond—death	1				
Cond—bogus	-.05	1			
Country	-.02	-.04	1		
Cartoon World	.08	.24**	-.11	1	
Cartoon Lead	.05	.17*	-.02	.33**	1
M	1.50	1.48	1.48	2.81	2.71
SD	0.50	0.50	0.50	0.88	0.81

* $p < .05$, ** $p < .01$

N = 151 for all correlations.

TABLE 2
Cell means and contrast coefficients on the leadership cartoon scale.

<i>Mortality Salience</i>	<i>Bogus Pipeline</i>	<i>Country</i>	<i>N</i>	<i>M</i>	<i>SD</i>
Pain	Camouflage	China	19	2.65	.66
		Israel	19	2.47	.91
	Bogus Pipeline	China	20	3.03	.57
		Israel	18	2.52	.77
Death	Camouflage	China	21	2.67	.79
		Israel	20	2.55	.94
	Bogus Pipeline	China	19	2.56	.73
		Israel	15	3.38	.74

Scores were based on a 5-point Likert scale. Higher scores indicate higher levels of perceived justification for the cartoon. These means are participants' average score on the three questions comprising this scale.

TABLE 3
Cell means and contrast coefficients on the world cartoon scale.

<i>Mortality Saliency</i>	<i>Bogus Pipeline</i>	<i>Country</i>	<i>N</i>	<i>M</i>	<i>SD</i>
Pain	Camouflage	China	19	2.70	.90
		Israel	18	2.41	.90
	Bogus Pipeline	China	20	3.10	.86
		Israel	17	2.67	.63
Death	Camouflage	China	21	2.89	1.10
		Israel	20	2.45	.85
	Bogus Pipeline	China	19	2.90	.72
		Israel	15	3.44	.54

Scores were based on a 5-point Likert scale. Higher scores indicate higher levels of perceived justification for the cartoon. These means are participants' average score on the three questions comprising this scale.

TABLE 4
Cell means and contrast coefficients on the leader and world cartoon scales combined.

<i>Mortality Saliency</i>	<i>Bogus Pipeline</i>	<i>Country</i>	<i>N</i>	<i>M</i>	<i>SD</i>	<i>CC</i>
Pain	Camouflage	China	19	2.68	.59	-1
		Israel	18	2.44	.75	-1
	Bogus Pipeline	China	20	3.07	.47	-1
		Israel	17	2.60	.55	-1
Death	Camouflage	China	21	2.78	.78	-1
		Israel	20	2.50	.73	-1
	Bogus Pipeline	China	19	2.73	.59	-1
		Israel	15	3.41	.55	7

Scores were based on a 5-point Likert scale. Higher scores indicate higher levels of perceived justification for the cartoons. These means are participants' average score on the two cartoon scales.

Figure 1: Syndicated cartoon of Israeli flag depicting a headless soldier wielding a sword and pushing a shark like toothy monster shaped like the star of David with its sights set on a fleeing Gazan woman carrying a baby. Pat Oliphant, 3/25/09, published by *The New York Times*, the *Washington Post*, *Slate*, and *Yahoo! News*.

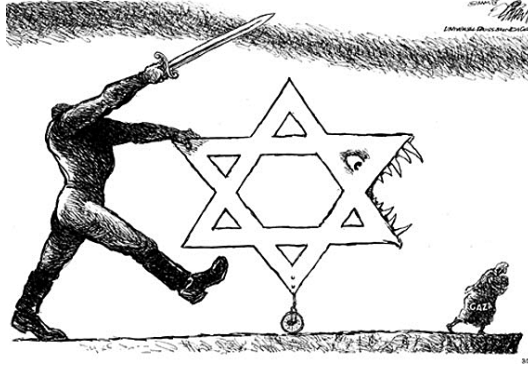


Figure 2: Danish cartoon depicting the Prophet Mohammed wearing a bomb in his turban. From *No Dhimmitude*, February 13, 2008, and published in the Danish newspaper *Jyllands-Posten*.

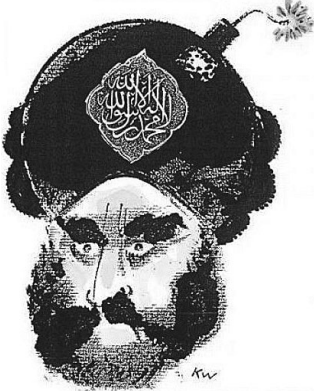


Figure 3: Cartoon depicting PM Sharon eating Palestinian children. Al-Hayat Al-Jadida, March 22, 2004.



Figure 4: Cartoon depicting Chinese president eating Tibetan children.



Figure 5: Cartoon depicting victorious Jew atop bleeding world with a surrendering Arab beneath. Al Hayat Al Jadida, May 14, 2005.

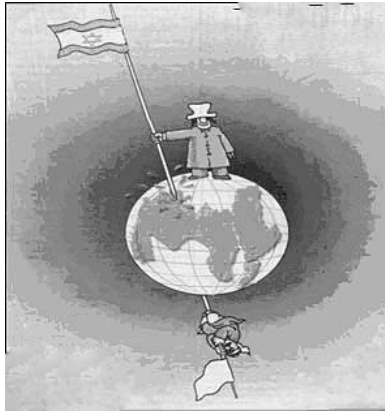


Figure 6: Cartoon depicting victorious Chinese man atop bleeding world with a surrendering Tibetan beneath.

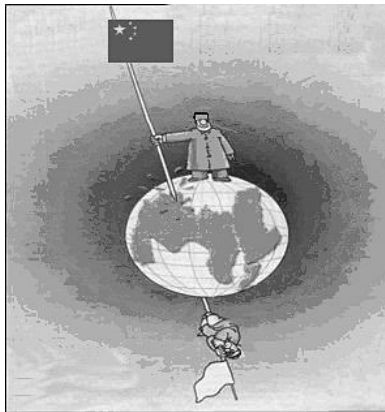
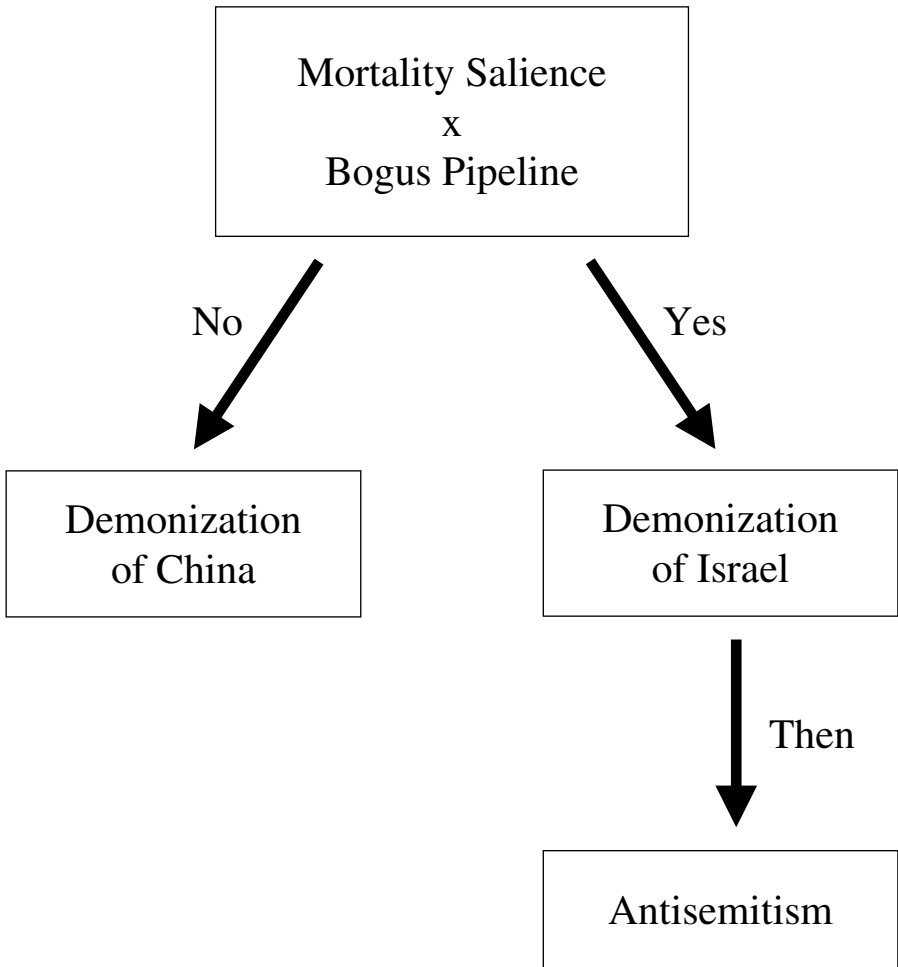


Figure 7: Double Standard Model



Does mortality salience x bogus pipeline increase demonization of Israel? = YES
Does mortality salience x bogus pipeline increase demonization of China? = NO
Then demonization of Israel = Antisemitism



The Toulouse Murders

Manfred Gerstenfeld*

On March 19, 2012, Mohammed Merah, a Frenchman of Algerian origin, killed a teacher and three children in front of the Toulouse Jewish school Otzar Hatorah. Earlier that month, he murdered three French soldiers. A few days after the Toulouse murders, Merah was killed in a shootout with French police.¹

Murders in France and elsewhere are frequent, and a significant percentage of murder victims are children. Yet the murder by this fanatic drew worldwide attention,² which usually focused far more on the killing of the Jewish victims than that of the soldiers.

For French Jews, this tragedy recalled events of past decades, the more so as the murderer was an Al Qaeda sympathizer. Six people in the Jewish Goldenberg restaurant in Paris were killed in 1982 by terrorists, most probably from the Arab Abu Nidal group.³

In the past decade, antisemitic motives were behind murders of Jews committed by Muslims living in France. Sebastien Selam, a Jewish disc jockey, was killed by his Muslim childhood friend and neighbor Adel Amastaibou in 2003. Medical experts found the murderer mentally insane. When the judges accepted this conclusion, such finding prevented a trial in which the antisemitism of substantial parts of the French Muslim commu-

1. Murray Wardrop, Chris Irvine, Raf Sanchez, and Amy Willis, "Toulouse Siege as It Happened," *Telegraph*, March 22, 2012.

2. Edward Cody, "Mohammed Merah, Face of the New Terrorism," *Washington Post*, March 22, 2012.

3. *New York Times* Service, "Terrorist Abu Nidal Reportedly Found Dead," *Baltimore Sun*, August 20, 2002.

nity might have been discussed. There were those in the Jewish community who saw in the absence of a trial yet another sign of how touchy a subject Muslim antisemitism is in public debate.

Richard Prasquier, president of the French Jewish umbrella organization CRIF (Conseil Représentatif des Institutions Juives de France), said years later that Amastaibou was put in a mental hospital. Until 2007, however, he was permitted to return home. Prasquier remarked that public health specialists thought this would be good for his mental health. They did not consider at all that they were putting his neighbors, the Selam family, in danger.

Axel Metzker, a lawyer for the Selam family, said that Amastaibou had been presented as having a clean charge sheet prior to the murder. Metzker claimed that “Amastaibou had at least 10 prior violent convictions, including assaulting rabbis, threatening pregnant Jewish women and making Molotov cocktails, but the panel of expert doctors had known nothing about them.”⁴

In 2006, a young Jewish man, Ilan Halimi, was kidnapped, tortured for 24 days, and killed. The kidnappers, led by Youssouf Fofana, called themselves the “Gang of Barbarians.” When the court trial began in 2009, Fofana shouted “Allahu Akbar” and gave his identity as “Arabs African revolt barbarian salafist army.”⁵

FRENCH POLITICIANS

It is not only French Jews who recall ugly statements made in the past by French politicians. In October 1980, there was a lethal bomb attack on a synagogue on Rue Copernic in Paris. As Avi Pazner, former Israeli ambassador to France, recalls: “Raymond Barre, the [right-wing] French prime minister at the time, displayed hidden antisemitic feelings when he stated that the terrorists had aimed at the Jews, but had killed innocent Frenchmen.”⁶

The French Socialist Party, which since spring 2012 holds the French presidency again, has a particularly loathsome past as far as the fight against antisemitism in this century is concerned. When in late 2000 a flood of antisemitic incidents began, the Jospin government—in particular Daniel

4. Brett Kline, “Two Sons of France,” *Jerusalem Post*, January 21, 2010.

5. “Trial Begins of French ‘Gang of Barbarians’ Accused of Killing Young Jew after 24-Day Torture,” *Daily Mail*, April 30, 2009.

6. Avi Pazner, interview by Manfred Gerstenfeld, “Choosing Between Israel and the Arabs,” *Israel and Europe, An Expanding Abyss* (Jerusalem: Jerusalem Center for Public Affairs, Konrad Adenauer Foundation, 2005), 165.

Vaillant, minister of the interior—closed their eyes. They feared that “the social peace” in France would be undermined if they told the truth—that most of the attackers were Muslims from immigrant families.

French Jewish philosopher and sociologist Shmuel Trigano gave this summary: “Jewish citizens couldn’t understand that violent acts were being committed against them in the name of developments 3,000 kilometers away, yet they were not entirely surprised by the violence of some Arabs. They considered it outrageous, however, that the French government and society didn’t condemn it immediately.”⁷

In January 2002, when major antisemitic eruptions in France had already been taking place for well over a year, Socialist foreign minister Hubert Védrine implied empathy for the Muslim violence against Jews in France, stating: “One doesn’t necessarily have to be shocked that young Frenchmen of immigrant origins have compassion for the Palestinians and are extremely excited seeing what is happening.”⁸

Official French reactions to the Merah murders were partly influenced by their timing. France was in the middle of a bitter presidential campaign, in which immigration issues played an important role. In attacking ritual slaughter—halal and kosher—the UMP Party of then-president Nicolas Sarkozy went to extremes. Prime minister François Fillon said that Muslims and Jews should give up the traditions of their forefathers of ritual slaughter, which nowadays are rather irrelevant.⁹

After the murders, the two prime candidates for the presidency were taking no risks. Together with Prasquier, Sarkozy visited the school in Toulouse. Both he and his main opponent, Socialist François Hollande, refrained from campaigning for two days.¹⁰

AL QAEDA INCITEMENT

British antisemitism expert Michael Whine has made a detailed analysis of terrorist incidents against Jewish communities and Israeli citizens abroad, over the period 1968-2010. He mentioned that Ayman al-Zawahiri,

7. Shmuel Trigano, interview by Manfred Gerstenfeld, “French Antisemitism: A Barometer for Gauging Society’s Perverseness,” *Post Holocaust and Antisemitism* 26 (November 1, 2004).

8. Itamar Eichner, “The Anti-Jewish Aggressions Can Be Understood,” *Yediot Aharonot*, January 15, 2005.

9. “François Fillon s’en prend au halal et au casher,” *Le Point*, June 3, 2012.

10. Gregory Viscusi, Mark Deen, and Helene Fouquet, “Toulouse Murders Color French Presidential Campaign,” www.businessweek.com/news/2012-03-23/toulouse-murders-color-france-s-presidential-election-campaign.

the current leader of Al-Qaeda, published several calls to attack not only Israelis, but also Jews in general.

Al-Zawahrari wrote, for instance: “Tracking down the Americans and the Jews is not impossible. Killing them with a single bullet, a stab, or a device made up of a popular mix of explosives or hitting them with an iron rod is not impossible. Burning down their property with Molotov cocktails is not difficult. With the available means, small groups could prove to be a frightening horror for the Americans and the Jews.”¹¹

The Merah murders were the worst acts of violence against Jewish schools anywhere in the past decades. Over the years, a number of violent attacks on Jewish schools have occurred, many of them in Muslim or Latin American countries. In recent years, several such attacks took place in Montreal. The worst one before the Toulouse murders was in 1995, when a car bomb exploded outside a Jewish school in Lyons, France, wounding 14 people.¹²

INCREASED SECURITY MEASURES

The impact of the murders, however, went far beyond France. Jewish communities all over Europe implemented increased security measures. Ervin Kohn, head of the Jewish community in Oslo, told the daily paper *Dagbladet*, “This could just have easily happened in Norway. We do not feel safe.” He added that the Jewish community is a vulnerable group and would like to see permanent police protection at its institutions.¹³

Also in the Netherlands, extra security measures for Jewish institutions were put in place. There is a long conflict between the Jewish community and the Dutch government about the latter’s unwillingness to contribute toward the community’s large expenses for security.¹⁴ In Belgium, England, Italy, and other European countries, Jewish communities

11. A. Al-Zawahiri, “Knights Under the Prophet’s Banner,” *FBIS Daily Report*, December 12, 2001. Quoted in Michael Whine, “Terrorist Incidents against Jewish Communities and Israeli Citizens Abroad, 1968-2010,” *Post-Holocaust and Antisemitism* 108 (July 1, 2011).

12. Manfred Gerstenfeld, “Antisemitism and Anti-Israelism in Western Schools,” *Post-Holocaust and Antisemitism* 112 (November 1, 2011).

13. www.dagbladet.no/2012/03/20/nyheter/det_jodiske_samfunnet/barn_skutt/det_mosaiske_trossamfunnet/20756031/.

14. Brief van het CJO aan de leden van de Tweede Kamer der Staten-Generaal, June 24, 2010.

expressed their fears.¹⁵ Even in New York, there were increased security measures taken.¹⁶

There were many French condemnations of the killings by Merah, and from a number of Muslim sources as well. Condemnations also poured in from a variety of countries as well as from UN secretary Ban Ki-Moon. A delegation on behalf of the king of Morocco extended condolences to the Toulouse school.

Catherine Ashton, the high representative of the European Union for Foreign Affairs and Security Policy, engendered fury by mentioning Gaza and Toulouse in the same speech, suggesting moral equivalence. Senior ministers Avigdor Lieberman, Ehud Barak, and Eli Yishai condemned her statements, as did opposition leader Tzipi Livni.¹⁷ Thereafter, Ashton's staff explained that she had been misquoted.

Even if this were true, mixing the Toulouse case with other unrelated ones was inappropriate. One cannot understand Israeli anger over her statements without knowing how biased this British Labour politician has been in the past. One instance was her reaction to the Gaza flotilla, where she asked Israel to lift its blockade, which is fully legal.¹⁸ This request implicitly suggests helping the terrorist organization Hamas obtain more weapons.

BREIVIK AND MERAH: TWO IDEOLOGICAL MURDERERS

Contemporary European reality can be somewhat better understood when one compares the Merah murders with those by Norwegian Anders Breivik. In July 2011, he killed eight people with a bomb near government buildings in Oslo. Breivik thereafter murdered 69 others, mainly youngsters from the AUF youth movement of the Labor Party at a camp on the island of Utøya.¹⁹

These two murderers and responses to their acts have important elements in common, yet differ on other major points. Both killers were driven by ideology and chose their targets within specific groups. Breivik aimed

15. Revital Blumenfeld, "European Jewish Communities Ramp Up Security Following Toulouse Attack," *Haaretz*, March 21, 2012.

16. Associated Press, "Security Up at NY Jewish Sites after France Attack," *ABC News*, March 20, 2012.

17. Barak Ravid, "Lieberman: Ashton's Comparison of Toulouse Attack to Gaza Deaths 'Inappropriate,'" *Haaretz*, March 20, 2012.

18. Manfred Gerstenfeld, "The Gaza Flotilla, Facts and Official Reactions," *Post-Holocaust and Antisemitism* 102 (September 15, 2010).

19. "Anders Breivik Describes Norway Island Massacre," *BBC News Europe*, April 20, 2012.

primarily at the Labor Party, while Merah chose his victims among soldiers and the Jewish community.

After the Breivik murders, Norwegian Labor Party Prime Minister Jens Stoltenberg stated that Norway would respond with even more democracy and openness.²⁰ This was propaganda, as the opposite took place. Norway is a country where opponents of the Labor establishment had great difficulty expressing themselves before the murders. Afterward, it became almost impossible for them.

American author Bruce Bawer describes this in his book, *The New Quislings* (subtitle, *How the International Left Used the Oslo Massacre to Silence Debate about Islam*). Vidkun Quisling, the Norwegian prime minister under the German occupation, became the template for a person who betrays his country and collaborates with foreign totalitarians; his name has even become a generic word in dictionaries. Bawer suggests that there are leftists, to be called “New Quislings,” who betray democracy by helping totalitarian Islam. He also describes how he himself was demonized in Norway after the murders.²¹

BREIVIK AND MERAH’S WORLD VIEWS

Breivik was a loner. Intelligence services did not claim that they had information about other such potential murderers. A logical question was thus asked: who incited Breivik to commit atrocities? There are no organized groups calling for the mass murder of socialists. As Breivik had mentioned many names in a lengthy manifesto he had published, a few of those who wrote negatively about Islam were selected to be falsely accused by the media.

Among them were Bat Ye’or, author of the book *Eurabia*; the Norwegian international blogger Fjordman, whose real name, Peder Jensen, was revealed; the leader of the Dutch Freedom Party, Geert Wilders; and Bawer. None of these people had ever promoted violence; Breivik did not move in their circles either. The “New Quislings,” however, needed scapegoats that could be made responsible for Breivik’s vicious crimes.

Whoever wonders where Merah’s worldview originated doesn’t have to search far to find out. He publicly claimed before his death that he supported Al Qaeda, one of the most violent Muslim movements.

20. www.huffingtonpost.com/2011/07/27/jens-stoltenberg-norway-prime-minister-oslo-tragedy-democracy-_n_910636.html.

21. Bruce Bawer, *The New Quislings: How the International Left Used the Oslo Massacre to Silence Debate about Islam* (Broadside Books, 2011).

According to the Pew Research Organization, a leading American research institution, there are at least 100 million Muslims in the world who support Al Qaeda.²² Even if only a tiny percentage of them were to become murderers, this is still a substantial number. Gilles de Kerchove, the European Union anti-terror coordinator, suggested that there are hundreds of potential lone-wolf murderers like Merah in Europe.²³

Merah claimed he was motivated to murder the Jewish victims out of solidarity with Palestinian child victims. Palestinian prime minister Salam Fayyad distanced himself from Merah, stating that Palestinian children should not be used to legitimize terrorism.²⁴

Fayyad, however, “forgot” to mention far more relevant issues. The Palestinian Authority, of which he is prime minister, names youth camps, sports tournaments, streets, and schools after their own homegrown terrorists, who have killed Israeli civilians, among whom were many children. In its charter, Hamas, the largest Palestinian party, calls for genocide of the Jews. Hamas also trains Palestinian children to become suicide murderers.

MUSLIM IDEOLOGIES

One also finds prominent Muslim religious leaders beyond Al Qaeda who support suicide murders; hate-mongering imams call for the murder of Jews in Europe as well. During anti-Israel demonstrations, it is mainly European Muslims who shout “Death to the Jews” and “Hamas, Hamas, Jews to the Gas.” There are many other easily identifiable inciters in the Islamic world who share Merah’s worldview.

With all those who are explicitly calling for murder or supporting it, one doesn’t have to pay much attention to anyone else. Yet there are others who are not Muslims who have contributed directly and indirectly to the infrastructure for Israel-hatred and contemporary antisemitism in the West. One finds many of them in politics, academia, media, trade unions, NGOs, and churches. As they are all “second in line,” they remain outside the focus of those who search for Merah’s inciters.

Whitewashers called Merah “a victim.” Yet the murders he committed should raise far more serious questions about Europe than those committed by Breivik. There are many more Muslim terrorists around like Merah, and his acts have far broader ideological support than those of Breivik.

22. Juliana Menasce Horowitz, “Declining Support for Bin Laden and Suicide Bombing,” PewResearchCenter Publications, September 10, 2009.

23. “*Ach ik ga naar het paradijs*,” *Trouw*, March 23, 2012.

24. “Extremists Mustn’t Use Palestine to Market Terror,” *Jerusalem Post*, March 21, 2012.

MERAH AS A VICTIM

Politically correct European elites and many Muslims have jointly created the perception that all Muslims are victims of the West. Consistent flawed reasoning and false arguments have made this possible.

On the basis of fake “victimhood,” platforms created over the years, whitewashers of the murderer Mohamed Merah constructed false images. It is difficult to deny that the three French soldiers, a Jewish teacher, and three children whom he killed are victims. Once having paid tribute to them, however, whitewashers began to turn the brutal murderer into a victim as well.

Among the most intelligent Merah apologists is Tariq Ramadan, a Geneva-born professor of contemporary Islamic studies at Oxford. He first whitewashed Muslim antisemite Merah’s worldview. Ramadan wrote that “Merah was a misguided youngster in whose thought there were no values of Islam or racist and antisemitic ideas.” His next step was to turn Merah into a victim. Again in Ramadan’s words, Merah was “a poor guy, guilty and to be condemned undoubtedly, even if he himself was a victim of a social order which had already condemned him and millions of others to a marginality and a non-recognition of his statute of citizen with equal rights and chances.”²⁵ Ramadan thus falsely transformed Merah into a non-racist, non-antisemitic victim of society, whose ideas had nothing to do with the beliefs of any contemporary current in Islam.

French philosopher André Glucksmann attacked Ramadan as well as the whitewashing process, which blamed French authorities rather than Merah. This created a fallacy, he said, that “the executioner was a victim and the victims are executioners.” Glucksmann mentioned other Muslim fundamentalist mass murderers who had slaughtered many in Algeria from 1992 to 1997 and were high school graduates.²⁶

Paul Sheehan, a columnist for the *Sydney Morning Herald*, was another critic of Ramadan. Sheehan noted that Merah did not kill indiscriminately, but wanted to murder Muslim soldiers in the French army and Jews. Merah had a history of crime and a collection of weapons; he told the police that he had traveled to train as a Jihad fighter in Afghanistan and Pakistan. In addition, Merah followed the Al Qaeda tactic of filming the murders; he mailed the film of the murders to Al Jazeera and dubbed it with verses from

25. Tariq Ramadan, “*Les enseignements de Toulouse*,” *Communiqué de Presse*, March 22, 2012, www.tariqramadan.com/LES-ENSEIGNEMENTS-DE-TOULOUSE,11912.html.

26. André Glucksmann, “*Strage di Tolosa, il male esiste. Ora non sia colpevole*,” *Corriere della Sera*, March 26, 2012.

the Koran. The son of his mother's husband is a member of an underground network that recruited fighters for Al Qaeda, who was convicted on terrorism charges in France in 2009. Merah had studied the Koran when he was in a French prison. Sheehan remarked: "The French prison system has become a fertile recruitment ground for radical Islam."²⁷

At the time of the major French riots in autumn 2005—almost exclusively perpetrated by Muslims—Ramadan had also tried to explain these by socioeconomic factors.²⁸ This was just one aspect of the truth. French-Jewish philosopher Alain Finkielkraut disproved that theory by saying: "In France there are other immigrants whose situation is also difficult—Chinese, Vietnamese, Portuguese, yet they are not taking part in the riots."²⁹

Another whitewasher of Merah is Sergio Romano, former diplomat and one of Italy's foremost mainstream historians. Fifteen years ago he claimed in a book that the Jews cause renewed antisemitism by emphasizing Holocaust remembrance. This was a new mutation of the old canard that antisemitism is a direct result of Jewish behavior.³⁰

While analyzing what caused the murders by Mohamed Merah, Romano took a very different turn. The major Italian blog *Informazione Corretta* quoted him mentioning a mix of factors starting with "the Palestinian question," conflicts in Arab and Islamic societies, as well as Israeli "colonization."³¹ According to Romano, the conflicts of the Levant and the Middle East had been dumped onto France—which should be judged by how it had dealt with these problems. He apparently does not believe that the many extreme Muslim hate-mongers should be judged first.

For some, Merah even became a hero. One teacher in Rouen was suspended after asking her class to observe a minute of silence for the murderer. Her trade union then turned her into a victim, saying that she has psychological problems.³² A Facebook page glorifying Merah was taken down at the request of French authorities. In the meantime, the Jewish school in Toulouse received antisemitic phone calls and hate mail.³³

27. Paul Sheehan, "It's Wrong to Make Victim of Child Killer," *Sydney Morning Herald*, March 29, 2012.

28. Tariq Ramadan, "*Nos ghettos vus d'Angleterre*," *Le Monde*, November 9, 2005.

29. Dror Mishani and Aurelia Smotriez, "What Sort of Frenchmen Are They?," *Haaretz*, November 17, 2005.

30. Sergio Romano, *Lettera a un Amico Ebreo* (Milan: Longanesi, 1997), 139.

31. www.informazionecorretta.it/main.php?mediaId=2&sez=120&id=43926.

32. "French Teacher Seeks 'Minute's Silence for Killer,'" *Agence France-Presse (AFP)*, March 24, 2012.

33. "Toulouse School Receiving Hate Mail Since Attack," Jewish Telegraphic Agency, March 28, 2012.

MORE ANTISEMITIC ATTACKS

In the aftermath of the Toulouse massacre, antisemitism in France exploded. The Jewish community's protection service, the Service de Protection de la Communauté Juive (SPCJ), documented more than 90 antisemitic incidents during the ten days following the Toulouse murders at the Jewish school. The French Interior Ministry documented 148 antisemitic incidents in March and April, 43 of which were classified as violent. This is well over double the figure for the same months in 2011.

The last violent incident in April happened in Marseille, where a Jewish man and his friend were assaulted by attackers who said they were Palestinians and wanted to exterminate the Jews. The SPCJ published its report after another violent attack on June 2 against three Jews in Villeurbanne in Lyon. It said that these attacks reflect the empathy that some have toward Merah.³⁴

In the new century, major increases in antisemitic incidents in Western Europe have usually been linked to developments in the Middle East, such as the second Intifada, the second Lebanon war in 2006, and Israel's Cast Lead operation in Gaza in 2008-2009. This time, there was another development: Merah's murders created a bandwagon effect of attacks on French Jews unrelated to the Palestinian-Israeli conflict.

In this century, the waves of antisemitic violence differed greatly from three earlier postwar ones. In the second half of the previous century, there were three upsurges of antisemitic violence: the "Swastika Epidemic" (1959-60), one in the late 1970s-early 1980s, and one between 1987-early 1990s. These incidents were studied by antisemitism expert Simon Epstein. He concluded that these waves were governed by some autonomous laws; in other words, they were "bandwagon" types of antisemitism. Someone initiates the incidents and others unconnected to that person cause additional ones.³⁵

The aftermath of the Merah killings may thus indicate a frightening perspective. Not only can developments in the Middle East greatly increase antisemitic incidents abroad, but also a major act of antisemitic violence can ignite many other incidents. The perpetrator of such aggression may

34. "Toulouse Massacre Encouraged More French Antisemitic Attacks, Report Says," Jewish Telegraphic Agency, June 4, 2012. For more details, see *Communiqué*, Service de Protection de la Communauté Juive, June 4, 2012.

35. Simon Epstein, "Cyclical Patterns in Antisemitism: The Dynamics of Anti-Jewish Violence in Western Countries since the 1950s." *Analysis of Current Trends in Anti-Semitism*. Vidal Sassoon International Center for the Study of Antisemitism, Hebrew University, 1993.

thus think that the impact of his crime is not only on those whom he aggresses against but also on others he indirectly causes to be attacked.

There is also a much wider lesson about bandwagon effects in Israel-hatred to be drawn. Once a certain narrative has permeated societies, such effects increase. The Merah epigones were probably marginals in French society. In the mainstream, however, bandwagon effects appear in many other areas. For instance: if at dinner parties the dominant dialogue is anti-Israeli, those who want to achieve favor with the host chime in, while those who have pro-Israel opinions may remain silent.

In academia, if leading professors of a university department happen to be anti-Israel, junior staff as well as students do well for their career plans if they adopt their views. The same goes for reporters in anti-Israeli TV stations, or for European newspaper correspondents in Israel. This bandwagon effect in Europe has never been properly investigated, yet it is likely a major force in the huge bias against Israel.

ARE ALL MUSLIMS VICTIMS?

One can trace the origins of the “Muslims are victims” fallacy back many years. Dutch journalist Elma Drayer recalls that after September 11, 2001, Moroccan youngsters threw stones at Jews who were coming out of a small Amsterdam synagogue. A police spokesman told her: “I would prefer if you don’t pay much attention to this. These people are already in an unfavorable position.” According to Drayer, “He wasn’t speaking about the Jews at whom the stones were thrown, but about the Muslims who threw the stones. Perpetrators thus became victims and victims became perpetrators.”³⁶

Somalian-born Ayaan Hirsi Ali is a former member of the Dutch Socialist party who became a liberal parliamentarian and now lives in the United States. She identified this false, sentimental reasoning years ago: “In Socialist eyes, whoever isn’t white or Western is a victim, and this includes Muslims, Palestinians, and immigrants. My position is that I am not a victim. I am responsible for my acts like anybody else, and so are all people.”³⁷

There were also those with a different attitude toward victimhood in Europe. After World War II, there were many real victims, among them Jews who had survived concentration and extermination camps. Unlike Mohammed Merah, they had faced death in gas chambers or from exhaus-

36. Elma Drayer, interviewed by Manfred Gerstenfeld, *Het Verval, joden in een Stuurloos Nederland* (Amsterdam: Van Praag, 2010), 144.

37. Ayaan Hirsi Ali, interviewed by Manfred Gerstenfeld, *Het Verval*, 119.

tion. Jews were also discriminated against in European postwar societies to different degrees. Two examples: in Poland after the war, a number of Jewish survivors were murdered in pogroms by Poles.³⁸ In the Netherlands, government authorities made life miserable for many survivors.³⁹ These Jews made no calls to murder innocent compatriots. Many of the Jewish Holocaust victims did not want to be referred to as such. They considered themselves “survivors.”

Those who promote the “Muslim are victims” characterization, as well as self-pitying Muslims, can learn a lot about dignity and self-reliance from these Holocaust survivors.

NOT ENOUGH JEWISH VICTIMS

The murders by Mohammed Merah have not engendered much serious debate in France about the sources of major Muslim incitement against the West, Israel, and the Jews. Apparently for that to happen, there will have to be many more victims. This seemingly cynical statement expresses the current reality.

What frequently occupied the media, however, were secondary questions such as whether Merah was mentally insane and what led this one person to kill three soldiers—symbols of France—a Jewish teacher, and three children. The aftermath of the murders demonstrates once again Western mainstream resistance to put key issues of the widespread ideological criminality and violence in Muslim societies on its agenda. The main question to be asked here is why the phenomena of incitement and support for faith-based violence in the Islamic world far exceed those in any other major religion. At the same time, one should investigate the other factors that promote murder and violence in Muslim societies.

There is thus a need for a detailed description and analysis of hate-mongering in worldwide Muslim associations, their characteristics, and how they spread their incitement, as well as how potential murderers are recruited or volunteer. Another prime question is how significant is the division between Islamists and more moderate Muslims? While intelligence services know a great deal, far too little of their information reaches the general public. There is a Muslim population of one and a half billion, sections of which threaten the future of the entire world. Without systematic

38. Bozena Szaynok, “The Kielce Pogrom,” www.jewishvirtuallibrary.org/jsourc/Holocaust/Kielce.html.

39. Isaac Lipschits, *De Kleine sjoa, Joden in naoorlogs Nederland* (Amsterdam: Mets & Schilt, 2001).

exposure of the perpetrators of incitement, it is impossible to start fighting them effectively.

The study of antisemitism in the Muslim world and its impact on France and the rest of Western societies is of crucial importance. The leading historian of antisemitism, Robert Wistrich, claims that hard-core antisemitism in the Arab and Muslim world is comparable only with that of Nazi Germany.⁴⁰ He explains this by saying that widespread Muslim hatred of Israel and Jews is “an eliminatory antisemitism with a genocidal dimension.” The main common elements between Muslim and Nazi antisemitism, according to Wistrich, are fanaticism, the cult of death, the nihilistic wish for destruction, and the mad lust for world hegemony.⁴¹

HATE-MONGERING CLERICS

The murders by Merah could not be considered by the French authorities as inconsequential incidents; nor could they tell the truth. Sarkozy said, “The Muslim faith has nothing to do with the insane acts of this man. Before targeting Jewish children, he targeted other Muslims.”⁴² That statement was part of the whitewashing of the violent currents in Islam.

France is a country that prides itself on its intellectual debate. A logical reaction by the media to Sarkozy’s remark should have been, “If that is true, why do so many Muslim clerics and others call for murder and why are so many murders planned or executed by Muslims in the name of their faith?” This debate, however, did not take place.

The French government’s operational reactions concerned secondary issues. The authorities forbade the entrance of several Muslim hate-mongering clerics into France for a conference and expelled several other inciters.⁴³ One of those prohibited entry was Egyptian Yusuf-al-Qaradawi, who has declared that every Jew is an enemy of Muslims.⁴⁴ He condones suicide murders and is considered by many as the world’s most influential Sunni theologian.

The Union des Organisations Islamiques de France (UOIF), one of the largest federations of French Muslims, intended to host Qaradawi and other

40. Robert S. Wistrich, *Muslimischer Antisemitismus: Eine aktuelle Gefahr* (Berlin: Edition Critic, 2011), 109.

41. *Ibid.*, 101.

42. Murray Wardrop et al., “Toulouse Siege as It Happened.”

43. Philippe Desmazes, “Guéant ordonne l’expulsion de cinq islamistes, dont trois imams,” *Le Monde*, April 2, 2012.

44. Leon Symons, “Qaradawi Predicts a Muslim Apocalypse,” *The Jewish Chronicle*, May 30, 2012.

inciters.⁴⁵ The message here is clear: prominent hate-mongers are invited to speak by a leading Muslim organization.

Understanding in which direction France's problems with part of its Muslim immigrants and their descendants will develop is far from clear. There have been no major bombing attacks in the country by radical Muslims, as has been the case in the UK and Spain. The British daily *The Guardian* wrote: "Polls in France over recent years have shown two apparently contradictory trends. Young French second- or third-generation 'Muslims' are increasingly integrated in terms of drinking alcohol or intermarriage, but are also more likely to attend mosque or wear the veil."

Security services, however, worry about Muslim youngsters who commit petty crimes, yet do not exhibit clear outer signs of radicalism; they could be recruited by Salafist organizations. Another concern is French Muslims, who study in extreme religious schools in Saudi Arabia and Kuwait.⁴⁶

HOW EFFECTIVE IS BARRED ENTRY?

While France may try to bar entry of Muslim inciters, this hardly resonates elsewhere in Europe. Qaradawi was embraced and feted in 2004 in London by Ken Livingstone, then mayor, on behalf of the Labour Party.⁴⁷ In February 2012, there was a Dutch parliamentary majority to block the arrival of Imam Haitham al-Haddad, an antisemite. Due to European rules, the minister of justice could not refuse this British passport holder entry into the Netherlands, as he was not considered an immediate and major threat.⁴⁸

In May 2012, the Netherlands let in Anjem Choudary, a British radical Muslim who took part in a conference of extremist Dutch Muslims. Six of his students were condemned to jail earlier this year in the UK. Together with others, they had planned to place a bomb in the London Stock Exchange. They had also prepared other targets in order to execute attacks in London in the same manner as those that killed 174 people in Mumbai, India, in 2008.⁴⁹

45. Union des Organisations Islamiques de France. See www.uoif-online.com/v3/spip.php?rubrique1.

46. Jason Burke, "Toulouse Shootings May Force Reassessment of French Islamist Threat," *The Guardian*, March 21, 2012.

47. "Mayor Justifies Cleric's Welcome," *BBC News*, November 1, 2005.

48. "Moslimgeleerde mag Nederland in; Tofik Dibi will meedoen aan debat," *Volkscrant*, February 16, 2012.

49. www.parool.nl/parool/nl/4024/AMSTERDAM-CENTRUM/article/detail/3262660/2012/05/29/Britse-radicaal-Choudary-achter-Sharia4Holland.dhtml.

That conference also demonstrated that closing borders to Muslim hate-mongers has its limitations as well. Shortly before their conference, members of the Sharia4Holland group held a demonstration in front of the national monument at the Dam Square in Amsterdam. Their spokesman, Abu Qaasim, called Freedom Party leader Geert Wilders “a dog of the Romans” and said that “we will deal with him when an Islamic state in the Netherlands will be established.” He advised Wilders to learn from what happened to Theo van Gogh—a Dutch mediamaker who was murdered in 2004 by the radical Muslim Mohammed Bouyeri.⁵⁰

ALL CIVILIZATIONS ARE NOT EQUAL

It has frequently become apparent how difficult it is to state the truth in France’s present societal climate. In February 2012, then-French minister of the interior Claude Guéant remarked that not all civilizations are equal.⁵¹ President Sarkozy supported him by saying that this declaration was common sense.⁵² Guéant was heavily attacked by several Socialists and others on the left who prefer to perpetuate the lie that underpins Western multiculturalism—that all cultures are indeed equal.

Already twenty years ago, Dutch liberal politician Frits Bolkestein—who later became a European commissioner—courageously wrote that “judged by the standards of the universal declaration of human rights, the dominant civilization of Europe at present is superior to Islamic civilization. All civilization is based on making judgments. I believe that the civilization of Rome was superior to that of Gaul. I also consider Unionist America superior to the slave-holder Confederacy and democratic post-war Germany superior to Communist East Germany.”⁵³

THE DANGERS FOR EUROPEAN JEWS

All of the above is highly relevant to European Jews and Israel, in view of the dangers threatening them. Massive exposure of the violent,

50. Ibid.

51. “Claude Guéant persiste et réaffirme que ‘toutes les cultures ne se valent pas,’” *Le Monde*, February 5, 2012.

52. “Propos sur les civilisations: Sarkozy soutient Guéant,” *L’Express*, February 7, 2012.

53. Frits Bolkestein, interview by Manfred Gerstenfeld, “Israel, the European Commission, Europe, and the Netherlands,” *European-Israeli Relations: Between Confusion and Change?* (Jerusalem: Jerusalem Center for Public Affairs and The Adenauer Foundation, 2006).

often racist, and frequently genocidal forces in the Islamic world is crucial in order to at least diminish these threats.

Once this is widely known and accepted, one can confront Westerners with the profound decades-long antisemitism promoted by many in the Muslim world. This expresses itself through turning texts from the Koran into actual mantras of hate toward Jews, the frequent import of the *Protocols of the Elders of Zion* from the Western world into the Islamic one, denial of the Holocaust, promotion of the blood libel and other extreme antisemitic stereotypes, as well as the publication of Nazi-inspired antisemitic cartoons.

One can also expose ample and readily available data revealing that on the average, Muslims in the West are more antisemitic and disproportionately turn to violent verbal and physical extremes than autochthonous Westerners.

The aftermath of the Toulouse murders confirms that the truth will not necessarily be triumphant. Those who manage to dominate public debate, even if their lies are transparent, are likely to become its winners.

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Bistro Antisemitism: From *Bierkeller* to Soiree

Ben Cohen*

Examining the birth of modern antisemitism in Germany following the Franco-Prussian war of 1870, the Swedish historian Hugo Valentin identified perhaps the central theme of anti-Jewish agitation in the *fin-de-siecle* period. “As the Jews were scattered over the whole world, they were regarded as an ‘International,’ ” Valentin explained, “and therefore as enemies of the national State.”

Valentin published his book *Antisemitism* in 1935—the same year that the Nazi regime confirmed the inferior civil status of the un-German, alien Jewish minority through the Nuremberg Laws. Were Valentin writing today, it is likely that his assessment would be radically revised, for the crime of the Jews in the post-Holocaust era is not internationalism, but tribalism. Rather than diluting the national character of the societies in which they live, Jews are regarded by their adversaries as guilty of subverting the lofty goals of international peace and justice through the aggressive pursuit of their own national project. Hence, one might say that antisemitism today is no longer a form of racism so much as it is a form of anti-racism or anti-colonialism.

How has this transformation come about? To answer this question, we need to understand that while antisemitism is, for Jews, a murderous type of prejudice that shares common characteristics with other racisms, for antisemites themselves it is primarily a means for explaining the world. This disparity in perception is important: too often, contemporary debates concerning the charge of antisemitism revolve around whether the individual so accused is personally ill disposed toward Jews. Invariably, such individuals respond with an indignant denial. Even Rudolf Hoess, the notorious commandant of the Auschwitz concentration camp, declared in his memoir that, on a personal level, he didn’t dislike Jews; his fealty to the antisemitic worldview, grounded on what he saw as its scientifically rigorous explana-

tory power, stemmed from his judgment that Jews as a collective were the “enemy” of the resurgent German nation.

Comprehended in this way, antisemitism is a theory—clumsy and bigoted, but a theory nonetheless—of the decisive influence of Jewish power in the world, along with a set of normative prescriptions for combating it. The very term “antisemite” was coined not as a descriptor for a troubling social trend, but as the positive organizing principle of a novel, emancipatory political movement.

As a result, the successful communication of antisemitic discourse has always depended upon the absence of a corresponding moral rancor. While the Jews and their allies regard antisemites as propelled by hatred, antisemites regard themselves as a fraternity bound by a message of universalist love. “This book is above all a book for friends, a book that is written for those who love us,” wrote Edouard Drumont, one of the founders of France’s *Ligue Antisemitique*, and an especially shrill voice behind the false allegations of treason against Alfred Dreyfus, in *Le Testament d’un antisemite*.



Dreyfus trial headlines from Drumont’s antisemitic newspaper La Libre Parole. It reads: “The Traitor Convicted, Ten Years of Detention and Degradation, Down with the Jews!”

Gilad Atzmon, an Israeli-born antisemitic agitator who has abandoned both his Jewish identity and his Israeli nationality, has expressed himself in a similarly vainglorious manner: “When you talk about humanity, you talk about a universal system of values promoting love for one another.” Rather than being anti-moral, therefore, the moral sensibility of antisemitism resides in its presentation of the Jews or Jewishness as a collective barrier to

a society founded upon love. What seems at first glance to be a material battle is really a spiritual one.

It is at this juncture that we can better appreciate a rare modification in the nature of antisemitism in our own time. I say rare, because, as a framework for interpretation, antisemitism naturally resists innovation. Anything that smacks of complexity goes against its inner logic; it is precisely why Charles Maurras, another French antisemite, took great delight in hawking a worldview that “enables everything to be arranged, smoothed over and simplified.”

The modification rests upon a distinction between what I call *bierkeller* and bistro antisemitism. *Bierkeller antisemitism*—named for the beer halls frequented by the German Nazis—employs such means as violence, verbal abuse, commercial harassment, and the pursuit of anti-Jewish legal measures. Certainly, the first and second generations of modern antisemitic publicists and intellectuals had no qualms about such types of thuggery. Since the Second World War, though, this mode of antisemitism has waned sharply, along with the tendency to use the word *antisemite* as a positive means of political identification. Most of Gilad Atzmon’s establishment sympathizers, like the University of Chicago professor John Mearsheimer, who warmly endorsed Atzmon’s most recent book, would probably shrink from crudely physical expressions of antisemitism, such as having Jews sit in separate subway cars or forcing them to wear a badge of shame.

Bistro antisemitism, on the other hand, sits in a higher realm, providing what left-wing activists would call a safe space to critically assess the global impact of Jewish cabals from Washington to Jerusalem. Anyone who enters the bistro will encounter memes that are, by now, securely established. These include the depiction of the Palestinians as the victims of a Second Holocaust, the breaking of the silence imposed upon honest discussions of Jewish political and economic power, and the contention that Jewish government officials are more suspect than others because of a potential overriding loyalty to the State of Israel.

The prevalence of bistro antisemitism, which deals its blows through words rather than fists, is the clearest indicator of the Jewish failure to finally take ownership of the inner meaning of antisemitism. That said, one should not judge Jewish leaders and institutions too harshly, given that, for two or three decades after the Holocaust, the tendency to scorn and belittle Jewish perceptions of antisemitism was considerably less marked.

Take the plight of the Jewish communities in the Soviet Union. In the United States, those advocating on their behalf tirelessly and successfully argued that the ruling Communist Party’s devotion to anti-Zionism was a clumsy disguise for their state policy of antisemitism. Why else were Jews forbidden to emigrate? Why else were they barred from higher education

and sensitive jobs? The uncompromising opposition of the Bolsheviks to Jewish self-organization found concrete expression in these policies, thereby providing an observable and credible basis for the charge of antisemitism.

But imagine, momentarily, that the Soviet regime had stopped short of concrete discrimination against its Jewish citizens. Imagine, furthermore, that Soviet antisemitic activities had been confined to spreading the propaganda of pamphleteers like Trofim Kichko—a clear precursor to Atzmon—who wrote, in *Judaism and Zionism*, of the connection between the Torah, the “morality of Judaism,” and Israeli “aggression.” Would Jewish advocates have made their case with such comparative ease?

In today’s climate, the answer would have to be negative. Indeed, it’s tempting to believe that, were he still alive, Kichko would be on a speaking tour of North American and European campuses. A veritable army of professors, commentators, and student activists would line up to shield this progressive intellectual from the smear of antisemitism—aided, no doubt, by self-consciously Jewish leftists.

Which brings us to what is arguably the most important feature of bistro antisemitism: its openness to individuals of Jewish origin. Again, there is a Soviet-era precedent for this. In a bid to rival both the Zionist *Poale Zion* and the non-Zionist *Bund* for the support of Jewish workers, the Bolsheviks created the Yevsektia—the Jewish section of the party, which held its first Congress in 1918. Its dual aims, wrote Hugo Valentin, were “extirpating the Jewish petty tradesmen and combating the Jewish religion.”

Put another way, Jews were charged with obliterating the conditions for a distinctive Jewish identity and existence in the new Soviet Union. And, of course, with Jews supporting, framing, and even implementing these policies, accusations of antisemitism directed at the Soviet authorities could simply be deflected.

The small cluster of disaffected Jewish intellectuals who in our own time have established their reputations either through full frontal assaults upon Israel, writers such as M. J. Rosenberg and Max Blumenthal, or more personal, agonized disavowals from writers such as Peter Beinart and Philip Weiss, can be described as the Yevsektia for a post-modern, democratic age. A distrust of “Jewish power” and a desire to expose its nefarious effects is the foundation of their public interventions as Jews.

Might the bistro and the bierkeller eventually cross paths? It is worth invoking Leon Wieseltier’s recommendation that the “analysis of antisemitism must take place somewhere between indifference and hysteria.” By dint of Israel’s existence, empowered Jews are a reality, and therefore parallels with the 1930s can be misleading. Yet discourse does not take place in a

vacuum. As the current threats facing Jewish communities in countries as varied as Turkey, Hungary, and Venezuela indicate, the old monster lurks behind the murmur of argument and debate. This may be the age of Jewish power, but—and herein lies the ultimate irony—the persistence of antisemitism elegantly displays its limits.

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Israel Apartheid Week at the University of California

Jessica Felber*

I arrived at UC Berkeley in 2007 with a knowledge about and passion for Israel and my Jewish identity. Nothing could have prepared me for the viper's nest of anti-Israel and antisemitic activity I encountered as a student. In my time at Berkeley I experienced swastikas on bus stops and student walkways, signs on campus that read "Holocaust in Gaza" and "IDF soldiers are baby killers," and people who shouted curse words at me because I am a Jew. Once, a student even pointed me out on a loudspeaker, calling me a "terrorist supporter" because I was wearing a sweatshirt that had Hebrew letters and a Jewish Star of David on it. The three Israel Apartheid Weeks I experienced at UC Berkeley were horrific. Student radicals, with the blessing of the administration, performed a weeklong "Passion Play," wearing Stars of David and other identifying Jewish paraphernalia, and acting like blood-thirsty villains. This Passion Play was performed in the middle of the most traveled route on campus. It was as racist and antisemitic a Passion Play as the Passion Plays performed for hundreds of years in Bavaria, ultimately endorsed by the Nazi Party. Students held realistic-looking assault weapons, shouting and yelling at passing students: "Prepare to be stopped," "What is your religion?," and "Are you Jewish?"

Meanwhile, my friends and I constantly felt abandoned by our university. I called the University of California Police Department (UCPD) every year to report the use of realistic-looking weapons on campus. The UCPD never did anything to stop it. One year, I complained directly to the dean of students, who still did nothing. Nothing was done to assure our safety. The university's lack of response only served to heighten my feelings of insecurity on campus. In 2009, a student named Husam Zakharia spat at me and called me "disgusting." When I brought this episode to the attention of the

dean of students, his response was that spitting at someone was no big deal; it was spitting *on* someone that counts. He refused to acknowledge that this incident was just one small piece of a much larger problem, and that the safety of Jewish students was at risk, even if no one had been physically harmed *yet*. I felt terrified that if things amplified, the university would not be there to protect me. Other Jewish students at Berkeley repeatedly told me they felt the same way. Needless to say, just one year later, Husam Zakharia would go on to violate my sense of personal safety in a way no one else ever had or has since.

In March 2010, Husam Zakharia rammed a shopping cart into me because I was a Jewish student holding a sign that read “Israel wants peace.” I was seen at the campus Urgent Care for my physical injuries. But more than the physical pain, it was the sense of threat and violation I persistently felt for months afterward that really hurt me. In an effort to protect myself physically and emotionally, I reported the incident to the police, filed a citizen’s arrest, received a restraining order, and attended therapy at the Student Health Services for the rest of the semester. I was afraid to leave my home alone at night. If I did not have a friend to escort me to wherever I wanted to go, i.e., the library, a night class, or a show or lecture on campus, I would not go. The following semester I did not enroll in night classes on campus because of the possibility that I would have to walk alone. On occasion, I did not attend Friday night services because of fearing to go out. I left Berkeley as often as I could, about three weekends every month, to try to escape the fear that oppressed me during the week. Ultimately, I decided to graduate early, six months before my friends and my class, because of the hostility on campus.

After graduation, I decided that no other Jewish student should have to experience what I experienced and that it was time for universities to begin taking responsibility for the safety of their students. I, along with current UC Berkeley student Brian Maissy, filed a lawsuit against UC president Mark Yudoff, the UC Regents, the UC Berkeley chancellor, the UC Berkeley dean of students, and the UC Associated Students. My intentions for this lawsuit were to encourage the UCs to take definitive steps toward protecting Jewish students.

The lawsuit contained two causes of action: violation of my First Amendment rights and violation of Title VI. Title IV says that an institution receiving federal funding cannot have a racially hostile environment on campus. After the first hearing, the judge dismissed the First Amendment cause of action and asked my lawyer to re-plead the Title VI cause of action. Neither the university nor the judge questioned that Jews should be protected under Title VI, and this is the first case where a federal judge has

officially acknowledged that Jews are protected as such. The Title VI cause of action is currently pending.

My intentions for this lawsuit were to encourage the UCs to take definitive steps toward protecting Jewish students. Israel Apartheid Weeks serve not only to make Jews fear for their safety, but also to stir up anger and violence in other students toward Jews. It is time for the administration to take steps to prevent this from taking place. Israel Apartheid Week needs to be acknowledged as the hate fest that it is. Students need to be held accountable when they intimidate and harass other students. The campus environment should be one of safety and respect. My hope is that this lawsuit will begin the sorely needed process of changing the atmosphere on all campuses across the country.

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Galloway's Lethal Game Changing

Melanie Phillips*

The general response to George Galloway's sensational victory in the Bradford West by-election has missed the point by a mile. Comment has concentrated on the undoubtedly stunning defeat for Labour, and has ascribed Galloway's victory to widespread disaffection with mainstream political parties.

This is certainly part of the story—it is striking that a significant section of the Tory vote appears to have gone to Galloway—but it is not the key factor behind this torrid triumph of a discredited demagogue. Galloway's victory rested principally on something that commentators are too blinkered or politically correct to mention. Galloway won because young Bradford Muslims turned out for him in droves.

They did not vote for him because he was promising them better public services; indeed, they did not vote for him on account of any British domestic issues. They did so because he tailored his message to appeal to their religious passions and prejudices about conflicts abroad.

Specifically, Galloway campaigned against the wars in Afghanistan and Iraq and for the Palestinians, declaring that his victory would help satisfy voters' "duty" to care about such grievances. Most commentators have dismissed this victory as a shocking one-seat win with no further significance than an upset by an entertaining maverick.

Not so. For with Galloway's election, religious extremism has become for the first time a potential game-changer in British politics. The point being so resolutely ignored is that Galloway ran on an Islamist religious ticket. It wasn't simply that he was pandering to Islamist foreign-policy obsessions; he made explicit references to Islam throughout his campaign.

“All praise to Allah!” he saluted his victory through a megaphone—having previously told a public meeting that if people didn’t vote for him, Allah would want to know why. Indeed, declaring in one address that “God knows who is a Muslim,” he implied that he was even more of a true adherent of that faith than Labour’s Muslim candidate—who, he suggested without a shred of evidence, drank alcohol whereas he himself had never touched the stuff.

Pinch yourself. A British politician using the inflammatory rhetoric and professions of Islamic piety more commonly heard in Iran or Saudi Arabia.

Just as such religious hucksterism inflames millions of followers in the Islamic world, so certain unscrupulous British politicians have now realized they too can tap into the same well of irrational hatred to deliver them electoral victory. For sure, countless numbers of Muslims will be as horrified as anyone by this playing to the Islamist gallery. While radicalization among young Muslims has reached terrifying levels, the vast majority of older British Muslims want nothing whatever to do with ideas that threaten their own liberties along with those of everyone else. And those loyal Muslims who serve in the UK’s armed forces will doubtless be particularly horrified by such cynical support for Iran or the Taliban.

Yet with so many now so profoundly turned off mainstream politics, there is a real risk that millions of disaffected voters will sit on their hands at future elections, thus giving radicalized Muslims the opportunity to begin reshaping the political map of Britain.

This is precisely what Ken Livingstone is also disgracefully exploiting in the London mayoral election. There has long been concern that Livingstone has aligned himself with the radical Muslim Brotherhood, whose goal is to conquer the free world for Islam, and has also pandered to Iran by working as a presenter for the Press TV channel owned by the Iranian regime. In a speech last month at the radical Finsbury Park mosque in London, Livingstone more than amply confirmed such fears. He pledged to “educate the mass of Londoners” in Islam, saying this would help to cement London as a “beacon” for the faith. Since when was making London a “beacon” for a foreign religion a legitimate goal for any British politician, let alone a priority for a British city mayor? This was simply no less than the Muslim Brotherhood’s own seditious goal. And this is a man who as mayor of London would have control of the Metropolitan Police?

In another recent incident, Livingstone appeared to be using anti-Jewish remarks to play to Islamist, anti-Jewish prejudice. Jewish Labour Party supporters who met him for a private discussion reported that he had said he did not expect Jews to vote for a Labour candidate because they were rich.

In an article trying to repair the damage from this reported piece of bigotry, Livingstone has now issued a weaselly denial that he used these words—but conceded that they could have been interpreted in this way.

Such excruciating maneuvering is less than reassuring in the light of his previous record of anti-Jewish remarks, including his infamous comparison of a Jewish journalist to a Nazi concentration camp guard or telling a Jewish property developer to “go back to Iran.”

What is so outrageous, however, is the free pass given by the left to both Galloway and Livingstone. Both support agendas that anyone of conscience, let alone of “progressive” views, should totally abhor.

Livingstone has literally embraced Sheikh Yusuf Qaradawi, the Islamic religious leader who justifies the suicide bombing of Israeli children, the execution of homosexuals, female genital mutilation, and the killing of coalition troops in Iraq and Afghanistan.

Galloway has fawned over both Saddam Hussein and the Syrian dictator Bashar al Assad, whose regime is slaughtering untold thousands of Syrians, but to whom Galloway has paid homage as “the last Arab ruler.”

Both fawn on terrorist regimes such as Gaza's Hamas or Iran, the latter declaring regularly its intention to wipe out Israel. Yet in the face of their support of such inhumanity and tyranny, the left remains silent. Indeed, the shocking fact is that, unlike Galloway, who remains an exile from the Labour Party—which threw him out—Livingstone is Labour's candidate for mayor of London.

Ed Miliband has been slated for his failure to condemn the militancy of his union paymasters in Unite. But far worse—he has backed the bigot-supporting Livingstone as “someone who has fought prejudice his whole life.” There is also a corresponding danger that Galloway's victory will have galvanized radicalized Muslims by showing how to drive a devastating wedge into British politics.

And if Livingstone wins in London, the temptation will become overwhelming for other unprincipled politicians on the left similarly to play the Islamist, anti-West, anti-gay, anti-Jew card. In other words, this is a dangerous moment for British politics.

When my book *Londonistan* was published in 2006, my warnings about the supine response of the British governing class to the Islamization of Britain were dismissed as scare-mongering. What we are now seeing, however, is of course far more alarming even than that response by a complacent and ignorant elite that appears to be possessed of a desire for cultural suicide. With George Galloway and Ken Livingstone manipulating Islamic religious extremism in order to gain power for themselves, we now stare at the appalling vista of a political landscape transformed by religious

sectarianism. The very democratic process is at risk of being turned into a vehicle for the promotion not just of religious bigotry but of the destruction of the West itself.

As mainstream politics steadily disintegrates into incompetence, irrelevance, and public scorn, a lethal interloper is now poised to fill the vacuum.

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The Middle East's Real Apartheid

Efraim Karsh*

In light of Israel Apartheid Week, which hit cities and campuses throughout the world this spring, supporters of the Jewish state find it difficult to agree on the best response to this hate fest. Some suggest emphasizing Israel's peacemaking efforts; others propose rebranding the country by highlighting its numerous achievements and success stories. Still others advocate reminding the world of "what Zionism is—a movement of Jewish national liberation—and what it isn't—racist." Each of these approaches has its merits, yet none will do the trick.

Peace seeking and/or prosperity are no proof of domestic benevolence and equality. The most brutal regimes have peacefully coexisted with their neighbors while repressing their own populations; the most prosperous societies have discriminated against vulnerable minorities. South Africa was hardly impoverished and technologically backward; the United States, probably the most successful and affluent nation in recent times, was largely segregated not that long ago.

Nor for that matter is the apartheid libel driven by forgetfulness of Zionism's true nature; it is driven by rejection of Israel's very existence. No sooner had the dust settled on the Nazi extermination camps than the Arabs and their Western champions equated the Jewish victims with their tormentors.

"To the Arabs, Zionism seems as hideous as anything the Nazis conceived in the way of racial expansion at the expense of others," read a 1945 pamphlet by the Arab League, the representative body of all Arab states. A pamphlet published by the PLO shortly after its creation in 1964 stated: "The Zionist concept of the 'final solution' to the 'Arab problem' in Palestine, and the Nazi concept of the 'final solution' to the 'Jewish problem' in Germany, consisted essentially of the same basic ingredient: the elimination of the unwanted human element in question."

Indeed, it was the Palestinian terror organization that invented the apartheid canard in the mid-1960s, years before Israel's occupation of the West Bank and Gaza.

This charge, of course, is not only completely false but the inverse of the truth. If apartheid is indeed a crime against humanity, Israel actually is the only apartheid-free state in the Middle East—a state whose Arab population enjoys full equality before the law and more prerogatives than most ethnic minorities in the free world, from the designation of Arabic as an official language to the recognition of non-Jewish religious holidays as legal days of rest.

In contrast, apartheid has been an integral part of the Middle East for over a millennium, and its Arab and Muslim nations continue to legally, politically, and socially enforce this discriminatory practice against their hapless minorities.

Why then should an innocent party be under constant pressure to “come clean” while the real culprits are not only left unscathed but also given a worldwide platform to blame others for their own crimes? Rather than engage in incessant apologetics and protestations of innocence, something Jews have been doing for far too long, Israel should adopt a proactive strategy, call a spade a spade, and target the real perpetrators of Middle East apartheid: the region's Arab and Muslim nations.

Arab/Muslim apartheid comes in many forms, and some victims have been subjected to more than one:

Religious intolerance: Muslims historically viewed themselves as distinct from, and superior to, all others living under Muslim rule, known as “dhimmis.” They have been loath to give up this privileged status in modern times. Christians, Jews, and Baha'is remain second-class citizens throughout the Arab/Muslim world, and even non-ruling Muslim factions have been oppressed by their dominant co-religionists (e.g., Shiites in Saudi Arabia, Sunnis in Syria).

Ethnic inequality: This historic legacy of intolerance extends well beyond the religious sphere. As longtime imperial masters, Arabs, Turks, and Iranians continue to treat long-converted populations—notably Kurds and Berbers—that retained their language, culture, and social customs as inferior.

Racism: The Middle East has become the foremost purveyor of antisemitic incitement in the world with the medieval blood libel widely circulated alongside a string of modern canards (notably *The Protocols of the Elders of Zion*) depicting Jews as the source of all evil. The Jordanian constitution

precludes Jews from becoming Jordanian citizens; Palestinian Authority (PA) president Mahmoud Abbas has repeatedly expressed his commitment to a *Judenrein* Palestine. Likewise, Africans of sub-Saharan descent are held in deep contempt, a vestige of the region's historic role as epicenter of the international slave trade.

Gender discrimination: Legal and social discrimination against women is pervasive throughout the Arab-Islamic world, accounting for rampant violence (for example, domestic violence or spousal rape are not criminalized) and scores of executions every year, both legal and extra-judicial (i.e., honor killings). Discrimination against homosexuals is even worse.

Denial of citizenship: The withholding of citizenship and attendant rights from a large segment of the native-born population is common. Palestinian communities in the Arab states offer the starkest example of this discrimination (in Lebanon, for example, they cannot own property, be employed in many professions, or move freely). The Bidun (stateless peoples) in the Gulf states, and hundreds of thousands of Kurds in Syria, have been subjected to similar discrimination.

Labor inequality: Mistreatment of foreign workers (especially household servants), ranging from sexual abuse to virtual imprisonment and outright murder, is widely tolerated throughout the Middle East, especially in oil-exporting countries that host large expatriate labor forces.

Slavery: The Arabic-speaking countries remain the world's foremost refuge of slavery, from child and sex trafficking in Saudi Arabia and the Gulf states to actual chattel slavery in Sudan and Mauritania. Indeed, Islamists throughout the Middle East have had no qualms advocating the legalization of slavery.

Political oppression: Many Middle Eastern regimes are little more than elaborate repressive systems aimed at perpetuating apartheid-style domination by a small minority: Alawites in Syria; Tikritis in Saddam's Iraq; the Saudi royal family; the Hashemite dynasty in Jordan.

Possibly the world's most arresting anachronism, these endemic abuses have until now escaped scrutiny and condemnation. Western governments have been loath to antagonize their local authoritarian allies, while the educated classes have absolved Middle Easterners of responsibility for their actions in the patronizing tradition of the "white man's burden," dismissing regional players as half-witted creatures, too dim to be accountable for their own fate.

It is time to denounce these discriminatory practices and force Arab/Muslim regimes to abide by universally accepted principles of decency and accountability. This will not only expose the hollowness of the Israel delegitimization campaign, but will also help promote regional peace and stability.

History has shown that gross and systemic discrimination is a threat not just to the oppressed minorities, but also to the political health of the societies that oppress them. Only when Arab and Muslim societies treat the “other” as equal will the Middle East, and the rest of the Islamic world, be able to transcend its malaise and look forward to a real political and social spring.

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The Tsar's Other Lieutenant: The Antisemitic Activities of Boris L'vovich Brasol, 1910-1960 Part I: Beilis, the *Protocols*, and Henry Ford

Richard Spence*

No doubt Boris Brasol would be disappointed that his name is largely unknown today. Certainly, he was a man of some legitimate and significant accomplishments: author, international legal expert, criminologist, and authority on Dostoevsky, Edgar Allan Poe, and Oscar Wilde. But the accomplishment that he probably was the most proud of, or at least the most committed to, was his career as an antisemitic conspiracy theorist and agitator.

Brasol once proudly boasted that his writings had “done the Jews more injury than would have been done to them by ten pogroms.”¹ He cut his teeth in this line of endeavor as an investigator assigned to the infamous Beilis ritual murder case in pre-revolutionary Russia. A few years later, he would abet the translation and publication of the work most commonly known as *The Protocols of the Learned Elders of Zion* in the United States and simultaneously finesse his way into being an operative of American War Trade Intelligence and then the Army's Military Intelligence Division (MID). This, in turn, opened doors to him and his ideas on Wall Street and, perhaps most notably, in the offices of the Ford Motor Company. That, in turn, would yield more connections in business, in Washington, and even to

1. Norman Hapgood, “The Inside Story of Henry Ford's Jew-Mania,” *Hearst's International*, Part I, 14, 18, June 1922.

the circles surrounding Charles Lindbergh, Father Coughlin, and many other notables of the day. In the meantime, Brasol also became one of the most influential figures among Russian monarchist émigrés in the United States, which gave him access to kindred groups in France and Germany and ultimately to Nazi agents and sympathizers in both Europe and America. Yet, oddly, he also would connive with Soviet agents. Over a span of at least four decades, Boris Brasol would work like a diligent spider weaving a far-flung web of hate-mongering, intelligence peddling, and outright espionage, a kind of mirror image or, perhaps, unconscious parody of the worldwide conspiracy he claimed to combat.

As the above outline suggests, Brasol's activities were complicated and frequently shrouded in mystery, and most of that was of his own making. This essay will deal with the years from just before the First World War to the mid-1920s, and concentrate on his activities in the United States, especially those related to his connection with the *Protocols* in one form or another. It will, it is hoped, serve as a useful and informative introduction to a man who was one of the most relentless and resourceful Jew-haters of the 20th century, a man who, whatever else one may think of him, was a kind of genius at what he did.

Boris L'vovich Brazol, as his name is rendered in Russian, was born on March 31, 1885, in Poltava, although in other instances he inexplicably gave his birthplace as Kharkov.² He liked to claim that he descended from old Cossack stock, though other indications are that his line had its origins in medieval Novgorod.³ Oddly, or perhaps not so oddly, there also were vague but recurring rumors that Brasol had Jewish ancestry. For instance, in 1931, one Casimir Pilenas claimed that "It has come to light that Brasol is of Hungarian Jewish descent, which fact I expect will be described fully in the press."⁴

Available genealogical information, however, suggests no such thing. His ancestors gained gentry status in the 18th century and went on to produce landowners, soldiers, and imperial officials. Boris's father, Lev Evgenich Brazol, was a noted homeopathic physician. Dr. Brazol had numerous Jewish associates and patients, and there is no indication that he held or promoted antisemitic ideas. So why did his son?

To that question, there is no clear or rational explanation. Boris Brasol was a student at the University of St. Petersburg during the failed revolution

2. Boris Brasol, application for naturalization, January 15, 1926.

3. My thanks to Vladimir Abarinov for his help in obtaining this information.

4. Pilenas to Nathan Isaacs, Nathan Isaacs Papers (hereafter NIP), Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, Ohio, Box 2, File 12, July 7, 1931.

of 1905 and its tumultuous aftermath, graduating in 1908 with a degree in law. By his own admission, he took an early and intense interest in economic subjects and at nineteen wrote a paper on the labor situation in Australia. He studied socialism in Russia and abroad and “made a thorough and critical analysis of the theories of Karl Marx,” ultimately concluding that they were a “complete fallacy.”⁵ That, at least, is the way he chose to remember it. There is a comment tucked away in one of his FBI files that suggests a rather different version. According to this notation,

. . . in his youth Brasol had been treasurer of a radical organization of some kind in the University of St Petersburg and had embezzled some of the money. When the embezzlement was discovered, he was banished from the organization. According to the informant, his embezzlement was discovered by some Jewish students and he has since that time been very bitter against all Jewish people.⁶

As an adult, Boris Brasol was a small, somewhat delicate, man with a broad, sloping forehead and—his most striking feature—dark, piercing eyes. There were those who later argued that he bore a certain resemblance to Joseph Goebbels.⁷ Some persons were repulsed and took an almost immediate dislike to him, while others found him brilliant and fascinating. Almost all who knew him agreed that he was very clever and, when necessary, skillfully devious.

Brasol entered the employ of the Imperial Ministry of Justice in 1910 and served in the capacity of an assistant district attorney first in Pskov, then Peterhof, and by 1913 in St. Petersburg. During this time, he also studied abroad, most notably at Lausanne, Switzerland, at the Institut de Police Scientifique run by Professor Archibald Reiss. The fact that Reiss was Jewish did not seem to detract from Brasol's appreciation of him or his methods.⁸

Brasol served under the administration of the tsar's Minister of Justice, Ivan Shcheglovitov, who was well known for his antisemitic views. Shcheglovitov is generally credited with having been the prime instigator of the infamous Kiev Blood Libel case in which Menachem Mendel Beilis

5. “Boris Brasol,” Maria Vrangal Collection, Hoover Institution Archives (hereinafter HIA), Stanford University, Box 19, File 13.

6. “Memorandum for Assistant Attorney General Mr. Berge,” Federal Bureau of Investigation (hereafter FBI), File 100-22487, Section I, 5, April 17, 1941.

7. James Pool, *Who Financed Hitler: The Secret Funding of Hitler's Rise to Power 1919-1933* (New York: Pocket Books, 1998).

8. “Serbia Remembers Archibald Reiss,” http://www.b92net/eng/news/society-article.php?yyy=2009&mm=08&dd=09nav_id=61059 (April 21, 2012).

stood accused of the ritual murder of a Christian boy. The case was also Boris Brasol's official debut as a Jew-baiter.

Beilis was arrested in 1911, but only came to trial two years later; the trial ended in acquittal. Brasol was not involved in the actual prosecution, but in the "investigation" that supported it. As Brasol later described his role, he was, by 1913, "the second greatest preliminary investigator in Russia," and as such was dispatched to Kiev "to take the [Beilis] case out of the hands of the local government."⁹ This is basically confirmed by information in his FBI files, which records that while assigned to the 14th judicial district in St. Petersburg, he was "sent to conduct an inquiry on behalf of the Government of Russia into the activities of the Investigating Magistrate in the case of Mendel Beilis."¹⁰ The Kiev authorities had come to the conclusion that Beilis was guiltless and that the boy had been killed by local thieves. But higher authorities, Brasol noted, "had different ideas."¹¹ The lead investigator of the Kiev police, Nikolai Krasovsky, believed Beilis innocent and refused to be an accomplice to the concoction of testimony and evidence to frame him. Brasol was more accommodating, but in the end even that was insufficient to convince the jury. Nevertheless, years later, Brasol proudly recounted his certainty that not only had a Jewish ritual occurred but also that Beilis was also part of a larger conspiracy involving at least two other Jews.¹²

Given his involvement in the Beilis affair, it is not unusual that Brasol was later frequently said to have been a member of so-called "Black Hundreds," aka *chernosotensty*—the ultra-monarchist vigilantes noted for their incitement of antisemitic rhetoric and actions, including pogroms.¹³ Brasol's membership would have been entirely consistent with his views, though there is no documentary proof, and Brasol himself disingenuously denied ever having heard of the organization. He is also reputed to have become a member of another secret organization, the Russian branch of the Sovereign Order of St. John (SOSJ), better known as the Knights of Malta—the significance of which will be further explored.

When war broke out in the summer of 1914, Brasol enlisted in the Imperial Guard and received the rank of second lieutenant. He saw service at the front, was wounded, and by early 1916 was back in Petrograd/St. Petersburg, living at 56 Fontanka, coincidentally not far from the headquar-

9. Hapgood, VI, 71, November 22, 1922.

10. FBI, File 100-22487, 5.

11. Hapgood, VI, 71, November 22, 1922.

12. *Ibid.*

13. See, e.g., Steven G. Marks, *How Russia Shaped the Modern World* (Princeton, NJ: Princeton University Press, 2003), 172-74.

ters of the Okhrana, the Russian police organization.¹⁴ In August of that year, after a brief stint in London, Brasol arrived in New York, where he assumed duties connected with the Russian Supply Committee operating there. Working out of Manhattan's Flatiron Building, he wore several hats, but the most important was that of a special investigator charged with ferreting out graft, treason, and subversion in the Supply Committee and related bodies. The importance of Brasol's role may be attested to by the fact that he earned the second largest salary in the committee, pulling in almost \$1,000 per month, a princely sum for a mere lieutenant.¹⁵

Brasol was particularly concerned with subversive activity in the supply apparatus; many radical Jewish émigrés, for a time including Leon Trotsky, were active in New York. Brasol seldom failed to note it when a Jew surfaced in one of his investigations; he took a dim view, for instance, of Prince Alexander Gagarin's friendship with Stafford Talbot, a "known adventurer" and "English Jew."¹⁶

It was also during this time that Brasol first crossed swords with a man who later would become one of his most persistent critics, journalist Herman Bernstein. In 1917, the Russian-born Bernstein, working at the *New York Herald*, was approached by an Estonian wrestler-cum-spy named George Lurich. Lurich spun out a complicated tale that implicated one of the officers of the Russian Supply Committee, Col. Vladimir Nekrassov, in treasonous activity. Bernstein wrote up an expose that ran in the *Herald* and other papers in October 1917. Brasol rushed to Nekrassov's defense and wrote an eight-page memorandum refuting the charges and branding Lurich a liar.¹⁷ He may have been, but Brasol also lashed out at Bernstein and the *Herald*, threatening them with a libel suit and calling the whole thing a plot by radicals and Jews to discredit the Russian government. He never forgot Bernstein, and Bernstein would never forget him.

Perhaps the most important thing about Brasol's wartime service in the United States was his acquaintance with two persons who would play important roles in his best-known foray into antisemitic propaganda: the creation and dissemination of an American edition of the *Protocols*. Both people could merit articles of their own and deserve some background.

14. Which was at 16 Fontanka.

15. M. I. Gaiduk, "*Utiug*," *materialy i fakty o zagotovitel'noi deiatel'nosti russkikh voennykh komissii v Amerike* (New York, 1918), 92.

16. *Ibid.*, 46-47.

17. Brasol, "Memorandum," Records of the Department of State, National Archives and Records Administration (NARA), Washington, DC, File 861-20211, October 9, 1917; appended to Boris Bakhmeteff to Frank Polk, October 12, 1919, Department of State, and to "Col. Nekrassov," *Russia Posol'stvo* (U.S.A.), HIA, Box 370, File 12.

The first individual was Casimir Pilenas, later known as Casimir Palmer. Depending on one's point of view, he could be characterized as an experienced investigator or as a professional snitch and stool pigeon. Born in Russian Lithuania in 1872, Pilenas and his brother Peter immigrated to London, where they fell in with the growing community of Russian revolutionary expatriates. Around 1898, the brothers were recruited by Scotland Yard as "spotter-informants" to spy on their fellow radicals.¹⁸ A couple of years later, they began spotting for the Okhrana and remained on its payroll until 1913.

Pilenas never really quit working for Scotland Yard, and when the war erupted he was once more enlisted as a translator and informant and aided British intelligence with information about German intrigues among Russians in America. It was Pilenas who in March 1917 denounced Trotsky as the recipient of Jewish and German money on the eve of his return to Russia.¹⁹ At the end of 1917, Pilenas switched to the employ of the U.S. Army's Military Intelligence Division thanks to a glowing recommendation from his erstwhile British superior, Sir William Wiseman. Through his spying on Russian radicals, Pilenas was already acquainted with Boris Brasol, and in early 1918 he was "somewhat under the influence" of Brasol and his circle.²⁰ In fact, as late as February 1919, Pilenas submitted a report on Bolshevism to the MID in which he described the German Jewish banker Max Warburg as the man "at the bottom of it."²¹ Was this his idea, or was he just parroting what he'd gotten from Brasol?

The second was Natalie De Bogory. Born in Geneva, Switzerland, in 1887, De Bogory was the only daughter of Vladimir Karpovich Debogorii-Mokrievich, a Russian officer and nobleman who joined the revolutionary Narodnik movement in the 1870s and fled abroad after escaping Siberian exile; De Bogory thus grew up in a milieu of anti-tsarist radicalism. When the family later immigrated to the United States and her father gained citizenship, so did she. In 1906 De Bogory and her family were in Bulgaria, where she met and married a progressive American journalist covering the Balkan troubles, San Francisco-born Albert Sonnichsen; Albert was Jew-

18. "PILENAS, Casimir; pseudonym WALLEENROD." Okhrana Records, Paris, Deep Cover Agent (L-Z)-Russian, HIA, File 111F.

19. Records of the Security Service, National Archives, United Kingdom, MI5, KV2/502, CX 625.

20. "Memorandum Concerning Mr. Palmer and his Relations with Boris Brasol," NIP, c. 1933.

21. Pilenas, "Re: Bolshevism," NARA, Records of the U.S. Army Military Intelligence Division (hereafter MID) File 10058-285, February 19, 1919.

ish.²² The newlyweds soon returned to America, but the union did not prove lasting. By the time World War I rolled around, she was on her own and supported herself as an investigator and undercover operator for the New York Society for the Prevention of Crime.²³ City directories for 1916 and 1917 show that De Bogory ran a Russian translation service; at the same time, she was the personal assistant to Dr. Sergei Syromiatnikov, the Russian imperial government's chief PR man in the United States as well as a collaborator with the Okhrana.²⁴ Once he arrived on the scene, Brasol also worked closely with Syromiatnikov, even sharing offices in the Flatiron Building.

Brasol and De Bogory certainly knew one another well before 1918. A question is what led her to cast her lot with Brasol and aid in the production of the American *Protocols*. A partial answer may be found in that fact that she was engaged in a bitter divorce and child custody battle with her estranged husband, Sonnichsen.

The connection of Brasol, De Bogory, and Pilenas to the *Protocols* is well known but somewhat murky and vague. The story usually goes something like this:

At the close of 1917, a New York physician turned Army intelligence officer, Dr. Harris Ayres Houghton was immersed in the investigation of "Bolshevist" and related subversive threats. He somehow came into contact with "Black Hundred Russians" and through their influence hired Natalie De Bogory to work in his office. Soon after, either from Brasol or some other officer, De Bogory obtained a Russian copy of the *Protocols*, which Houghton assigned her to translate into English.²⁵

In some versions of the tale, Brasol assisted or guided De Bogory in this effort. In other versions, Brasol merely received the finished product, while in yet another he allegedly penned the translation himself in a Brooklyn hotel room.²⁶ Whatever the precise case, in the end, *two* English versions of the *Protocols* emerged from this effort. The first, and the one most directly associated with Brasol, was *The Protocols and World Revolution: Including a Translation and Analysis of the Protocols of the Zionist Men of*

22. *American Jewish Yearbook 5683* (1922-23) (Philadelphia: Jewish Publication Society of America, 1922), 205.

23. *The New York Times* (hereafter *NYT*), July 9, 1915, 20.

24. Gaiduk, 10.

25. Robert Singerman, "The American Career of *The Protocols of the Elders of Zion*," *American Jewish History*, Vol. 71 (1981): 48-78.

26. Neil Baldwin, *Henry Ford and the Jews: The Mass Production of Hate* (New York: PublicAffairs, 2001), 140.

Wisdom, which appeared in Boston in 1920. The second was Houghton's own edition, *Praemonitus, Praemonitus: The Protocols of the Wise Men of Zion*, which came out in New York later the same year.

In following various threads, it becomes apparent that almost every reference to Brasol's *Protocols* connection can be traced back to Casimir Pilenas. As noted, he and Pilenas were close in that period, and the latter was in a position to know many things. For instance, Pilenas later recounted how, in April 1918, he had first heard of "the alleged Jewish attempt to dominate the world" from Brasol and testified under oath that he had received a copy of the translated *Protocols* straight from Brasol's hands in 1919.²⁷ An unnamed FBI informant, almost certainly Pilenas, described how he once went to Brasol's office and "found him actually working on the [*Protocols*] by Serge Nilus making a translation or doing some kind of work in connection therewith."²⁸

For reasons never explained, Pilenas "became aware that he had been duped, [and] made a complete about face and began to inform on his informers."²⁹ Pilenas formed a kind of alliance with a Jewish MID officer, Nathan Isaacs, and began to funnel information from and about Brasol and his cronies to Isaacs. This relationship continued for many years after both left the MID. In a later confidential memo, Isaacs vouched that Pilenas "knows a great deal about Brazol [*sic*]," but he also cautioned that Pilenas' information "must be carefully sifted" in part because of certain "emotional qualities" that influenced it.³⁰ Simply put, Pilenas loathed Brasol and was inclined to give credence to anything that would reflect him in a negative light.

What did Brasol himself have to say about all this? Over the years, when questioned officially, he steadfastly denied any real involvement the translation or transmission of the *Protocols*. A 1944 memorandum to FBI chief J. Edgar Hoover admitted that despite the frequency of the accusation, "the file fails to reflect any substantiation of this charge."³¹ During his 1942 examination by federal investigators, Brasol probably offered his most detailed statement on the matter:

The U.S. Military Intelligence in 1918 . . . they discovered a Russian copy of the *Protocols*. Under whose instructions, I couldn't tell you, but the document was translated A to Z by a woman, Miss Natalie De

27. Pilenas to Isaacs, March 25, 1933, NIP, 2.

28. Berge, FBI, 100-22487, 4.

29. Memorandum, NIP, 2.

30. *Ibid.*

31. "Memorandum for the Director Re, Boris Brasol," FBI, File 100-2487, March 14, 1944, 2.

Bogory. . . . This translation, in typewritten form, was circulated among Intelligence officers in the United States. . . . One copy was submitted to the chief of War Trade Intelligence in Washington. . . . He transmitted this copy to the Chief of the New York Office of War Trade Intelligence [Paul Fuller, Jr.] where I was working. He called me in and he told me that he got this document and he wanted me to check the correctness of the translation . . . so I got hold of Miss De Bogory and she submitted to me the Russian text of the copy and I went over the text and found it substantially correct.

Brasol was a lawyer. He knew how to be careful with his words, and he knew that he was talking to hostile interrogators who would be quick to use anything he said against him. Surprisingly, when asked about his “personal convictions” on the authenticity of the *Protocols*, Brasol offered that “I am rather inclined to think they are a forgery. That is my opinion, but it is absolutely not supported in fact.”³² He went to admit that while he had made a study of the *Protocols*, he had never made an effort to ascertain any facts regarding their authenticity. Overall, he felt that “in parts they are over done,” but in the end he declined “to express my final opinion because I have none.” And in this he may have been quite sincere. From his perspective it did not matter whether *he* thought the *Protocols* were true; what mattered was that others did.

The matter of who gave what to whom, and when, remains a mystery, but there is a Bureau of Investigation document not from Brasol’s files that may shed some fresh light. On October 14, 1917, L. S. Perkins, a Russian-speaking agent assigned to the New York office, wrote his superiors on “Making Translations from Russian for the Russian Embassy.”³³ He noted that an official of the Russian Embassy had approached him about doing “certain very confidential translation of Russian documents into English . . . as soon as possible.” The Russian official seemed to think it very important that someone connected to the U.S. government be involved. “Having learned the character of the documents,” he added, “I have suggested . . . that this office should have a copy of the translation.” Most important, though, Perkins noted that “My work is carried on at Room 907, the Flat-iron Building, which is the office of Lieutenant Brazol.” Who else worked in or near that office? Natalie De Bogory.

The confidential documents Perkins was dealing with may have had nothing to do with the *Protocols*, but the air of secrecy surrounding them

32. “Confidential Report of the Exclusion Board Hearing, Case of Boris Brasol,” II SC 91, FBI, File 100-15704, February 19, 1943, 14-15.

33. L. S. Perkins, “In Re: Confidential Work,” Bureau of Investigation (hereafter BI), File 8000-14, October 14, 1917.

and Perkins' belief that they were something the Bureau of Investigation (BI, precursor to the FBI) would be interested in, suggests that they may have been. At the very least, it shows that Brasol's office was a center for the receipt and translation of sensitive material. A copy of the *Protocols*, recently arrived from Russia, would logically have landed on his desk, and it also explains how he could then easily pass it along to De Bogory or she to him.

A June 1920 letter from Brasol to publisher Charles Scribner also suggests a greater knowledge in the *Protocols* than he admitted elsewhere.³⁴ Brasol sent Scribner a book proposal dealing with the "masonry and Jewish question," which he expected to become a big issue in the next few months. He pointed out the recent publication of *The Jewish Peril* (another *Protocols* edition) in England and recent or pending editions in Germany, France, Sweden, and, of course, the United States of America. Brasol boasted that the *Protocols* had become "a world movement, or at least a subject in which the thinking world is deeply interested." He went on to emphasize that while the *Protocols* issue would not be the "center of gravity" of his proposed volume, he also thought it a mistake to omit analysis of a plan that bore such "striking similarity of the actual policies of the Bolsheviki" Scribner passed on the proposal.

It speaks to the reliability of Brasol's memory—or his honesty—that he later made a sworn affidavit that he resigned all his Russian government posts soon after the abdication of the tsar.³⁵ Obviously, as noted above, he was still busily laboring for the Supply Committee well into the autumn. The Bolshevik seizure of power in Petrograd on November 7, 1917, however, plunged the Russian missions in the United States into utter confusion and by year's end he was obliged to start looking for new employment. The first place he tried was the U.S. Justice Department's Bureau of Investigation. On February 27, BI chief A. Bruce Bielaski noted that Brasol had that day visited him in Washington and offered to keep the Bureau informed about the activities of "American Bolsheviks." Bielaski wrote to his chief special agent in New York, Charles DeWoody, noting Brasol's prior acquaintance with agent Perkins. Bielaski offered that while foreign birth prevented Brasol becoming a regular agent, he might still be useful as a "confidential informant." Soon, he became just that.

Foreigner or not, in March 1918 Brasol secured employment in the New York office of the War Trade Board's Intelligence Bureau as a "special investigator" charged with "investigations of importance and of the

34. Brasol to Charles Scribner, June 29, 1920. Library of Congress, Boris L. Brasol Papers, Box 39.

35. Affidavit, FBI, File 100-22487, June 30, 1952.

most confidential nature” and that utilized his “knowledge of European political and territorial problems” and the “chaotic conditions in Siberia and Russia.”³⁶ It was an important step in Brasol’s career; he would make friends and allies who would serve him and his activities well for years to come. Brasol’s overall boss, and presumably the man who hired him, was Paul Fuller, Jr., who also happened to be a partner in the powerful Coudert Bros. law firm. Coudert, not incidentally, had functioned as the American legal representatives of the Russian imperial regime and Fuller and Brasol already had a long acquaintance. Brasol’s immediate supervisor in the War Trade Intelligence office, however, was another Wall Street Brahmin, investment banker George Melmine Bodman.³⁷ Last, but by no means least, Brasol would find an especially devoted friend in Bodman’s “confidential secretary” and soon-to-be bride, Louise “Lulu” Clarke. The Bodmans would act as Boris Brasol’s political and financial angels for years to come, and they would introduce him to a host of other, like-minded, influential Americans.

Brasol resigned from the War Trade Intelligence Bureau in April 1919 and immediately took up a new post with the MID as a special assistant to its chief, Gen. Marlborough Churchill. Churchill was much concerned by the “Bolshevik Menace” and open to Brasol’s suggestion of a Jewish conspiracy behind it.³⁸ Brasol remained with the MID for just over a year. As “Confidential Agent B-1,” he produced at least thirty-six numbered reports on radical groups and activities and some related special memorandums. His intelligence activities did not exclusively focus on Jews, but is it easy to discern that anything related to them, real or imaginary, excited his particular attention and animus. In December 1919, he sent in a report that described an “international German Jewish gang,” allegedly working out of Stockholm, that aimed at “world socialist revolution.”³⁹ Its twelve leaders, he pointed out, were all Jews and included Trotsky, U.S. banker Jacob Schiff, and his German friend and co-religionist Max Warburg. “It is, of course, just a coincidence,” Brasol smirked, “that the dozen happen to be a Jewish dozen.”

Jacob Schiff was a particular focus of Brasol’s suspicion. He proclaimed the banker “extremely active in promoting Bolshevism in this

36. George Bodman, recommendation letter, FBI, File 100-15704, April 28, 1919.

37. For some interesting details on Bodman, see “History of the Bodman Foundation,” http://achelis-bodman-fnds.org/history_b.html (April 21, 2012).

38. On the broader issue of antisemitism in the MID, see Joseph Bendersky, *The “Jewish Threat”: Antisemitic Politics of the U.S. Army* (New York: Basic Books, 2000).

39. MID, File 10110-920, Report #8, December 9, 1919.

country.”⁴⁰ He similarly smeared Rabbi Judah Magnes and declared the Zionist Poale Zion organization “one of the most dangerous Bolshevist organizations.”⁴¹ Reporting on a radical meeting, Brasol could not help but point out that the audience was full of “East Side Jews.”⁴² He even saw Jews where there weren’t any, labeling Lenin as a “famous leader of International Jewry.”⁴³ If it was Bolshevist, it was Jewish—and vice versa.

Arguably the most significant and revealing of Brasol’s reports to the MID was his “Bolshevism and Judaism,” marked “Confidential” and submitted to Churchill sometime in early December 1918. It begins and ends with direct quotes from the “Secret Zionist Protocol, 1897,” which shows that Brasol was well acquainted with the document. In between he explains how the Russian Revolution was plotted in New York in 1916 by Jacob Schiff, Otto Kahn, and other Jewish bankers, how Schiff funded Trotsky, how almost every Bolshevik luminary was a Jew, how other American Jews like Judah Magnes and Paul Warburg connived with and supported them, how the same Jews were also behind the Red uprisings in Germany, and how, basically, “International Jewry” was “feverishly organizing, getting together, spreading their poisonous doctrines, gambling [and] raising enormous funds.”⁴⁴

In defense of the MID, it must be pointed out that Brasol’s effusions—which almost never identified sources of information and provided the least evidence to back up assertions—did not go without criticism and even ridicule. Regarding “Bolshevism and Judaism,” Capt. Edwin Grosvenor found its claims utterly unsubstantiated and “unworthy of serious consideration.”⁴⁵ About the same time, Capt. Carleton B. Hayes, commenting on Brasol’s Report #9, dismissed the whole thing as “another sign of the raving tendency of a fanatical if not of a diseased brain.”⁴⁶

Such criticism probably prompted Brasol leave the MID in April 1920. He later claimed to have then gone to work for New York State Legislature’s Lusk Committee and its investigation of “Seditious Activities.” He may have supplied the committee with some information, but that had to be while he was otherwise engaged by the MID. The Lusk Committee’s investigation was completed and its report published in April 1920. What Brasol

40. *Ibid.*, Report #12, December 23, 1919.

41. *Ibid.*, Report #5, November 27, 1919.

42. *Ibid.*, Report #31, February 19, 1919.

43. *Ibid.*, Report #9, December 11, 1919.

44. *Ibid.*

45. *Ibid.*, “Memorandum for Col. Dunn,” December 20, 1919.

46. *Ibid.*, “Memorandum for Major Brown,” December 19, 1919, 4.

probably was obscuring here is that he actually went to work for Henry Ford's private intelligence outfit.⁴⁷

Brasol was perfectly willing to pass his information on to anyone willing to read it. For example, at least through 1918 he maintained contact with Col. Norman Thwaites of the British intelligence (SIS) station in New York. On June 30 of that year, one of Thwaites' subordinates reported an interview with Brasol. He mentioned that while the interview was underway, Brasol received a call from the State Department asking him to come to Washington.⁴⁸ In December 1918, Thwaites himself recorded that he had received from Brasol, who was "now employed by the United States War Trade Board . . . a somewhat ghastly account of what is alleged to be the details of the murder of the Czar and his family."⁴⁹ This story, as we will see, emphasized the murder of the family by Jews.

Brasol's feeding of information through various sources to anyone who would listen was not random. There was a method to his madness. EX-MID officer Nathan Isaacs described it in this way:

A member of the group would supply a story to the Military Intelligence Division; simultaneously a different and by no means entirely consistent account of the same thing would be supplied to the Office of Naval Intelligence. Still other versions would reach the Department of Justice, the Secret Service of the Treasury, the War Trade Intelligence Board, the American Protective League, and the experts for various countries in the Department of State and in Colonel House's Bureau. . . . Of course, these bureaus interchanged information with the result that there would soon appear in the files of all of them what seemed to be the cumulative evidence of some plot. Usually the gist of this story was that some prominent Jew in this country was in secret communication with the Russian revolutionaries . . . or some other such nonsense.⁵⁰

While employed by the MID, Brasol maintained regular contact with the Bureau of Investigation. For example, in June 1919, his old pal Perkins interviewed him concerning Arkady Sack, former mouthpiece for the Kersensky regime, which Brasol thoroughly detested, and currently running a periodical called *Struggling Russia*.⁵¹ Sack also was Jewish. Nevertheless,

47. Max Wallace, *The American Axis: Henry Ford, Charles Lindbergh and the Rise of the Third Reich* (New York: St. Martin's, 2003), 62-63.

48. Unsigned to Thwaites, Sir William Wiseman Papers, Sterling Library, Yale University, Box 10, File 263, June 30, 1918.

49. Thwaites to Wiseman, Sir William Wiseman Papers, Sterling Library, Yale University, Box 3, File 84, December 9, 1918, 3.

50. Memorandum, NIP, 1.

51. Perkins, "In re: 'Struggling Russia,' " BI, #8000-121103, June 11, 1919.

Brasol granted that Sack and his paper were “all right in a way, and quite all right so far as the American angle is concerned.” They were anti-Bolshevist; that was enough. In August, Brasol was again questioned about a prominent New York radical, Alexander Brailowsky.⁵² He noted that he recently made a full, confidential report on the subject to MID chief Churchill, and advised the BI to move against Brailowsky at once. While the interview was underway, the agent noted that another Russian, Vasily Shumsky, came in. Brasol introduced him as the editor of a small Russian paper called *Sin Otchestva*. He employed Shumsky to attend radical meetings and report back on what he saw and heard. No surprise, then, that Shumsky was also a member of Brasol’s recently formed Association Unity of Russia (*Edinstvo Rossii*).

Brasol had time and energy as well to spread his influence among the Russian émigré community. In 1918 he became vice chairman, later chairman, of the Voluntary Association of Russian Army and Naval Officers, and in the following year one of founders of the above association Unity of Russia, and well as a leading member of the Russian National Society and the General Committee of Russian National Defense; these were all rightist or monarchist bodies. He also assumed the role of a vociferous public champion of the recognition of Admiral Kolchak’s anti-Bolshevik regime in Siberia. There was even a story, likely started by Brasol himself, that he was made the head of the secret police in Kolchak’s ill-fated government.⁵³

Brasol also stayed busy on the publishing front. Between 1919 and 1922, besides numerous articles in the press, he churned out three books, *Socialism vs. Civilization* (1920), *The World at the Crossroads* (1921), and *The Balance Sheet of Sovietism* (1922). Most relevant to our discussion, however, was a fourth work, *Who Rules Russia?: The Personnel of the Soviet Bureaucracy* (1920), more a pamphlet than a book. Published and distributed through Unity of Russia, it largely consisted of list after list, all showing that Red Russia was not ruled by Russians but by Jews. As recently as 2000, it was reprinted in a book published in Moscow.⁵⁴

It is curious that given Brasol’s feelings about Jews, he seems to have had no problem living around them. The 1920 U.S. census reveals he and his wife, Eleanor, dwelling in a boarding house on West 84 Street. Among his fellow residents and neighbors were Walter Herzberg, Solomon

52. Frank Francisco, “In re: Anarchist Activity, Alexander Brailowsky,” BI, #375726, August 13, 1919.

53. “Exclusion Hearing,” FBI, File 100-15704, 17.

54. Yuri Begunov, *Tainye sily v istorii Rossii: sbornik statei i dokumentov* (Moscow: Patriot, 2000), 241-263.

Berkowitz, Moses and Joseph Bachrach, and Maurice and Marion Kaufman.

In December 1920, Brasol gained a new ally in his battle against Judeo-Bolshevik evil, albeit one Walter Laqueur has described as “obviously a clinical case.”⁵⁵ This was Count Arthur Ivanovich Cherep-Spiridovich, who arrived from London. Originally from Montenegro, Spiridovich, who sometimes billed himself as the “Slav Bismarck,” had served as Serbian consul in Moscow and labored in the years before the First World War as a Serbian and Russian intelligence agent. He also acted as a roving agent for the abovementioned Sovereign Order of St. John (SOSJ), and in recognition of this Pope Pius X made him a papal count in 1907. The count was also a tireless promoter of various arcane organizations such as the Celto-Slavonic Federation and the Latino-Slav League, which later morphed into the Anglo-Latino Slav League. This in turn spun off a press-propaganda outlet he ran out of Paris dubbed the *Agence Latine*.⁵⁶ More to our point, however, in the years before the Revolution, Spiridovich was acquainted with Sergei Nilus, the author of the first Russian edition of the *Protocols*—the version, not incidentally, upon which the above American versions were based.

Somewhere along the line, Spiridovich became a militant convert to the notion of a Jewish conspiracy for world domination. Soon after arriving in the United States, he began work on his magnum opus, *The Secret World Government, or “The Hidden Hand,”* which praised, affirmed, and referenced the *Protocols in extenso*.⁵⁷ He also lauded Brasol’s books as “clever.”

Count Spiridovich is important for three reasons. First, if most problematically, he connects Brasol to the SOSJ and its intrigues. According to a history of the order, “Boris Brasol and Cherep-Spiridovich were that primary SOSJ intelligence operatives in the United States.”⁵⁸ More provocatively, it continues, “the Order gathered intelligence on the international revolutionary movements. The SOSJ, under Czar Kyril I, engaged in psychological warfare operations including the distribution of anti-Bolshevist information such as *The Protocols of the Elders of Zion*.” This much we know: in 1922 then Grand Duke Kyril (Cyril) Romanov proclaimed himself heir to the imperial throne. Along with everything else he was up to, Brasol

55. Walter Laqueur, *Russia and Germany: A Century of Conflict* (Boston: Little Brown, 1965), 132.

56. “Notes and Comment on Foreign Affairs,” *NYT*, February 19, 1905.

57. Maj. Gen. Count Cherep-Spiridovich, *The Secret World Government, or “The Hidden Hand”* (New York: Anti-Bolshevist Publishing Association, 1926).

58. “Sovereign Order of Saint John of Jerusalem: History and Lineage Charts since 1797,” http://www.spirituallysmart.com/History_After_Malta.html (accessed April 10, 2012).

promptly signed on as his American representative.⁵⁹ Were Brasol's antisemitic efforts parts of some even larger conspiracy? That remains a mystery.

What is clearer, at least, is that Spiridovich also formed a link between Brasol and Kyril and other Russian monarchists in Germany. They, in turn, provided entrée to like-minded Germans, including leaders of the emerging Nazi Party. Laqueur ranks Spiridovich among the motley crew of "Russian experts" whom Alfred Rosenberg befriended and consulted.⁶⁰

We will return to that second point in the next installment, but the third, and most immediate, point of common interest between Brasol and Spiridovich was their encouragement of Henry Ford's anti-Jewish campaign, which began in the *Dearborn Independent* on May 22, 1920, and continued in one form or another for the next seven years. For ninety-one straight issues, the paper churned out articles subsequently collected into the four-volume *The International Jew: The World's Foremost Problem*. The *Protocols* were obviously its primary inspiration and source. The frequently repeated assertion is that Boris Brasol was somehow responsible for introducing these articles to the Ford camp, or that he was in Ford's employ. As with the American *Protocols*, there is definitely something to the accusation, but the exact details are again uncertain.

The Brasol-Ford link was exposed early on in a six-article series by Norman Hapgood, "The Inside Story of Henry Ford's Jew-Mania," that ran in *Hearst's International* from June to November 1922. Hapgood characterized Brasol as "reactionary-in-chief," a die-hard Romanov restorationist, and one of the unsavory gaggle of "adventurers, detectives [and] criminals" who crawled out the woodwork to pander to the Auto King's Judaeophobia.⁶¹ Being the good muckraker he was, Hapgood dug up plenty of dirt on Brasol's link to the Beilis trial, De Bogory, Houghton, and the American *Protocols*, as well as a host of fellow Russian reactionaries in the United States and Europe, among them the colorful Count Cherep-Spiridovich.

In addition to recycling old information, Hapgood's sleuthing turned up some new, intriguing tidbits. He found a Russian, a former member of the pre-Kolchak government in Siberia, who swore (albeit anonymously) that "I have seen . . . the documentary proof that Boris Brasol has received money from Henry Ford."⁶² Another was that Brasol's and Ford's anti-Jew

59. "Investigator's Report on Boris Brasol," FBI, File 100-22487, December 5, 1941, 2.

60. Laqueur, 131.

61. Hapgood, I, June 1922, 17.

62. Hapgood, II, July 1922, 14.

crusade had been abetted by, of all things, a prominent Jewish lawyer. The man in question was Maurice Leon.

Born in Beirut and educated in Paris, Leon was the stepson of Columbia professor and Zionist activist Richard Gottheil.⁶³ During WWI, Leon acted as a financial and propaganda agent of the French government. In this role he developed an intense antipathy toward rich German Jews, whom he believed were serving the interests of the kaiser. A special object of his hostility was Jacob Schiff, also Brasol's bête noire, and so the two, semite and antisemite, were drawn together in common hatred. To keep tabs on Schiff and his associates, Leon compiled a huge cross index. As Hapgood saw it, "there is good reason to believe that the *Dearborn Independent* vision of the Jewish World Conspiracy . . . had its origin in this elaborate cross-index of Mr. Leon."⁶⁴ And Ford's men had Boris Brasol to thank for bringing it to their attention.

The Brasol-Leon connection may also relate to a stray comment made by Casimir Pilenas. In a 1925 letter to Isaacs, Pilenas let drop that "I have at last got the dope who inspired Boris Brasol to translate Serge Nilus's booklet [the *Protocols*]. There was a conspiracy to make the Jews pay for everything and the first \$5,000 check was received from a wealthy but good hearted Jew in New York. He was a stranger and was taken in."⁶⁵ Was Pilenas saying that Leon had been duped into providing funding for the American *Protocols*? Could he have been convinced that its publication would aid his own cause against Schiff and his ilk? It also touches on another point: in the FBI files, Brasol is described as being "extremely mercenary."⁶⁶ To what extent did he promote antisemitism simply for the money?

However much Hapgood was aware of it, Pilenas played a part in his exposé, at least where Brasol was concerned. In November 1921, Pilenas wrote Isaacs that he had recently "sold some articles to the Hearst newspapers" that would "expose the world-wide plot against the Jews."⁶⁷ In one of these he claimed to "have exposed Brasol and his fake 'protocols.'" A month later, Pilenas proclaimed that "I have enough dope to knock out Mr. Brasol for good."⁶⁸ He went to insist that "[Brasol] is solely responsible for the anti-Jewish propaganda [in Lithuania] as well as the States." In April

63. "Maurice Leon, Lawyer-Author, Dies in North," *The Palm Beach Times*, October 11, 1952, 3.

64. Hapgood, V, October 1922, 39, 110.

65. Pilenas to Isaacs, NIP, March 8, 1925.

66. Memorandum for Berge, FBI, File 100-22487, I, 2,

67. Pilenas to Isaacs, NIP, November 25, 1921, and February 18, 1922.

68. Pilenas to Isaacs, NIP, December 25, 1921.

1922, however, Pilenas complained that his articles had not appeared anywhere, nor does it seem they ever did.⁶⁹ Thus, it seems probable that they eventually ended up in Hapgood's hands, where the data regarding Brasol and friends was incorporated into his own series. In May, Pilenas revealed that he was in contact with E. G. Pipp, the former editor of the *Dearborn Independent*, who had quit the Ford organization and started his own magazine. According to Pilenas, Pipp wanted him to supply material for a counter-series to the *International Jew*.

Other questions that remain are exactly how Brasol came into contact with Ford and his agents, and how close that relationship actually was. Hapgood notes that Dr. Harris Houghton, who had collaborated with Brasol and Natalie De Bogory in the production of the 1918 *Protocols*, was the family physician of one C. C. Daniels. Daniels, in turn, was the chief of the Ford detective agency that tracked and compiled information on suspect Jews. Moreover, De Bogory now worked for Daniels' agency.⁷⁰

But the man who undoubtedly played the most important role in bringing Brasol into the Ford camp was the Boss's confidant and personal secretary, Ernest Gustav Liebold. As Neil Baldwin notes in his *Henry Ford and the Jews*, Liebold showed then-editor Pipp a letter from Brasol in April 1919, in which it was apparent that Liebold had already known him for some time.⁷¹ Hapgood singled out Liebold as the one who had "persuaded the editors of *The Independent* to buy and publish the Brasol material."⁷² Brasol reveals his appreciation of Liebold and Ford in a 1922 report on Russian monarchist activities in the United States sent to Baron Petr Vrangél. In it he praised Ford as a great man who had given generous help to the cause and someone especially approachable on the Jewish Question.⁷³

For his part, Brasol, years later, under interrogation, denied having had any personal contact with Henry Ford—"I never met him in my life."⁷⁴ Not surprisingly, he also swore that "I had absolutely, just absolutely nothing to do with the publication, or rather the publishing of the *Protocols* by Henry Ford in his *Dearborn Independent*."⁷⁵ Anything to the contrary was just another scurrilous rumor. He did acknowledge having undertaken an

69. Pilenas to Isaacs, NIP, April 30, 1922.

70. Hapgood, IV, September 1922, 47.

71. Baldwin, *Henry Ford and the Jews*, 81.

72. Hapgood, I, 18.

73. "Ocherk-deiatel'nosti russkikh monarkhichskikh'organizatsiia v Severo-Amerikanskikh' Soedinennykh' Shtatakh," Maria Vrangél Collection, HIA, Box 149, File 39, September 1922, 1-2.

74. "Exclusion Hearing," FBI, File 100-15704, 15, 17.

75. *Ibid.*, 12.

assignment from legal firm working for Ford (more on that below), and to having once spied Mr. Ford from a distance while touring a Dearborn plant, but that was it. Just what he was doing in Dearborn and who gave him the tour, he did not say.

Once again, Brasol was likely being technically truthful while simultaneously highly misleading. It's quite possible that he never met Henry Ford face to face or communicated directly with him; neither did most of the people who worked for Henry. According to the report of the Exclusion Hearing Board that considered Brasol's case in 1942, "subject was reported in the employ of Henry Ford when Ford published the *Dearborn Independent* and was said to be still in Ford's employ and active in Ford's Secret Service."⁷⁶ If this statement is correct, it would mean that Brasol continued to work for Ford at least until 1940.

In the meantime, and as might be expected, Hapgood's expose provoked a sharp response. The first blow emanated from Spiridovich, not Brasol. In fact, he made a federal case out of it. Interviewed by Bureau agents, the count pointed to the June 1, 1921, letter to him from Brasol, which was reproduced on page 18 of Hapgood's first installment. This was the letter in which Brasol boasted of his recent books doing more damage than pogroms. Spiridovich made no effort to deny the authenticity of the letter. Quite the opposite; he accused Hapgood or his agents (Pilenas?) of stealing it and other materials from his hotel room in Chicago. The Bureau man conducting the interview noted that "[Spiridovich] displayed a rather unusual hatred towards the Jews and anything Jewish. He told Agent that his mission in life was to disclose to the American public the hidden Jewish hand and propaganda . . . in order to undermine the Government of the United States."⁷⁷

Brasol himself struck back in a letter addressed to Hapgood dated February 16, 1923. It opened with, "Gratifying news has just reached me: It is rumored that you are about to leave this country for good, sailing for the Soviet El Dorado. I know you will enjoy meeting your friends 'Bill Haywood,' 'B[oris] Reinstein' and the rest of the 'American Colony.'⁷⁸ Further on, Brasol fulminated that "your name has been closely linked up with that of Charles Recht, one of those innumerable Jewish Communists who go to

76. *Ibid.*, 8.

77. "General Count Cherep-Spiridovitch, Anti-Bolshevist," FBI, Chicago, File 62-531-9, July 19, 1922.

78. "Big Bill" Haywood was an American radical and one-time head of the International Workers of the World who had taken refuge in Moscow. Boris Reinstein was a Russian-born socialist activist who became a U.S. representative to the Communist International.

make up the Soviet outfit with all its ramifications and agencies around the globe.”⁷⁹

The gist of the letter was fairly simple: in his attack on Brasol, Ford, and others, Hapgood had done nothing to prove them wrong, but had demonstrated himself to be a tool of the very conspiratorial forces they struggled against. Nor was Brasol content with a personal rebuttal. Through Unity of Russia, he had numerous copies made and circulated to members, friends, and anyone else he thought might be interested.

Evidence of Brasol’s continued involvement in Ford-related anti-semitic gambits can be seen in two incidents from the mid 1920s. The first took place in 1924 and centered on the fate of the Russian imperial family and Nikolai Sokolov, the magistrate who had carried out an investigation of their deaths in 1919 under the auspices of the Kolchak regime. In the early 20s, Sokolov, along with his voluminous files, had relocated to Fontainebleau, near Paris. According to information Brasol gave the Office of Naval Intelligence (ONI) in 1924, “[Sokolov’s] investigation showed conclusively that the murder of the Imperial family was instigated by Jews and the actual killing was done by a group of men composed, with the exception of three, entirely of Jews.”⁸⁰ Brasol somehow learned of this information, and, “knowing Henry Ford’s attitude towards the Jews and his unlimited means, he apparently conceived the idea of telling Ford about it, knowing that Ford would use it as anti-Jewish propoganda and at the same time, the Royalist factions would get a tremendous amount of publicity”

Brasol may have known Sokolov from his days as a tsarist investigator and prosecutor, or he may have encountered him on trips he made to Paris in the fall of 1922 and again in October 1923. In any event, Nikolai Sokolov arrived in Boston on February 5, 1924, and headed straight for Detroit. On arrival, he listed his “employer” as the Ford Motor Co. According to the above ONI report, Sokolov “brought with him photostatic copies of the documents and translations that were delivered to Ford.”⁸¹ The Auto King apparently bought them—despite being warned by Sokolov’s associate, the Grand Duke Nikolai Romanov, that the contents of the dossier were fakes.⁸² One can be sure that Brasol counseled otherwise. One can also wonder what role Brasol may have played in concocting the documents.

79. Charles Recht was an attorney who represented Soviet organizations and later the Soviet government in the United States.

80. Memorandum for Berge, FBI, File 100-22487, I, 6-7.

81. *Ibid.*

82. Anthony Summers and Tom Mangold, *The File on the Tsar* (New York: Harper & Row, 1976), 173-175.

Was this the same story he had pitched to Norman Thwaites way back in 1918?

The whole thing ultimately amounted to little, except for Ford's expenses. In October, Sokolov returned to France, where he died the following month. The story that Jews were responsible for the murder of Tsar Nicholas and his family is still repeated today, with the added bonus that the actual order to murder came from none other than Jacob Schiff.⁸³ If he didn't think of that himself, Brasol would really have appreciated the touch.

The next incident, and the only thing related to Ford that Brasol ever admitted to, stemmed from a libel suit brought against Ford by his old antagonist Herman Bernstein. In response to *The International Jew*, in 1921 Bernstein came out with *The History of a Lie*, a book detailing the origins and fraudulence of the *Protocols*. Not long after, the *Dearborn Independent* ran articles attacking Bernstein's character and reputation, and, in 1923, he came back with the suit. Ford's men, maybe Brasol himself, also dug up some articles Bernstein had written for the *New York Evening Journal* in which he alleged a White Russian conclave in Constantinople in 1921, where the participants had conspired "to kill off all the Jews all over the world."⁸⁴ Bernstein even produced supposed minutes—protocols—of these meetings with names and dates. Whether he meant this as a parody is unclear, but the Fordites apparently believed that if they could prove Bernstein a liar they would blow him and his suit out of the water.

As Brasol later described it, sometime in 1926, he was approached by the law firm representing Ford—Nicoll, Anable & Nicoll. He first was paid to examine the Bernstein articles, and after doing so "very carefully," he "determined the whole lot was "a flagrant forgery."⁸⁵ A few weeks later, the same firm engaged him to undertake a trip to Europe, where he would track down and interview individuals mentioned in Bernstein's articles. Since Brasol claimed to know many of them personally, this would make the task easier. Soon after, he left for Europe, came back with the evidence, submitted it to the law firm, and "that is that." Again, his efforts largely came to naught. The court refused to admit the evidence, and Ford finally settled; in 1927, he publicly repudiated and apologized for the whole antisemitic campaign. Whether he repudiated it personally is another question.

But Boris Brasol may have undertaken another, far more secretive and far more important mission for Ford. According to James Pool, in his book

83. Juri Lina, *Under the Sign of the Scorpion: The Rise and Fall of the Soviet Empire* (Referent: Stockholm, 2002), 247.

84. Exclusion Hearing, FBI, File 100-15704, 16.

85. *Ibid.*, 17.

Who Financed Hitler, Brasol served as secret intermediary and bag man between Ford and the nascent Nazi Party.⁸⁶ We will examine that function, and other things concerning the tireless and sinister Mr. Brasol, in the second half of this essay.

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86. Pool, *Who Financed Hitler*, 87-88.



The Elephant in the Room: Antisemitism in U.S.-Israeli Relations¹

Steven Leonard Jacobs*

Jews worry for a living . . . professors Walt and Mearsheimer make a grossly flawed and oversimplified argument about the pro-Israel lobby, and you'd think the world were coming to an end.

—Aaron David Miller²

This paper is *not* the place to offer a current critique of Mearsheimer and Walt's 2007 text *The Israel Lobby*.³ Much has already been written in response to it, much of it substantive, some of it far less so. The author would, however, draw the reader's attention to one such critique by Ofira Seliktar entitled "Ignorance and Realism: A Critique of Mearsheimer-Walt," which originally appeared in the *Middle East Review of International Affairs Journal* 12, no. 1 (March 2008), available on their Web site as well as that of www.globalpolitician.com. It is well worth one's reading attention.⁴

1. First presented at the Scholars for Peace in the Middle East conference, "Fifty Years of the Special US-Israel Relationship (1962-2012) in Perspective," January 16-18, 2011, Miami, FL.

2. Aaron David Miller, "Obama, Israel & American Jews: The Challenge," *Commentary Magazine* Symposium, June 2010, 28. Miller is also the author of *The Much Too Promised Land: America's Elusive Search for Arab-Israeli Peace* (New York: Bantam Dell, 2008).

3. John J. Mearsheimer and Stephen M. Walt, *The Israel Lobby and U.S. Foreign Policy* (New York: Farrar, Straus and Giroux, 2007).

4. Abraham Foxman, national director of the Anti-Defamation League, in his book *The Deadliest Lies: The Israel Lobby and the Myth of Jewish Control* (New York: Palgrave Macmillan, 2007), encapsulates the myths surrounding the suppos-

edly all-powerful “Israel Lobby” in his third chapter, “Alluring Myths, Clear-Eyed Realities” (93-131):

The myth: Israel once “deserved” American support, but it has now become a moral pariah that ought to be shunned and condemned.

The reality: Mearsheimer and Walt, like other critics of Israel, are well aware that, for many Americans, Israel’s claim to the world’s sympathy and support rests partly on a moral basis.

The myth: U.S. support for Israel is disproportionate to the strategic importance of Israel for American interests—which proves that the power of the Israel Lobby is the only possible explanation for that support.

The reality: Mearsheimer and Walt claim that Israel is a “strategic liability” to the United States. In their view, the notion that supporting Israel is in America’s national interest is absurd. Therefore, they say, some other explanation for the alliance must exist—and they claim to have found it in the supposed awesome power of Jewish Americans and the unequaled clout of the Israel Lobby.

The myth: U.S. government support for Israel is driven only by the wishes of a vocal, powerful minority.

The reality: Anti-Israel critics like to claim, or imply, that American support for Israel does not reflect the will of the people but rather the desire of an elite clique who use their political power, economic clout, and public relations skills to manipulate the government into serving their interests.

The myth: The leading Jewish American and Israeli American organizations give slavish support to Israeli policies, no matter whether Israel is right or wrong.

The reality: Robust debate about Israeli policies is commonplace not only in Israel but also in the United States, both inside and outside the Jewish community. That’s as it should be, and Jewish American organizations support and encourage such diversity of opinions.

The myth: Powerful lobbies—include the Israel Lobby—have virtually unchallenged power to dictate public policies to their liking, often to the detriment of the national interest.

The reality: Like most lobby groups in the United States, the Jewish American lobby organizations face constant conflict with other groups that generally favor opposing policies. Though journalists and interested parties sometimes like to depict particular lobbying groups as “all-powerful” or “unstoppable,” there really is no such thing as a lobby that always gets its way—which is a good thing for America’s pluralistic democracy. It’s true of the Israel lobby, just as it’s true of every other lobby that does business in Washington.

The myth: The ADL and other “Jewish lobby” groups push a hard-line, hawkish political point of view that doesn’t represent the mainstream of Jewish opinion in either Israel or the United States.

Equally, it is not the place to discuss and debate an earlier text by former U.S. and Republican Congressman from Illinois Paul Findley, whose 1985/1989 text *They Dare to Speak Out: People and Institutions Confront Israel's Lobby* (Chicago: Lawrence Hill Books)⁵ evoked far less

The reality: As an organization dedicated to the freedom of Jews, the right of Israel to exist as a Jewish homeland, and the protection of civil rights for all people, the ADL has inevitably gotten involved in some politically controversial topics. One of the challenges we face on a regular basis is figuring out exactly how to position ourselves so as to serve our core mission without becoming embroiled in irrelevant or distracting battles. Making these choices isn't always easy, and we've made an occasional misstep. But our overall objective is clear, and as long as we pursue it single-mindedly, we don't get into trouble.

The myth: The Israeli Lobby enforces—or seeks to enforce—ideological conformity on U.S. college campuses.

The reality: As college professors themselves, Mearsheimer and Walt are naturally concerned about academic freedom, and it would greatly strengthen their argument about the power of the Israel Lobby to control debate in the United States if they could show that its tentacles extend to America's college campuses.

The myth: Jews have used their political power in the United States to ensure that Israeli interests inevitably prevail in the shaping of American foreign policy.

The reality: It's true that the United States and Israel have a strong alliance. I'm happy to be able to say this because I believe such an alliance is in the best interests of both countries as well as in the interests of peace in the Middle East and around the world. But the notion that Israeli interests somehow control U.S. foreign policy is absurd. American governments are no more subservient to the wishes of Israel than they are to the demands of Great Britain, France, Mexico, Japan, or any other important U.S. ally.

These refutations seemingly serve primarily to address the third chapter, "A Dwindling Moral Case," of Mearsheimer and Walt's text, 78-110.

5. The tenor and tone of Findley's book may best be judged by the following comments toward the end of his text (315-316):

Those who criticize Israeli policy in any sustained way invite painful and relentless retaliation, and even loss of their livelihood, by pressure by one or more part of Israel's lobby. Presidents fear it. Congress does its bidding. Prestigious universities shun academic programs and grants which it opposes. Giants of the media and military leaders buckle under its pressure. . . . The charge of anti-Semitism is a worrisome one, particularly because it is becoming more widespread. . . . The lobby has already attained strength far beyond the level its numbers would suggest . . . The lobby's success in stifling dissent is shocking, particularly in Congress. . . . The lobby has made free speech a casualty by skillful use of our free institutions.

an outcry than Mearsheimer and Walt's book, though one must wonder why such was the case and whether or not Israel's present circumstances, rising antisemitism in Europe, and Israel's continually losing the public relations war are all indirectly or directly at play at this moment.⁶

Nor is this paper the appropriate venue to discuss and debate whether or not Mearsheimer and Walt are themselves antisemites and/or whether or not their text is itself antisemitic and now joins the sullied pantheon of such classics as Martin Luther's *On the Jews and Their Lies* (1543) and Adolf Hitler's *Mein Kampf* (Volume I, 1925; Volume II, 1926). As a professor of Judaic studies, as I teach my own students, the more significant question is not whether the Hebrew Bible of the Jews, the New Testament of the Christians, and the Qur'an of the Muslims are themselves hate-filled texts, but rather the *uses* that haters make of these texts and how they themselves read, validate, and legitimate them to illumine their own dark corners of the universe.⁷ And on this latter point, therefore, there is no question that Mearsheimer's and Walt's *The Israel Lobby* is antisemitic and can be found on various anti-Israel and antisemitic Web sites throughout the world, "telling it like it is" and speaking the truths already known to the enemies of Israel and the Jewish people.

It *is*, however, the appropriate place to raise what apparently has been a relatively little-discussed question vis-à-vis U.S.-Israel relations, both before and after the founding of *Medinat Yisrael*—that of antisemitism as a factor in that relationship. I say little-discussed because in examining more than thirty texts addressing the relationship, the vast majority address the question of antisemitism not at all.⁸ It would, however, be false to conclude that this *shutafut*/partnership is one of continual sweetness and light.

6. With regard to this last point, see, for example, Amy Zalman, "Theatre of War," October 7, 2010, www.tabletmag.com, and Melanie Phillips, "Israel's supporters better wake up!" January 10, 2011, www.jewishworldreview.com. A more extended earlier treatment of this topic is Stephanie Gutmann's *The Other War: Israelis, Palestinians, and the Struggle for Media Supremacy* (San Francisco: Encounter Books, 2005). Relevant to this conversation as well is the analysis by Chris Dyszynski, "London Review of Books: Ten years of anti-Israel prejudice," November 2010, www.justjournalism.com.

7. See, for example, Roland Boer, *Political Myth: On the Use and Abuse of Biblical Themes* (Durham and London: Duke University Press, 2009); Paul Boyer, *When Time Shall Be No More: Prophecy Belief in Modern American Culture* (Cambridge and London: Harvard University Press, 1992); Christopher Collins, *Homeland Mythology: Biblical Narratives in American Culture* (University Park, PA: The Pennsylvania State University Press, 2007); and Hugh B. Urban, *The Secrets of the Kingdom: Religion and Concealment in the Bush Administration* (Lanham, MD: Rowman and Littlefield, 2007).

8. See the Consulted Bibliography at the end of this essay.

CONTEXT, CONTEXT, CONTEXT!

In her introduction to her seminal 1994 edited collection of collegial essays *Tainted Greatness: Antisemitism and Cultural Heroes* (Philadelphia: Temple University Press), presented at its own conference, Boston University then associate professor Nancy A. Harrowitz offered three especially important points relative to my contention that antisemitism is, indeed, *a* factor in the relationship between the United States and Israel, and has, at times, appeared more centrally relevant that one cares to admit, while, at other times, has receded into the background or periphery while still remaining ever-present. Those points are:

1. The existence and tolerance of prejudice has a direct relationship to the times that produce it (3).
2. Prejudice may have different functions and meanings within a culture at diverse historical moments. Bigotry has an index of acceptability that depends on historical factors (4).
3. Prejudice is closely linked to its historical context . . . To what extent does whatever is significant in a thinker's work derive its force from that thinker's attitude toward Jews? (9).

Thus, Harrowitz would argue, and I would agree, first that the historical context in which prejudice arises and maintains itself—in this case that of antisemitism—is significant, and, second, it is an aspect of one's work and behavior, consciously or not, unarticulated or not.

It is, therefore, equally important to acknowledge that prejudice and antisemitism have been part of the American experiment since the first Sephardic Jews arrived on these shores from Recife, Brazil, in 1654 and were only reluctantly granted residence by the antisemitic Dutch governor of New Amsterdam Peter Stuyvesant. The founders of this nation-state were, in the main, non-Roman Catholic Protestant Christians, who dispossessed the native populations as “heathens,” saw Catholics as “papists,” and had little use for Jews—despite their affirmation of the sacredness of the so-called “Old Testament.”⁹

It therefore must come as no surprise that prejudice and antisemitism are truly endemic to the American experience, at times more overt and at times less so but real nonetheless, and that those in positions of power and decision-making authority may not always be fully aware of such orienta-

9. See, for example, David Sehat's new and somewhat controversial reading of the American religious experience: *The Myth of American Religious Freedom* (New York: Oxford University Press, 2011). Also well worth reading is Robert D. Putnam and David E. Campbell's *American Grace: How Religion Divides and Unites Us* (New York and London: Simon and Schuster, 2010).

tions as influencing factors in their work. And while this is equally not the place to revisit Daniel Jonah Goldhagen's argument regarding "eliminationist antisemitism" in his 1996 *Hitler's Willing Executioners*,¹⁰ it may well appear that the academic community has been far too cavalier in dismissing the idea that countless generations being repeatedly exposed to antisemitism—culturally, socially, religiously, economically, politically—became a somewhat normative conditioning factor in the Germany of the end of the 19th and early 20th centuries among a population that did not necessarily regard *Judenhass*/Jew-hatred as necessarily an anathema to German civic reality.

In this atmosphere, consider the following vignette, recorded early on in Robert D. Kaplan's *The Arabists: The Romance of an American Elite*:

Given the circumstances of their lives to that point, for Bill and Janet [Stoltzfus]¹¹ not to have sympathized with the Palestinians would have been a thing inhuman. Jane wants to put this in context, however. A professional educator, she is impressively smooth and relaxed about what is a tender subject.

"You're young," she tells her visitor. "You simply cannot realize how powerful and unconscious a force anti-Semitism was in America at the middle of this century, when Bill and I were in school. At Princeton and Wellesley, at the prep schools we went to, you almost never encountered Jews. It was a different America then. God, it was different! Why, the Holocaust—because of all the books and films and articles of recent years—seems a lot closer to us now than it was right after it happened."

Bill explains, "When the first photos and stories about the concentration camps appeared, I remember reading about it and being shocked, horrified. Sure, I felt sympathy for the Jews. But it was an abstract sympathy. Like the kind others feel when reading about the Cambodians or the Ethiopians. If you don't know people personally who have been affected, it's very hard to stay continually worked up over what has happened to them. The Jews were a distant, unreal world to us then, but the Palestinians were individuals we knew."¹²

10. Daniel Jonah Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York: Alfred A. Knopf, 1996).

11. William A. Stoltzfus Jr. (b. 1924) was U.S. ambassador to Oman (1972-1974) and Kuwait (1974-1976). He began his U.S. Foreign Service career in 1950, and served in Egypt (1950-1952), Libya (1952-1954), Kuwait (1954-1956), Syria (1956-1957), Saudi Arabia (1957-1959), and Yemen (1959-1961). He also served in the State Department, Washington, DC, before his ambassadorial appointments.

12. Robert D. Kaplan, *The Arabists: The Romance of an American Elite* (New York: The Free Press, 1993), 4.

Antisemitism was a “powerful and unconscious force” in a “different America” for those little exposed to Jews and tasked with American foreign service and policy responsibilities in the Middle East.¹³ It should also be noted, as Kaplan does, that among the more than twenty-five State Department diplomats assigned to the Middle East beginning in 1922, Jews would only occupy such positions in the last thirty years—Martin Indyk (served 1995-2001); Daniel Kurtzer (served 1981-2006); Dennis Ross (served 1989-1992 and currently); and James Steinberg (2009–present)—and that among those serving were those overtly antisemitic; others, while not necessarily antisemitic, were pro-Arab and pro-Palestinian officials who came to regard the modern nation-state of Israel as a source of ongoing tension in that part of the world, inimical to America’s best interests, and the American Jewish community and its pro-Israel voices as contrary to the American agenda.

THE FOUR-FOLD AMERICAN-ISRAEL STORY

Norman Podhoretz, for thirty-five years editor in chief of *Commentary*, is certainly correct in characterizing the U.S.-Israel relationship as “complex.”¹⁴ Perhaps, however, Robert Satloff of the Washington Institute for Near East Policy, participating in the July 2010 Nixon Center Debate on “Israel: Asset or Liability?” described it best when he stated:

Indeed, the first twenty-five years after the establishment of Israel, the regional situation could be described as continuous war with periodic outbursts of diplomacy. The second thirty-five years—the period since 1973, the period since the takeoff in U.S.-Israel strategic relations—can best be described as continuous diplomacy with periodic outbursts of war. Since 1973, there has not been a regional war or a state-to-state conflict in the Arab-Israeli area. We have had limited wars—Israel versus

13. In a note to her essay “The Myth of Westernness in Medieval Literary Historiography,” María Rose Menocal makes the observation, “On this side of the Atlantic, the overt racism and anti-Semitism that is considered unspeakable today but until recently was not only shocking but expected of the educated classes are both described in some detail in Lash’s biography of Eleanor Roosevelt,” in *The New Crusades: Constructing the Muslim Enemy*, Emran Qureshi and Michael A. Sells, eds. (New York: Columbia University Press, 2003), 282. See Joseph Lash, *Eleanor and Franklin* (Old Saybrook, CT: William S. Konecky Associates, 1999).

14. Norman Podhoretz, “Israel and the United States: A Complex History,” *Commentary*, May 1998, 28-43.

Hisballah, for example—but nothing that has engulfed the region. That’s a huge and positive difference.¹⁵

15. Robert Satloff, “Israel: Not Just a Strategic Asset, but a Strategic Bonanza,” The Washington Institute for Near East Policy, 2010, 3. Satloff is also the author of *Among the Righteous: Lost Stories from the Holocaust’s Long Reach into Arab Lands* (Washington: Public Affairs, 2007). Six months before (January 20, 2010), New York-based Intelligence Squared U.S. (IQ2), an affiliate of its London-based counterpart, made available online the (anonymous) paper, “The US Should Step Back from Its Special Relationship with Israel” with the proviso, “This briefing was created by our colleagues at IQ2 in London and does not reflect our own views or opinions, nor the views of any of our strategic partners or panelists, and we take no responsibility for its contents.” According to its Web site, IQ2 provides a live forum for a series of debates and aired on both television and radio:

Since its inception in 2006, the goals have been to provide a new forum for intelligent discussion, grounded in facts and informed by reasoned analysis; to transcend the toxically emotional and the reflexively ideological; and to encourage recognition that the opposing side has intellectually respectable views. This series is based on the traditional Oxford-style debate format, with one side proposing and the other side opposing a sharply framed motion. Before the debate begins, the audience registers their pre-debate opinion using an electronic voting system. These results are announced later in the program. Alternating between panels, each debater gives a 7-minute opening statement. After this segment concludes, the moderator opens the floor for questions from the audience and inter-panel challenges. *This adversarial context is electric, adding drama and excitement.* The debaters have one final opportunity to sway audience opinion through their 2-minute closing arguments. The audience delivers the final verdict by voting again whether they are for, against, or undecided on the proposition. *The two sets of results are compared and the winner is determined by which team has swayed more audience members between the two votes.* [Emphasis added—SLJ]

According to the information found, the debate on this topic took place February 9, 2010. For the proposition were *New York Times* columnist Roger Cohen and Columbia University professor Rashid Khalidi; opposing the proposition were former U.S. government official and attorney Stuart Eizenstat and Israel academic and former ambassador to the United States Itamar Rabinovich. Pre-debate poll results: 33% for/42% against/25% undecided; post-debate results: 49% for/47% against/4% undecided. The moderator was *ABC Nightline News* correspondent John Donvan. That such an “event” took place at all is more a reflection of the tenor of the times—and a form of “intellectual entertainment”—rather than a serious analysis and historical context of what’s really involved. The polling results are, equally, more a reflection of the skill of the four panelists than a commitment of Americans to become engaged in the political process and further advances the quasi-legitimacy of arguments intended to devalue the relationship and delegitimize Israel on the world and American stage. It must also be noted in this context that Chapter 2

Even taking into consideration ambassador Michael Oren's important text *Power, Faith and Fantasy*,¹⁶ for purposes of this analysis, one must divide the U.S.-Israel story as follows: Pre-20th Century; Pre-World War II; World War II; Post-World War II to the Present.

With regard to this first phase—Pre-20th Century—Kaplan here provides a good accounting of the early modern forays of Americans into the Middle East. One may characterize their efforts accompanied by the missionary zeal of well-meaning and well-intentioned Protestant Christians bringing both the enlightenment of their faith and that of American and Western civilization to a part of the world they regarded as less so. While one should not necessarily characterize this early generation as either antisemitic or anti-Islamic, they were influenced by a certain sense of religious, cultural, and technological superiority, even while some of them genuinely embraced the native populations with which they came into contact and the cultures to which they were exposed.¹⁷

Returning home, however, J. J. Goldberg, in his 1996 book *Jewish Power: Inside the American Jewish Establishment*, summarizes well the America of both the 1920s and 1930s and the war period, when he writes:

The tide of anti-Jewish and anti-immigrant sentiment in American seemed unstoppable in the 1920s and 1930s . . . Anti-Jewish sentiment continued to grow in popularity and respectability, right up to the eve of the Second World War . . . There was no legal recourse, because none of this discrimination was illegal.

A half-century later, virtually every field of endeavor was open to Jews in America. Discrimination against Jews in hiring, education, and housing was illegal. Barriers had disappeared in all the top universities, the major law firms, and most industries . . . By the last quarter of the twentieth century, Jews were commonly estimated to make up as much as 20 percent of the faculty at America's most prestigious universities and 20 percent of the lawyers at the top firms. And the idea that a president might refuse to meet with the Jewish community's leadership was no longer conceivable.¹⁸

of Mearsheimer and Walt's text is entitled "Israel: Strategic Asset or Liability," 49-77.

16. Michael B. Oren. *Power, Faith and Fantasy: America in the Middle East 1776 to the Present* (New York and London: W. W. Norton and Company, 2007).

17. Ironically, today, evangelical Christians are both strong supporters of *Medinat Yisrael* and vigorous opponents of its policies, especially those with long-standing ties in the Middle East. See, for example, Mitchell Bard, *The Arab Lobby*, chap. 12, "God Takes a Side: Christian Anti-Zionists Join the Lobby," 240-262.

18. J. J. Goldberg, *Jewish Power: Inside the American Jewish Establishment* (Reading: Addison-Wesley, 1996), 112-113.

As is well known and needs no retelling, Jews flocked to the American armed forces following America's entry into the Second World War after the Japanese attack on Pearl Harbor on December 7, 1941. As the revelations of the Holocaust/Shoah became increasingly public, Jews worked tirelessly, often behind the scenes, to come to the aid of their fellow Jews. Yet those efforts were hampered by the delicate balancing act of a very public antisemitism during the Second World War itself—not wanting to give the American public, including its isolationists, excuses to hamper the war effort by attempting to convince President Roosevelt that it was a “Jewish war.”¹⁹ Again, J. J. Goldberg:

But to say that most Americans were against saving Jews in 1939 or 1944 is to understate the problem. Opposition to helping Jews was not merely widespread, it was *intense*. A sizable faction of the American political scene was so set against helping Jews that it was willing to pay a price, even inhibit the war effort, in order to *avoid* helping Jews. . . .

Similarly, the obstructionist activities of administration officials—from U.S. consuls abroad who blocked Jewish visas, right up to the assistant secretary of state in charge of refugee affairs, Breckenridge Long²⁰—are frequently cited by revisionists as evidence that Roosevelt was apathetic or hostile toward saving Jewish lives. The argument is that the president should have fired such administrators.

But in America in 1942, hostility toward Jews was not grounds for firing a public official. . . .

In one important sense, the situation of Jews in America at that time was so dismal that it is now difficult to recapture. Anti-Jewish hostility was so widespread, and so respectable, that even a president who was sympathetic toward Jews had to weigh the formidable risks of helping them.²¹

And thus, it was only *after* the conclusion of the Second World War and the increasing public revelations of the Shoah—as Kaplan, Goldberg, and countless others have written—that the antisemitism of the 1920s, 1930s, and 1940s seriously began to erode and dissipate. Throughout these three decades, the U.S. State Department charged with administering

19. Today, ironically, Israel's enemies continue to argue that America's take-down of the dictatorial regime of Iraqi Saddam Hussein was manipulated by Jewish neocons—i.e., Richard Perle, Paul Wolfowitz, Douglas Feith, Lewis “Scooter” Libby, David Frum, Dov Zakheim, Elliot Abrams, and Joshua Bolten—in response to Israel's political agenda to remove a potential nuclear threat to its viability.

20. For one such assessment, see Steven Leonard Jacobs, “Breckenridge Long and Coming to America,” *Journal for the Study of Antisemitism* 2, no. 2 (2010): 115-132.

21. J. J. Goldberg, *Jewish Power*, 115-116.

America's foreign policies and implementing its global agenda reflected, more or less, an endemic antisemitism in the persons of white, Protestant elites to the manor born who had little contact with Jews and Jewish communities and whose ambassadorial placements throughout the Middle East saw Jewish (and later Israeli) concerns as hampering their goals. Support for this conclusion is summarily advanced by examining in depth the careers of any number of the aforementioned Foreign Service officers such as Loy Henderson (served 1922-1960), Andrew Killgore (served 1949-1980), and Talcott Seelye (served 1950-1981), among others. This is not to say that all were antisemitic in either their beliefs or their behaviors; rather, it is to suggest that antisemitism *was* an influencing factor in an America where antisemitism either consciously or unconsciously expressed was more normative than heretofore thought, and what I would label "cultural conditioning."²²

22. Mitchell Bard, in his book *The Arab Lobby: The Invisible Alliance that Undermines America's Interests in the Middle East* (New York: HarperCollins, 2010), lists eight themes common among Arabists in the State Department (37-38):

- Support for Israel weakens America's ties with the Arab world.
- Israel, the Arab/Israeli conflict, and/or the Palestinian issue is the root of all problems in the Middle East.
- The United States should pursue an "evenhanded" policy; that is, shift away from support of Israel for greater support to the Palestinians and Arab states.
- U.S. pressure can change Israeli policy, and such leverage should be used to force Israel to capitulate to Arab demands.
- The most important U.S. policy objective is to secure the supply of oil, and to do so, the Arabs must be placated.
- Support for Israel allows the Soviet Union (and later Muslim extremists) to gain influence in the region to the detriment of U.S. interests.
- Support for Israel provides anti-U.S. sentiment among the peoples of the Middle East and is a cause of terror directed at Americans.
- Israelis don't know what is best for them, and the United States needs to save them from themselves by imposing policies that are really aimed at satisfying American interests in the Arab world.

Bard also quotes U.S. consul in Jerusalem Seth Merrill in 1891, to the effect that:

Palestine is not ready for Jews . . . [and] Jews are not ready for Palestine . . . To pour into this impoverished country tens of thousands of Jews would be an unspeakable calamity both for the country and for the Jews themselves . . . The quickest way to annihilate them would be to place them in Palestine with no restrictions or influences from any civi-

Turning to the recent presidencies of Bill Clinton, George W. Bush, and Barack Obama—or even going back to the presidencies of Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter,²³ Ronald Reagan, and George P. Bush—we can find evidences of antisemitic decision-making with regard to Israel and its policies even in administrations friendly to Israel. One such example is that noted by Norman Podhoretz in his article “Israel and the United States: A Complex History”:

For instance, when Yitzhak Shamir, who was now the prime minister of Israel and who took the same view as his fellow Likudnik Menachem Begin on this issue [Jewish settlements in the occupied territories], objected to the “freeze” demanded by [George W.] Bush, the response from the White House was to announce that it would delay a previously promised loan guarantee needed by Israel to house Jewish immigrants from the Soviet Union. As if this were not bad enough, the President of the most powerful nation on earth went on to portray himself as “one lonely little guy” up against “something like a thousand lobbyists on the Hill” who were working to prevent him from postponing the loan. For playing so blatantly into the canard that America’s alliance with Israel was based on the illegitimate manipulation of domestic politics by an all-powerful Jewish lobby, the “lonely little guy” won his delay. But he also called forth an avalanche of congratulatory mail so virulently anti-Semitic that it reportedly caused him to regret his use of so squalid a tactic.²⁴

lized government, and allow them to govern themselves; they would very soon destroy each other (1-2).

23. Former president Jimmy Carter’s complicated relationship not only with Israel but also with the Arab countries, and his self-appointed role as “Middle East Ambassador for Peace,” fueled in part by his conservative Christian *weltanschauung*, has been the subject of its own enormous literature. See, for example, Abraham H. Foxman, “A President Loses His Way,” in *The Deadliest Lies: The Israel Lobby and the Myth of Jewish Control* (New York: Palgrave Macmillan, 2007), 175-214. Even more critical is that of Kenneth Stein of Emory University and former Middle East fellow at the Carter Center, responding to Carter’s *Palestine: Peace Not Apartheid* (New York: Simon and Schuster, 2006): “My Problem with Jimmy Carter’s Book,” *Middle East Quarterly* (Spring 2007): 3-15, www.meforum.org.

24. Norman Podhoretz, “Israel and the United States: A Complex History,” *Commentary* (May 2008), 37.

BY WAY OF CONCLUSION

Stephen P. Cohen, president of the Institute for Middle East Peace and Development, in his 2009 book *Beyond America's Grasp* offers the following comment regarding the relationship between Israel, the American Jewish community—especially its organizational leaderships—and the U.S. administration:

American Jewish leadership suffers from its lack of accountability to anyone but its own limited constituency. It is an unelected leadership that is, for the most part, unchallenged by a largely supportive American Jewish communal press. However, it is in some measure held indirectly responsible by the Israeli press and Israeli government leaders, although those critiques are rarely systematic. Israeli leadership principally seeks signs of group solidarity and loyalty from the Diaspora leaders, and not indications of political acuity or helpfulness in pursuing peace. In fact, negative reaction in Israel to Diaspora independent peace efforts is expressed mostly by not treating them seriously. Diaspora leaders who “behave” are greeted with more access to the leadership in Israel and higher attendance by Israeli leaders at American nongovernmental meetings.

Though the American Jewish community would like to see itself as advocating for a close relationship between Israel and the United States, it would not tolerate any serious systematic critique coming from the U.S. government, even though it expects to be treated as a very serious partner in America's role in the region. *There is therefore no context for a legitimate political public discussion of the role and positions taken by American Jewish communal institutions, and indeed no public scrutiny of or debate over American relations with Israel that is not subject to the litmus test of anti-Semitism* [Emphasis added—SLJ].²⁵

Even Mearsheimer and Walt confront this issue, when they write with an eye toward defending their own position:

No discussion of how the lobby [note the lower-case “l”] operates would be complete without examining one of its most powerful weapons: the charge of anti-Semitism. Anyone who criticizes Israeli actions or says that pro-Israel groups have significant influence over U.S. Middle East

25. Stephen P. Cohen, *Beyond America's Grasp: A Century of Failed Diplomacy in the Middle East* (New York: Farrar, Straus and Giroux, 2009), 227-228. For a rather stinging review of Cohen's book, see Barry Rubin, “Middle East Politics Beyond Cohen's Grasp,” *The Daily Forward*, March 31, 2010, www.forward.com. (Rubin is the director of the Global Research in International Affairs Center and editor of the *Middle East Review of International Affairs*.) Thus, the debate continues.

policy stands a good chance of getting labeled an anti-Semite. In fact, anyone who says there is an Israel lobby runs the risk of being charged with anti-Semitism . . . In effect, the lobby boasts of its own power and frequently attacks those who call attention to it. . . . Supporters of Israel, in fact, have a history of using fears of a “new anti-Semitism” to shield Israel from criticism . . . the charge of anti-Semitism remains a widely used weapon for dealing with critics of Israel, especially in the United States.²⁶

It must, however, be strongly noted that writing their argument the way in which they choose to phrase it is quite disingenuous; even the selective evidence presented in chapter 6, “Dominating Public Discourse,” 168-198—in which this quote appears—diminishes their own attempts to validate historical antisemitism as part of the historical *and contemporary* experience of both Jews and Israelis, and thus denies any validity to any argument that antisemitism is, indeed, *a* factor in U.S. foreign policy discussions as well as present-day critiques of Israel. It would thus appear that Mearsheimer and Walt engage in a classic case of Shakespearean “Methinks the lady doth protest a bit too much!” (*Hamlet*, Act III, scene 2, 222-230).

And so the conversations continue both within and without the American and Israeli Jewish communities and between the American Jewish community, the Israeli Jewish community, and the government and administrations of the United States. Given the uneven history of the United States in its relationship to its Jewish populations over the last more than three hundred fifty years, the dominating presence of various Protestant Christianities still evolving their own *modus vivendi* in relation to Jews and Judaism, as well as the theological and religious implications of a reborn State of Israel (framed by a European history of overt antisemitism), one can only conclude that antisemitism has been *a* factor in the ongoing U.S.-Israel relationship, at times very much in evidence in the persons of U.S. State Department ambassadors and other foreign service officers and less so at other times. As the historical awareness of the Holocaust/Shoah and its implications and moral mandates for civilization continue to recede, present and future nation-state relationships between these two countries will be grounded in pragmatism and self-interest. One can only hope and pray that this alliance, forged in strength and mutuality of benefit, will continue.

26. John J. Mearsheimer and Stephen M. Walt, *The Israel Lobby and U.S. Foreign Policy*, 188ff.

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In the Classroom

Leonid Livak*

Hardly a year goes by without the appearance of a book endeavoring to explain present-day attitudes toward Jews and Israel by means of a long-view historical analysis. Authors typically locate the beginning of the story in Christian antiquity's theological anti-Judaism; subsequently, they examine the translation of the Church's teaching about Judaism and its practitioners into the cultural image and social treatment of Jews (Judeophobia/Judeophilia) in Europe from medieval to modern times. The next step is to trace the permutations of these practices under the influence of modern scientific and political theories, which ultimately merge in the ideology of antisemitism and dominate attitudes toward Jews from the late nineteenth century through the Second World War. In the wake of the war, Jew-baiting, now rationalized as anti-Zionism, gets a second lease on life in the Soviet empire and the Muslim world. A typical narrative ends with the spread of anti-Zionism in the culture of the New Left, which, from the 1960s on, instrumentalizes the Arab-Israeli conflict to its own ideological ends. So much so, in fact, that this "new antisemitism" overshadows the racially motivated rhetoric of the political right, made taboo by the Shoah, as the left effectively replaces the right in the role of the main intellectual host and purveyor of anti-Jewish attitudes today.

These books carry on the intellectual tradition of examining current attitudes toward Jews within an uninterrupted continuum spanning two millennia—a tradition pioneered by James Parkes, Jules Isaac, and Joshua Trachtenberg seventy years ago and subsequently elaborated by several generations of scholars in theology, history, culture, and the arts (Norman Cohn, Alan Davies, Sander Gilman, Jacob Katz, Gavin Langmuir, Hyam

Maccoby, Léon Poliakov, Rosemary Ruether, among others). This tradition is as factually rich, chronologically wide-ranging, and geographically diverse as it is methodologically complex and is not, therefore, readily accessible to the lay reader. Hence the concurrent emergence of two modes of knowledge dissemination, equally abundant in works and authors (with frequent overlaps): one is strictly academic, the other publicistic and intent on bringing scholarly research to wider audiences. Phyllis Goldstein's *A Convenient Hatred* (2012) and Steven Baum's *Antisemitism Explained* (2012) are only the most recent in the second group's list of titles, ranging from Jules Isaac's *L'Antisémitisme a-t-il des racines chrétiennes* (1960) to Robert Wistrich's *Antisemitism* (1994), Paul Giniewski's *La Croix des Juifs* (1994), and James Carroll's *Constantine's Sword* (2001). Intensifying in direct proportion to the vicissitudes of the Arab-Israeli conflict, whose flare-ups stimulate anti-Zionist rhetoric in the Western intelligentsia's discourse about Jews and Israel,¹ this publishing activity, in both academic and publicistic modes, functions as a modern-day *responsa* literature. And like in the times of the rabbinical *responsa* to Christian attacks, there are Jewish voices on the other side of the divide: after all, Noam Chomsky, Judith Butler, and Naomi Klein trace their pedigree to Jewish converts in centuries past, whose entry ticket into Christian majority cultures included the public vilification of their ancestral community and the fabrication of "proofs" in support of an assortment of fantastic crimes and conspiracies imputed to Jews (and today to the Jewish state).

But despite the glut of academic and popularizing books about current attitudes toward Jews and Israel, more volumes continue to appear, their titles sounding as urgent as they did forty years ago. This fact alone speaks to the failure of such books to reach a broad audience. The public outreach project is sapped by two factors—the print medium and the inherent complexity of the subject matter, which resists popularizing simplification. The structure of the book market is such that every new work, even when widely publicized, is noticed or actively sought out by the same group of readers with a pre-existing interest in its material and argumentation, and with previous experience of reading similar works (for some examples, scroll down a page on amazon.com to the section "Customers who bought this item also bought . . ."). Transition to online distribution and publishing

1. Had our attention span not been shortened by the mass media, we would recall that every recent book like, say, Robert Wistrich's *A Lethal Obsession* (2010) has counterparts responding to previous waves of anti-Zionism. The Six-Day and Yom Kippur Wars, for example, gave us Franklin Littell's *The Crucifixion of the Jews* (1973) and Zoé Oldenbourg's *Que vous a donc fait Israël?* (1974); and the First Lebanon War produced Alain Finkielkraut's *La Réprobation d'Israël* (1983) and Paul Grosser's and Edwin Halperin's *Anti-Semitism* (1983).

has not broadened or diversified the readership in question, whose demographic profile, from my experience of public lectures, tends toward the middle age and is mostly Jewish. And as for the complexity of the material, the fact that the same readers keep buying new books dealing with the same subject matter suggests that even the most deliberately accessible works leave many questions unanswered for the lay audience, who is struggling to absorb vast amounts of specialized information about the intellectual sources and historical evolution of attitudes toward Jews.

One way of closing the gap that separates academics and intellectuals from the general reader is by bringing the discussion into the classroom. The obvious benefit is in the interactive nature of classroom experience. The concepts and problems that the non-specialist audience might find too challenging in the process of reading can be addressed in direct contact with the instructor. And even though the students in the class still represent a self-selected group, in the sense of choosing to enroll into an optional course on the basis of pre-existing interest, there is another clear benefit of introducing the material into classroom curricula: this is a way to reach a demographic that otherwise remains untouched by book publishing, print or electronic, namely, college-age young people who are much more ethnoculturally and religiously heterogeneous than the typical readership of the works discussed above. The process of translating a rich and complex intellectual tradition into classroom material offers its own challenges and rewards, which differ from those inherent in scholarly or publicistic writing—as I have discovered by teaching, for the past eight years, an undergraduate course entitled “The Imaginary Jew.”

The genesis and evolution of the image of the Jew—central to all Christian and post-Christian European cultures, whence it migrates into American and Muslim cultures (I have yet to see a convincing case for the originality of the imaginary Jews populating the anti-Zionist rhetoric of today’s Muslim world)—can be treated from different methodological angles and by a wide range of specialists in the humanities and social sciences: theologians, historians of ideas, literature and culture scholars, political scientists. But no matter the academic specialization, the task requires considerable interdisciplinary versatility, since it involves repeated crossing of chronological, national, linguistic, generic, and methodological boundaries. As a student of European literatures and cultures, I prefer to frame the subject as a case history in the imaginative modeling of cultural difference, wherein Jews figure as the paradigmatic Other of European cultures. Thus, from the initial examination of the theology and psychology of Christian anti-Judaism and its essential difference from the attitudes toward Jews in pagan antiquity, I steer the discussion to the impact of theological anti-Judaism on European arts and folklore; then follows the study of the sur-

vival and secular recoding of the pan-European vocabulary of Jewish difference up to the early twentieth century; and the final thematic block deals with the impact of the cultural lexicon of Jewish difference on the self-perception and identity of Jews assimilating into European majority cultures before the Second World War.

Contrary to many preconceptions, the undergraduate classroom is by far the most challenging testing ground for scholarly theories and analytical methodologies. Here, researchers turned teachers cannot hide behind generous page allotments, exhaustive bibliographies, and copious footnotes. The process of selecting and presenting material from almost two millennia of Christian and post-Christian experience so it would fit into the Procrustean bed of an academic term is like packing for a long trip with an impossibly strict airplane baggage allowance. While the actual set of readings for “The Imaginary Jew” varies each time the course is taught, the typical syllabus looks as follows:

Week 1: General Introduction

Week 2. Theological anti-Judaism. Primary readings: Excerpts from the Gospels and the Acts of the Apostles; apocryphal gospels (Peter; Nicodemus; *Paradosis Pilati*). Secondary readings: Excerpts from Jules Isaac’s *The Teaching of Contempt* and Hyam Maccoby’s *The Sacred Executioner*.

Week 3. Theological anti-Judaism. Primary readings: Medieval sermon stories (*exempla*) from Joan Young Gregg’s annotated anthology *Devils, Women, and Jews*; excerpts from the writings of the Church fathers (the *adversus Iudaeos* tradition)—Chrysostom, Cyprian, Tertullian, Augustine. Secondary readings: Excerpts from Frank Kermode’s *The Genesis of Secrecy*, Hyam Maccoby’s *Judas Iscariot and the Myth of Jewish Evil*, and George Anderson’s *The Legend of the Wandering Jew*.

Week 4. The blood libel. Primary readings: Geoffrey Chaucer’s “The Prioresse’s Tale”; excerpts from *The German Legends of the Brothers Grimm*. Secondary readings: Excerpts from Joshua Trachtenberg’s *The Devil and the Jews*.

Week 5. From theology and folklore to literature. Primary reading: William Shakespeare, *The Merchant of Venice*. Secondary readings: Excerpts from Michael Echeruo, *The Conditioned Imagination*; a selection of essays by Alan C. Dessen, Leslie Fiedler, and other authors.

Week 6. The age of secularization. Enlightenment Judeophilia. Primary readings: G. E. Lessing, *Nathan the Wise*; excerpts from Walter Scott’s *Ivanhoe*. Secondary readings: Excerpts from Arthur Hertzberg’s *The French Enlightenment and the Jews*.

Week 7. The age of secularization. Judeophobia. Primary reading: Nikolai Gogol’s *Taras Bulba*.

Week 8. The secular recoding of the imaginary Jews. Primary readings: Ivan Turgenev's "The Hapless Girl"; Richard Wagner's "Judaism in Music."

Week 9. Antisemitism. Primary readings: Anton Chekhov's "Mire" and "Rothschild's Fiddle"; excerpts from H. S. Chamberlain's *Foundations of the Nineteenth Century*. Secondary readings: Excerpts from Leon Poliakov's *The Aryan Myth*; a selection of essays by Sander Gilman; and other choices.

Week 10. Antisemitism. Primary readings: Karl Marx, "On the Jewish Question"; Fedor Dostoevsky, "The Jewish Question"; *The Protocols of the Elders of Zion*.

Week 11. Assimilation and its discontents. Primary readings: Isaac Babel's, "Awakening" and "My First Goose"; Osip Mandel'shtam's *The Noise of Time*; excerpts from Otto Weininger's *Sex and Character*. Secondary readings: Excerpts from Sander Gilman's *Difference and Pathology* and *The Jew's Body*.

Week 12. Assimilation and its discontents. Primary reading: Vladimir Zhabotinsky's *The Five*. Secondary readings: Excerpts from Michael Stanislawski's *Zionism and the Fin de Siècle*.

The readings in literary fiction reflect my individual research interests, so that many authors on the list (Gogol', Turgenev, Babel', Mandel'shtam) could be easily replaced by their English, French, or German peers (e.g., Dickens, George Eliot, Zola, Proust, Kafka). In addition, a significant number of works of visual and plastic arts from appropriate historical periods and all European national traditions are incorporated in each weekly lecture and discussion.²

The course usually attracts twenty to forty upper-level undergraduates. No amount of prior study can adequately prepare them for the challenge of the historical, cultural, and generic diversity of the material, although all foreign-language texts are read in English translation. An additional challenge posed by the material, this time for the instructor, is the central place of Christianity in the story of Europe's imaginary Jews. The challenge is of a pedagogical rather than methodological nature. In the ideological atmosphere of today's North American campuses, Christianity (unlike other religious traditions) is a readily available boogeyman and too easy a target. By focusing on the history of Christian anti-Judaism and the socio-cultural attitudes it engendered before WWII (and continues to do so in parts of the

2. These are drawn from many sources, including: Henry Claman's *Jewish Images in the Christian Church* (2000); Ruth Mellinkoff's *Outcasts* (1993); Heinz Schreckenberg's *The Jews in Christian Art* (1996); Wolfgang Seiferth's *Synagogue and Church in the Middle Ages* (1970); and Isaiah Shachar's *The Judensau* (1974).

world), one walks a fine line between a scholarly analysis of historical facts and a settling of scores with an adversary who is already down—a sterile exercise, given the already long menu of grievances advanced since the 1960s against the White Eurocentric majority culture. I prefer to deal with this matter in the introductory lecture by issuing an apology to those Christian students whose religious sensibilities I might offend during the course. Furthermore, throughout a course like this, one can never emphasize enough the ambiguous role of Christianity, whose theology and teachings are at once the necessary (albeit insufficient) cause for the modern plight of European Jews and the main reason for the survival of Jews as the only tolerated religious minority in pre-modern Europe—an essential theological and psychological dualism that makes Judeophobia and Judeophilia two sides of the same coin and is replicated today in the coexistence of negative views of Israel in some confessions (e.g., the Presbyterians; the United Church of Canada) with intense admiration in others (evangelical Christians).

Another challenging pedagogical task is the cultivation of good habits: given the course's subject matter, this means scholarly distance from the material and the resulting quest for terminological precision. Whatever their ethno-cultural background might be, no students come to this course without some familiarity with aspects of Judeophobia and antisemitism. Still, the bulk of the material included in this course invariably turns out to be highly offensive to the sensibilities of the twenty-somethings, who have rarely confronted such triumphantly unselfconscious, undisguised, and systematic religious, cultural, social, and racial bigotry. Even the students coming from traditional Christian backgrounds and privy to the basic precepts of Christian anti-Judaism—the replacement theology, the crime of deicide—are clearly shocked by the rhetorical abuse, graphic imagery, and violent implications both attributed to and directed against the Jews of the European imagination. As a result, while students are not expected to come to class with prior academic training in the subject matter, the course's designation at the third-year level ensures or implies that intellectual and emotional maturity are required for working with such material; and I consistently refuse to give lectures in high schools or to audiences with significant numbers of young adults of high school age. (I do make one concession in the course: allowing students to leave the classroom prior to the analysis of the visual representations of the blood libel.) This issue of intellectual and emotional maturity is important enough to be addressed in the introductory lecture and emphasized throughout the course: students are encouraged to suspend moralistic (and anachronistic) value judgments and to take their distance from the material by treating it as a medical pathologist would treat a cancerous tissue sample. After all, the story of the con-

struction, dissemination, and evolution of Europe's imaginary Jews is, if anything, a paradigmatic case study in a cultural pathology whose treatment requires understanding through dispassionate analysis. Such cool-headed removal from a hot topic is predicated, among other things, on careful terminological choices.

Students need to understand that the term *antisemitism* is an inadequate explanatory tool when used out of its historical context—the nineteenth-century modernizing rationalization and social justification of traditional Judeophobia in the categories of racial pseudo-science. This is not mere academic pedantry. By misnaming a phenomenon we run the risk of misunderstanding it. Although smoking and lung cancer are causally related, other factors come into play if the former is to produce the latter: no medical professional would apply to nicotine addiction the exploratory methods and terminology reserved for the diseases it causes. By the same token, those who apply the term *antisemitism* to pre-modern attitudes toward Jews erase the essential difference between religiously and biologically informed worldviews, a difference between the survival and growth of Jewish communities, in spite of bloody pogroms and expulsions, in Christian Europe, and their annihilation in post-Christian Europe. Nor is it more productive to apply this term indiscriminately to current attitudes toward Jews and Israel. Those using the phrase *new antisemitism* with reference to Jew-hatred masquerading as anti-Zionism inadvertently trade terminology's explanatory value for polemical glibness.

To justify the second component of the phrase *new antisemitism*, one must show that anti-Zionism conceals attitudes rooted in the belief in specific Jewish racial biology (i.e., the myth of *semitism*). This might indeed be true in some cases, as seen below in the flyer distributed by Malmö rioters—a revealing alliance of Muslim immigrants and Swedish leftists—during the March 2009 Davis Cup match between Sweden and Israel.



But not in other instances, where anti-Zionism rationalizes any combination of *anti-Judaism* and *Judeophobia*—social, cultural, and political apprehension vis-à-vis Jews—producing such strange ideological bedfellows as Mel

Gibson and Desmond Tutu, or Vanessa Redgrave and Pat Buchanan. It is true that *Judeophobia* does not roll off the tongue as easily or pack the same rhetorical punch as the more familiar *antisemitism*. As an analytical tool, however, it is more precise than the phrase *new antisemitism*. There is nothing new about the monomaniacal singling out of Israel for denunciation by international bodies (the UN, Human Rights Watch) and the left-wing press (*The Guardian*, *Le Monde diplomatique*), or about the outright denial to Jews of the universal right to national self-determination by self-professed Western anti-Zionists. These practices are best understood not as qualitatively new but as the most recent manifestations in a long historical series of such discriminative Judeophobic practices. There is no novelty whatsoever in Britain's present-day leftist demagogues like George Galloway or Ken Livingstone, who are able to translate Jew-hatred, thinly veiled as anti-Zionism, into the same vote-winning political formula as their right-wing predecessors Adolf Stoecker and Karl Lueger, who invented that formula over a century ago, riding to electoral success in *fin-de-siècle* Germany and Austria on the wave of Judeophobia in the then shiny new guise of antisemitism.

These methodological considerations explain the course's chronological framework, which, as far as the modeling of the Jewish Other is concerned, does not go beyond *The Protocols of the Elders of Zion* and Otto Weininger's *Sex and Character*—that is, the first decade of the twentieth century, when Europe's imaginary Jews received their last conceptually important updates. All that comes afterward are variations at the crossroads of the *Protocols'* conspiracy theories and Weininger's racial metaphysics, with the politically expedient passing of the baton from the right to the left and back: from Henry Ford's and Alfred Rosenberg's "International Jew" to Joseph Stalin's "Rootless Cosmopolitan"; and from the neo-conservative Jewish cabal haunting Berkeley's left-wing radicals (on the facing page is a poster I collected, in 2006, in The People's Park) to Stephen Walt's and John Mearsheimer's Israel Lobby.

Thus, rather than spend any more of precious class time on the depressingly predictable modern permutations of anti-Judaism, Judeophobia/Judeophilia, and antisemitism, I prefer to leave this subject as an option for individual research projects. About half of the students in each class indeed prefer to go outside of the course's chronological framework and material, focusing on a broad range of more recent topics and sources—from Soviet anti-Zionist propaganda to Jewish representation in North American cinema; to the impact of Christianity's Jewish Other on Israeli art and thought; and to the European imaginative roots of Muslim anti-Zionist rhetoric. For my pedagogical purposes, the choice of individual topics is not as important as the evidence that the students leave the course equipped



with the analytical skills they can later apply in the areas of their academic interests, be it the nineteenth-century English novel, German Enlightenment philosophy, the imaginative universe of Mahmud Ahmadinejad, Israeli post-Zionist historiography, or current Canadian elections.

An important pedagogical goal in the course is to train students to recognize the logic, rhetoric, and imagery of the Christian and post-Christian lexicon of Jewish difference when it is deployed surreptitiously. Such implicit utilizing of the Jewish Other can be a deliberate ideological ploy, as Marc Weiner shows in his brilliant study of Wagner's operas, *Richard Wagner and the Anti-Semitic Imagination* (1995). But it can also be spontaneously suggested by the narrative logic of the basic Christian story informing the plot of J. R. R. Tolkien's *The Lord of the Rings*; or unwittingly imposed by the powerful mythical appeal of the narrative functions of the imaginary Jews, as in the popular culture franchise *The Smurfs*, insightfully analyzed by a student in my course. Finally, it may please the adherents of deconstruction theory that the discourse of Jewish difference can escape authorial intent and take on a life of its own, as in the *Globe and Mail*

article I cite in the introductory lecture—a piece describing Toronto’s mayor-elect as “a man of integrity, a new broom who is sweeping the moneylenders out of our civic temple.”³ Yet again, this is not mere academic pedantry. The ability to recognize and interpret narrative and symbolic elements of the language of Jewish difference in apparently innocuous discursive situations remains as essential today as it was seventy years ago, especially for the targets of this discourse. I am continuously shocked at the helplessness of the Jewish intelligentsia when, after all that has been written about it, they confront the image of the Jewish Other.

Take the international affairs pundits Thomas Friedman and Roger Cohen, who never miss an opportunity to sermonize on the antiquated ways of Zionism in the ideological fantasyland of *The New York Times*, where Jew-hatred would be a thing of the past if only Israel gave in to its foes. Neither man is to be envied, for it is an arduous emotional and intellectual task to preach the Gray Lady’s gospel (I choose my terms carefully) while trying not to sound “too Jewish,” even as the Jewish surnames of these globe-trotters set off hotel fire alarms from Dubai to, increasingly, London.⁴ Historically, assimilated Jewish intellectuals have not been good at multitasking: the task of working out their identity issues while holding on to a day job has often led them to the uncritical adherence or blindness to the most poisonous aspects of the cultural majority’s image of the Jews. Forget the pathological cases of Otto Weininger and Simone Weil—even the founding fathers of Zionism (Herzl, Nordau) did not escape the logic and rhetoric of Europe’s Jewish Other. One should then show lenience to the hapless Friedman when, deep in yet another exercise in not sounding “too Jewish,” he parrots Walt’s and Mearsheimer’s Israel Lobby canard without giving thought to its full historical resonance.⁵ It is less amusing but equally instructive to witness Cohen’s misreading of “The Suffering Olympics” in Eastern Europe, where the Shoah, perpetrated with active help from local populations, is obfuscated by the insistence on Communist crimes as equal to those of the Nazis.⁶ What the journalist does not see, and this transpires

3. The reader will note the Freudian slip in the use of the Jesus metaphor: the canonical money-changers he chases from the Temple are replaced here by moneylenders, whose Judeophobic resonance hardly needs explaining. John Barber, “Lobbyist Buys a Date with Mayor Miller,” *The Globe and Mail*, January 27, 2004.

4. See Roger Cohen’s unusually honest assessment of his own position as an assimilated European Jew: “Jews in a Whisper,” *The New York Times*, August 20, 2011.

5. Thomas Friedman, “Newt, Bibi, and Vladimir,” *The New York Times*, December 13, 2011.

6. Roger Cohen, “The Suffering Olympics,” *The New York Times*, January 30, 2012.

in his interview with the Lithuanian prime minister, is that for many East Europeans, who invoke them, Communist crimes are a byword for “Jewish crimes,” in keeping with the Nazi equation of Bolsheviks and Jews that harks back to *The Protocols of the Elders of Zion* and thence to the age-old metaphysical apprehension of an anti-Christian coup spearheaded by the Satanic Jews (see Norman Cohn’s studies, *The Pursuit of the Millennium* [1975] and *Warrant for Genocide* [1981]). As such, the invocation of Communist crimes not just obfuscates the issue of local responsibility but absolves the perpetrators by turning their actions into acts of self-defense against “The International Jew.” The fact that a *New York Times* columnist with intimate knowledge of British Judeophobia should prove so blind to such a basic element of the discourse of Jewish difference is an argument for the urgency of educating young people, Gentiles and Jews, in the history and structure of this discourse.

This pedagogical task is particularly urgent in the case of young Jews, whose responses to the course material give me more reason for alarm than those of students from non-Jewish backgrounds. How can I forget the bright Jewish girl, educated in Toronto’s most prestigious secular Jewish day school, informing me with matter-of-fact innocence that “Kids at school used to say that Jews killed Jesus”? Or that young man who, closer to the end of the course, came to my office to ask, “How did they allow you to teach a course like that?” as if I were imparting to students some secret knowledge that a mythical “they” had conspired to keep hidden at arm’s reach in the nearest library or (online) bookstore. Not to mention the regular “coming out” of Jewish students in whose families Jewish identity is a taboo subject and who discover in the course of an academic semester both the inspiration and the tools for an adolescent rebellion against their “Jewishly repressed” baby-boomer parents. All this is conveyed through semi-whispering confessions recalling the meaningful winks and nods of mutual recognition and understanding exchanged by Soviet Jews in the gray years of Brezhnev’s reign.

In general, I think we are in for a bumpy ride as some members of the aging Jewish intelligentsia of the baby boom generation face the mounting pressure to reconcile the leftward political leanings of their youth with the growing anti-Zionism (read Jew-hatred) of the culture of the left. The recent public rows around Tony Kushner and Tony Judt are portents of more things to come (for the lovers of forecasts, I recommend a David Remnick watch, as *The New Yorker* under his editorship is becoming a clearinghouse of leftist platitudes about Israel). This will be the context in which today’s young Jews reach their intellectual maturity, and it is of paramount importance to give them the factual knowledge and analytical tools that will enable them to understand and deal with the latest developments in the long

history of Jewish assimilation and its discontents—the subject that closes my course. When it comes to the language of Jewish difference, the process of acculturation makes the distinction between its Jewish and Gentile carriers rather artificial, thereby rendering the common “I am myself a Jew” alibi of today’s secular anti-Zionists quite unconvincing. It is by placing them in the age-old psychodrama of Jewish acculturation, often referred to by the simplistic moniker of Jewish self-hatred, that we can understand and explain to young Jews how accomplished artists, scholars, and journalists, out of a desire to be moral intellectuals, can paradoxically become intellectual and moral failures as Jewish thinkers.

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Irrational Iran

Israel W. Charny*

*Hasten the emergence of . . . the Promised One,
That perfect and pure human being, the one that will fill this world with justice and
peace. They [the dead] have shown the way to martyrdom which we must follow.*

In the Muslim tradition, the hidden Imam will soon appear. Ahmadinejad has referred to being in touch with the Hidden Imam on numerous occasions and has prayed and professed the Messianic coming. One of the most disgraceful statements of contact with the Hidden Imam was made by Ahmadinejad following a truly disgusting invited address by him to the United Nations General Assembly in September 2005. In January 2006, the *London Telegraph* quoted from Ahmadinejad's speech to the United Nations: "We have a mission—to turn Iran into the country of the Hidden Imam," Ahmadinejad said. On May 7, 2006, President Ahmadinejad wrote the following to President George Bush:

According to divine verses, we have all been called upon to worship one God and follow the teachings of divine prophets. To worship a God which is above all powers in the world and can do all He pleases . . .

The Almighty God sent His prophets with miracles and clear signs to guide the people and show them divine signs and purify them from sins and pollutions. And He sent the Book and the balance so that the people display justice and avoid the rebellious . . .

Divine prophets have promised: The day will come when all humans will congregate before the court of the Almighty, so that their deeds are examined. The good will be directed towards Heaven and evildoers will

meet divine retribution. I trust both of us believe in such a day, but it will not be easy to calculate the actions of rulers . . .

Liberalism and Western-style democracy have not been able to help realize the ideals of humanity. Today these two concepts have failed. Those with insight can already hear the sounds of the shattering and fall of the ideology and thoughts of the liberal democratic systems.

The concept of apocalyptic thinking as motivating, structuring, and driving the behaviors of leaders of countries that have devastating arsenals of weaponry is frightening. Throughout history, madmen with images of world domination have wrought enormous devastation. Add to this a charismatic individual leader, super-powerful archetypal images of gods and messiahs, and magical thinking, and there are huge numbers of people who will follow such manifestations blindly. Order them to die for the cause, and they will. Order them to kill for the cause, and they will.

After all, the minds of all of us human beings constantly use fantasies, images, pipe dreams, and far-reaching wishes for one or another magical or total event to embody some perfection that we dream of in our personal cosmology.

The further terrifying truth about our human species is that a large number of us—possibly a majority—are susceptible to believing the magical nonsense proclaimed with certainty by our leaders, especially in religious or ideologically fervent governments.

Apocalyptic thinking goes beyond murdering target groups to achieve a more beautiful world, as the messianic leaders describe their vision. It also involves images of bringing about the end of all of world civilization as it currently exists, generally for the mythical purposes of inviting a world of messianic reconstructed replacement. And the terrifying truth is that human science is moving toward the means to destroy the entire ecosphere and the planet; in fact, some scientists believe that the means are already at hand, such as the possibility that multiple nuclear explosions could affect the very force of gravity of Planet Earth.

SUICIDE BOMBING THINKING

Apocalyptic thinking also includes the bizarre, ridiculous, but deadly thinking that is manifested in suicide bombings, where people assign martyr status to being the agents of the deaths of other people through their own deaths—always of course in a quest for the “better world.” Some years ago, the Western world guffawed at the thought that there could be anywhere near a sufficient number of human beings who would be willing to give up their lives to be suicide bombers. In fact, what proved to be the case is that,

in one country after another, the number of would-be suicide bombers exceeded the demand by far.

It is utterly amazing how many human beings make themselves available to solve the basic existential anxieties of our human existence by putting an end to it all, and with it as well a disgusting added joy and satisfaction in putting an end to the lives of so many other people. The pathology of such resolutions of a universal basic existential anxiety fuses with the idealism and the nonsense of political ideologies to a point where people go on to be suicide bombers out of an inflamed sense of purpose, fullness, and as if such an act is a contribution to the betterment of life.

Is it possible that religious-national leaders, driving for supreme power in whatever their ideology and identity lies, can fall victims to the same pathology of being suicide bombers—meaning that they would destroy their nations in the course of killing their enemy en masse? Is it possible that religious-national leaders can believe their own messianic myths to the point of acting on them as if they will really bring on a better world?

There is also the consideration that those who die for the cause will be honored *shahids* (martyrs)—a “great way to go.” Rational people cannot imagine how so many misguided souls line up to be suicide bombers. Do we really know how to answer the present puzzle? Many historians have pointed out that the great megakillers of history often bring enormous death to their own people. In many cases, this happens over a period of time—the original grandiose expansion of power that at first brings death to the enemy necessarily triggers counter-reactions in which the same enemy people fight back and kill large numbers of the perpetrator people; thus, the losses of the Germans and the Japanese in WWII. Some thoughtful analysts believe these are examples of megalomaniac leaders killing their own people, for the counter-retaliation and revenge they bring on their people cannot but cause many fatalities.

Moreover, many megalomaniac leaders kill millions of their own people directly. See Stalin and the deaths of an estimated 54 million Russians! See the no small number of Germans killed directly by Hitler! See the 36 million dead Chinese credited to Mao Tse-tung!

Initiating a nuclear war has to cause millions of deaths, not only of the designated victim peoples but of the perpetrators. One would think this would be inconceivable for a leader to set in motion, but is it really so drastically different from all preceding events where leaders have presided over the murders of many of their own people? Can a national leader be a suicide bomber leader? Can a nation become transformed into a suicide bomber nation?

KILLING OFF THE JEWS!—A GOAL THAT BRINGS GREATNESS!

There is a further deadly consideration. For many in this world, a highly desired objective is getting rid of the Jews. It is for them a profound inspiration, “A life’s work”—even deserving dying for it. Is it possible that the joy of ridding the world of the hateful Jewish state of Israel is “worth” the obliteration of Teheran and perhaps more of Iran?

Another possible target of special choice is the accursed United States of America and its world empire. Is it worth dying to kill off America?

In Iran’s case, there are several justifying theological concepts for taking this road:

1. The people are on a mission for Iran’s greatness.
2. The people are on a mission to bring on the Messiah.
3. The people who give their lives for the cause are privileged and eternally honored “martyrs” (*shahids*).
4. If the enemy people who are destroyed are the Jews, this is God’s/ Muhammed’s will and a magnificent fulfillment of a centuries-old quest, and even a fulfillment of a somewhat universal hope (witness worldwide antisemitism).
5. If the Americans are to be the victims, they are the ultimate oppressor of the Muslim world (a kind of Muslim version of an “anti-Christ”—one, moreover, in full cahoots with the accursed Jews).

DETERRENCE FOR A RATIONAL IRAN (BUT NOT FOR A
NUCLEAR IRRATIONAL IRAN)

One defense analyst for *Haaretz*, Reuven Pedatzur, a political scientist trained at Tel Aviv University who is director of the Galilee Center for Strategy and National Security in Israel, raises the specific question of whether the Iranians are rational. Pedatzur correctly sketches the alternatives. If Iran is expected to react as a rational state, deterrence strategies can work to stop it from using nuclear weapons and could even justify living with a nuclear Iran. On the other hand, if Iran is *not* expected to be a rational state, “there would apparently be no choice but to try to destroy Iran’s nuclear program.”

Pedatzur continues, still correctly, that Israel’s policymakers face a “complicated dilemma.” Will Iran prove to be amenable to deterrents, as the Soviet Russia proved to be in the Cold War? Or, he asks, “Are Ayatollah Khomeini’s successors willing to commit suicide and bring doom to the Iranian people solely to kill a few hundred thousand inhabitants of the detested Zionist entity?”

Pedatzur cites the work of a professor, Ofira Seliktar of Gratz College in Philadelphia. Seliktar, who has researched a vast literature of the subject of Iran's rationality, notes in an abstract to an article about this issue that:

The realization that Iran may soon develop nuclear weapons has generated a heated debate about the nation's ability to manage its arsenal. Part of the discourse about the nuclear rationality of Third World dictatorship and rogue states, the debate has pitted so-called nuclear optimists, analysts confident that Iran is able to handle such weapons, against nuclear pessimists, who warn that the regime operates in a manner that deviates from the principles of rationality that underlay nuclear deterrence, thus rendering the doctrine of mutual assured destruction invalid. This article examines the reasoning employed by the opposing groups, concluding that they are essentially articles of faith. Since there is virtually no margin of error in nuclear matters, political leaders need to be aware that should the optimist prove wrong, the consequences can be dire.

Seliktar concluded that two thirds of the researchers she studied can be described as falling into a nuclear optimist category; in other words, two thirds of the writers on the subject believe that a nuclear Iran will be a rational Iran.

BETTING OUR LIVES ON A TWO-THIRDS CONSENSUS?

Seliktar's research of opinions is obviously important and deserving of further reading, but Pedatzur goes off into an absolute conviction that there can be no other possibility than the conclusion that Iran will be rational—forget the one third others in Seliktar's sample or any of us who have differing ideas and say otherwise. Pedatzur makes the judgment that there is a serious risk of Iran's being irrational into anything from stupid to ridiculous to crazy to seriously dangerous. Thus, he cites the history of Khomeini, who had declared that he would never sign a ceasefire in which Iraq is compelled to sign a truce with Iraq when the bombs began to fall on Tehran, and convinces himself there is no risk of a megasuicide killing by Iran.

Pedatzur writes, "We should therefore note Israel's error when it magnifies the Iranian threat and depicts it as an existential threat. Israel's deterrent capability suffices to prevent an Iranian leader from entertaining thoughts about firing a nuclear warhead at it. The time has come to stop complaining about the bogeyman of existential threat and desist from jingoistic social actions that sometimes create a dangerous dynamic of escalation."

In contrast to Pedatzur, another American analyst, Louis René Beres, a political scientist who is a long-term nuclear strategy analyst, warns strongly against trusting or taking risks with emotional states and leaders:

Most worrisome are those leaders who might combine recalcitrance and nuclear capacity with irrationality. Without a nuclear “balance of terror” during the Cold War, it is likely there would have been a third world war.

For Israel, America’s core ally in the Middle East, a similar risk of enemy aggression stems from the obvious interrelatedness of our national vulnerabilities, and from our sometimes interpenetrating strategic doctrines.

This is not the time for Americans or Israelis to argue foolishly on behalf of a “nuclear weapons-free world.” It is time, however, for creating an improved and up-to-date U.S. strategic doctrine, a comprehensive and feasible plan that would jointly serve Washington’s national security needs, and those of our critical allies in Jerusalem.”

My own conclusions are as follows:

As a psychologist and genocide researcher over several decades, I have come to an unquestionable conclusion that our species is deeply flawed. A great many of us do irreparable harm and destruction to life. We abuse ourselves and others; we kill ourselves and others. Look at human history and put aside the fairy tales—including the rosy Santa Claus general psychology textbooks that barely present truths about human evil in many aspects of our lives.

I have written in the professional psychiatric and psychological literature that I believe all psychiatric and psychological diagnosis should be built around a standard format in which there are two guiding questions or dimensions. The first dimension is diagnosing the extent to which an individual is doing harm to himself or herself: Disorders of Doing Harm to Oneself. This category in effect registers the many problems for human beings in functioning, breakdowns, and emotional suffering for which they seek psychiatric and psychological care.

The second category refers to the harm(s) that people do to other human beings: Disorders of Doing Harm to Others. These include the basic, obvious kinds of abuse that so many people thrust on others, such as violence or exploitative sexual relationships, but also the many more subtle ways in which people do what we colloquially but correctly describe in everyday language as “driving the other person crazy.” That is very much the experience that many a child has with a parent who, without being directly abusive, is twisting the child’s emotions and mind into deep unpleasantness or terror or hurt. That is really the experience that marital partners experience when their spouse undermines them and deprives them of feeling respected or secure in being cared for and loved.

The problem is that these disorders are often not recognized clearly in existing psychiatric diagnosis, and the field of mental health often walks around and away from these disorders of harming others. For example, if

you look at the prevailing professional literature in mental health, you will see more than once perhaps honest but really quite ridiculous assertions that the majority of parents who beat their kids without reason or mercy are psychiatrically normal on examination. Ditto for husbands and wives who physically abuse one another.

You will also find the same conclusion attached to a great many researches that established for us the important knowledge that the majority of those who committed genocide, such as perpetrators of the Holocaust, big and small, also were psychologically normal, or what Holocaust historian Christopher Browning calls “ordinary people.”

The world is full of hapless people who do end up in mental hospitals when they go too far in really believing nonsense and letting themselves be afflicted to the point of disturbance in their routine functioning that mark them as crazy. But, sadly and dangerously, our world also repeatedly has leaders who are crazy with power—who, once they are identified as crazy, are not dethroned, because most systems of government do not have sufficient corrective machinery. World human history is full of a large number of political leaders who exercised enormous genocidal destructive power and killed tens of millions of human beings. Their self-anointed power entitles them to be superior and God-equivalent and to exercise that self-assumed power to assign death to millions of other human beings without any hesitation.

What is unambiguously clear is that the mental health field has failed to provide tools for identifying the rotten madness of vested political figures and established leaders who, from their positions of power, determine that they are entitled to actually go and kill enormous numbers of people—into the millions. It’s as if being an identified leader makes one untouchable in the framework of what constitutes mental health—and *that* is what is crazy, and moreover, leaves us as a society conceptually impotent in the face of the worst kinds of insanity that humans can possibly exercise, namely the killing of people in the millions.

My point here is that we have seen leaders and societies go completely “irrational,” “crazy,” “mad,” and proceed to destroy millions—i.e., Hitler, Stalin, Mao Tse-tung, Pol Pot—and the list never stops growing. It would be deeply, irreversibly tragic if we ignored a whole bunch of “little guys,” such as Amin, Milošević, Bashir, or Assad, who use their offices as presidents, prime ministers, and military commanders to knock off “only” a small number of people. So when we come to the question of whether Iran is irrational, we are not talking about a phenomenon that is new to this world or even rare.

It has happened many times before. We might have been somewhat better off were we able to recognize the truths that were staring us in the

face and pushing at our very eyeballs: Hitler, the maniac, speaking of killing the Jews to a frenzied crowd; great Father Stalin, who liquidated his own assistants regularly and was reported to engage in “games” of putting out his cigarettes on their palms, let alone liquidating millions of one ethnic group after another in the Soviet Union; Mao, who expressed himself with open sadistic glee about the thrill of killing people and undertook bizarre campaigns such as the Great Leap Forward, which maimed the lives of countless everyday people and claimed the lives of millions of them, his countrymen.

Civilized people who believe in justice and Santa Claus and evolution of a better human being and society may feel uneasy and embarrassed by the presence of someone wild, when one dares to raise a question of whether a given leader and/or government can be crazy enough to kill so many people—not only other peoples, but also so many of their *own* people. It can seem like the questioner is the mad one, certainly rude and uncouth, and an undesirable spirit who should be unwelcome in the otherwise respectable halls of our academies or public forums.

But the facts are that it is long since time that we face the overwhelming propensity and *high* probabilities of mass destruction on the part of certain leaders and governing organizations.

Are there serious problems with doing so in terms of standards of evidence rather than hearsay? Does such thinking open doors to indefensible abuse of others’ identities? Of course, and a fuller discussion of these issues is critical. But the first critical need is to identify *in advance* when there will be a high probability of major killing.

What are the evidences of Iran’s behaviors, policies, and guiding value concepts?

Is Iran irrational? Of course it is.

If irrational means destructive of human life by way of active worldwide terrorism—absolutely. Iran is indicted in terror in the Middle East, Europe, Asia, and South America.

If irrational means committed to the destruction of other peoples? Of course it is. “Death to Israel.” “Death to America.”

If irrational means a leadership that eschews democratic processes and further tortures and murders those who dare oppose them, the record is again clear. The Western world has expressed great respect for broad segments of the Iranian populations as inspired by modern knowledge, beautiful esthetics, and democratic values, but the Iranian regime has crushed its people mercilessly.

If irrational means subscribing to Earth Is Flat primitive ideology and committing state resources to the promotion of insane anti-facts, Iran is such a state, one that actively promotes denial of the Holocaust.

If irrational means susceptibility to or going over the edge to mystical religious messianic ideas that are linked to images of wide destruction in order to promote salvation, this theme—which is present in many religious cultures but which can be circumscribed more as a fabled metaphor more than a reality—has moved to prominence and operational thinking in the minds of key Iranian leaders.

Emanuele Ottolenghi, a senior fellow at the Foundation for Defense of Democracies and the author of *The Pasdaran: Inside Iran's Islamic Revolutionary Guard Corps*, asks: “Are Iran's leaders *that* crazy?”

Western expectations that Iran will behave rationally and agree to a compromise under the increasing pressure of sanctions ignore Iran's perspective on the costs already incurred, the price of completing the journey, and the advantages of turning back. For Iran, it is far more rational at this point to accelerate the program and reject any agreement the West would be prepared to sign.

If Western nations wish to avoid a military confrontation in the Persian Gulf and prevent a nuclear Iran, they must adopt crippling sanctions that will bring Iran's economy to the brink of collapse. That means a complete United Nations-imposed oil embargo enforced by a naval blockade, as well as total diplomatic isolation. And they must warn Iran that if it tries to jump the last wall, the West is willing and capable of inflicting devastating harm. U.S. president Barack Obama has said decisively: “Let's begin with a basic truth: No Israeli government can tolerate a nuclear weapon in the hands of a regime that denies the Holocaust, threatens to wipe Israel off the map, and sponsors terrorist groups committed to Israel's destruction.”

I don't think it is only the Israeli government that should be adamant that Iran not have nuclear weapons. In *Antisemitism Explained*, a new and important book on the incredible contagion and social psychology of antisemitism, my colleague psychologist Steven Baum says, super-shockingly and disturbingly, “I am scared and saddened because I know enough about the psychology of genocide to believe that a Second Holocaust of Israel is imminent” (Preface, xiv). I definitely do *not* believe that, but I definitely am very scared of that possibility.

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Reversing Social Memory in Portugal

Francisco de Almeida Garrett*

All nations have forgotten, negative pages in their history, but the long centuries of catholic antisemitism in Portugal cannot be denied. This type of discrimination had a serious effect in at least one case in the 20th century.

Over the years, Captain Arthur Carlos Barros Basto has been compared by historians to the French general Alfred Dreyfus, who was convicted in 1894, innocently, for high treason. The acknowledged similarities are referred to in the report of the Portuguese Parliamentary Commission for Constitutional Affairs, Rights, Freedoms and Guarantees, which follows this essay.

The aim of all politics is justice, and justice is by its nature moral, because only the pretense of moral correctness allows us to distinguish between law and brute force. Barros Basto was a victim of injustice. His condemnation was motivated by religious intolerance and antisemitic prejudice.

The story dates back to 1937, when the Army Discipline Board of Portugal decided to separate from service Captain Arthur Carlos Barros Basto, ruling that he did not have the “capacity for the moral prestige of his function and the decorum of his uniform.” At issue was circumcision procedures performed on students of the Israel Theological Institute of Porto, which Barros Basto founded.

According to the Jewish religion, the practice of circumcision is related to the covenant established between Hashem and Klal Yisrael. Thus, the decision of the Army Discipline Board not only condemned Barros Basto, it was a condemnation of Judaism and Jews.

The separation from service, with the label “immoral man,” truly constituted for Barros Basto (as both the officer and the Jew) a civil death penalty, because he was definitively suspended from performing his duties, definitively impeded from pursuing his career, and definitively banned from wearing his uniform, badges, and military insignia; and he was forced to forever remain subject to disciplinary action of the Army (i.e., he was

forced to maintain his civilian life and religious practice forever shaped by military rules completely hostile to the most basic Jewish precepts), under penalty of being retried and reconvicted!

At that time, the Army Discipline Board was guided by a doctrine that was axiomatically antisemitic: the doctrine of the Catholic Church, inspired by the ancient councils—for example, Canon LIX of the Fourth Council of Toledo (633), which established that the “abominable circumcision” is an insult to the body. Such teachings are improper in Judaism and cannot have the grace of Hashem.

Unfortunately, Captain Barros Basto was hit hard emotionally and never completely recovered from his public humiliation. He always maintained hope, however. On his deathbed, in 1961, he predicted, “One day I will be vindicated!”

As the years and decades rolled by, the impetus to rehabilitate the good name of Barros Basto and reinstate him in the Army become compelling. It was necessary to do this and bring justice not only to the captain but also to all Jewish people, and because one cannot neglect or ignore all the evil that surrounds us.

In August 2011, Isabel Ferreira Lopes, the granddaughter of Barros Basto, met with a team of British and Portuguese jurists, all men of religious and civil laws. Lopes is a very strong Jewish woman, a woman who never gave up trying to bring justice to her grandfather. (Lopes tells, in the December 2011 issue of the *Journal for the Study of Antisemitism*, of her determination to fight for her grandfather’s honorable memory; this essay relates how it was restored.)

When the sentence of 1937 was brought to the attention of the president of the Portuguese Bar Association, Antonio Marinho Pinto, he did not know about that sentence and was shocked by what he read. Upon reading it, he announced: “This ruling is a disgrace the Parliament needs to correct. All of us should feel as Sephardim Jews until justice is done for Captain Barros Basto!”

At the end of October, with the support of noted religious leaders, Isabel Lopes sent a request to Parliament invoking the Dinim Law, which flows from the ancient tradition of the Covenant of Noah, and requiring the intervention of the Parliamentary Commission for Constitutional Affairs, Rights, Freedoms and Guarantees. This request was signed by Rui da Silva Leal, a leading Portuguese attorney.

Specifically, the request claimed the grave violation of human rights and the intolerable violation of the core of fundamental rights materially protected by the Constitution of the Portuguese Republic, because the facts that the Army Discipline Board considered proven in 1937 and that led to a

finding of “moral incapacity” and consequent “separation from service” of Barros Basto instead fall squarely within the universally accepted rights of all humans, including the right to religious freedom.

Moreover, the decision of the Army impedes anyone from understanding how the military judges reached the degree of certainty they supposedly achieved in relation to the facts they considered proven. It is a decision without any basis, one that, because it does not critically examine the means of proof of evidence that was considered or disregarded, culminates in the censure of Barros Basto for not pursuing the person who denounced him.

The compelling arguments of Isabel Lopes, the granddaughter of Barros Basto, met with success: the decision of the Army Discipline Board would be neatly corrected by the Portuguese Parliament. This decision is absolute, carrying truth.

On February 2012, there was a meeting of the deputies of the Parliamentary Commission for Constitutional Affairs, Rights, Freedoms and Guarantees. At that meeting, the commission approved—unanimously—the report written by legislator and law professor Carlos Abreu Amorim.

The report explains, point by point, that the condemnation of Barros Basto is justified, evaluated, and motivated by religious intolerance and antisemitic prejudice: “Barros Basto was separated from the Army due to a general atmosphere of animosity against him motivated by the fact of being Jewish, not covering it up, and instead exhibiting an energetic proselytism, converting Portuguese Jewish Marranos and their descendants.”

On behalf of truth, this affirmation is vindication enough. But the Parliamentary Commission for Constitutional Affairs, Rights, Freedoms and Guarantees said something even more important:

The application for reinstatement of Barros Basto is not limited to rehabilitation and reintegration into the Portuguese army of a soldier wronged seventy-five years ago. It is much more than that. The remedying of this case translates into repairing the moral dignity of our own country, a nation deeply respectful of the integrity of fundamental rights, the cornerstone of the materiality of our rule of law. With the posthumous rehabilitation of Barros Basto, all Portuguese will be acquitted of an injustice done to a man that turned out to tarnish an entire collective. The posthumous restitution of honor to Barros Basto and his moral rehabilitation will make the most perfect justice, the undoing of an injustice. As such, all of us, Portuguese men and women, will be freer and more dignified.

With the highest commendation, the Anti-Defamation League (ADL) conveyed their deep appreciation for the Parliament’s rehabilitation of Captain Barros Basto. That decision was so right and so important for the Jews around the world!

The report of Parliamentary Commission for Constitutional Affairs, Rights, Freedoms and Guarantees was sent to the Parliamentary Commission for National Defence, which also considered, unanimously among all commission members, that Barros Basto was punished for acts that “directly relate to the regular practice of [his] religion” and that the process, which was the target, “is translated into a process of persecution and religious discrimination.”

The report of the Commission for National Defence, which was written by deputy João Rebelo, also states that the decision of the Army Discipline Board, which disregarded the freedom of religion, violated both human rights and fundamental rights that are materially protected by the Constitution of the Portuguese Republic (CPR).

The distinction between human rights and fundamental rights protected by the CPR results from the different legal and historical perspectives into which these two categories fall. But the freedom of religion is present in either of these constructs, and so legality was restored.

At a glance, the story of Captain Barros Basto is an extraordinary story, one that could be of interest to a filmmaker. It began when Barros Basto traveled through the villages of Portugal, sometimes on horseback, trying to find descendants of the ancient Jews. The great dream of Barros Basto’s life was to rescue the descendants of those forcibly converted to escape King D. Manuel’s 1496 expulsions, and the persecutions that followed by the Inquisition.

And what was his payment? He was tried in military court, and was separated from the service—with the label “immoral man”—because he sought to respect the covenant of Hashem with Klal Israel.

In the courts, civil or military, usually everything ends once the sentence is pronounced. But in the case of Barros Basto, this ending was different. When the verdict was read in 1937, the struggle for justice and the reversal of his social memory in Portugal had only begun. In 2012, *baruch Hashem*, the fight was finally won.

*Francisco de Almeida Garrett is a Portuguese jurist who was coordinator of the team of jurists who rehabilitated Barros Basto. The author of books on philosophy of law and philosophy of religion, he is married and has two children.

Note: The following report was translated into English by Manuel Azevedo.

ASSEMBLY OF THE PORTUGUESE REPUBLIC

CONSTITUTIONAL AFFAIRS, RIGHTS, LIBERTIES AND GUARANTEES COMMITTEE

Petition No. 63/XII/1. Request for reinstatement in the Army of Infantry Captain Arthur Carlos Barros Basto, who was the target of political and religious segregation in 1937.

1. Introductory note

Isabel Maria de Barros Teixeira Lopes da Silva Ferreira presented a Petition to Her Excellency, President of the Assembly of the Republic (Speaker of the House), asking for “reintegration into the Army of Infantry Captain Arthur Carlos Barros Basto, who was the target of political and religious segregation in 1937,” identified as Petition No. 63/XII/1.

2. The military disciplinary proceedings

Captain Arthur Carlos Barros Basto was born in Amarante, on December 18, 1887, into a Christian family but of Crypto-Jewish ancestry. His grandfather even practiced Jewish religious rites, a fact that Arthur Barros Basto only became aware of in early adolescence.

Carlos Arthur Barros Basto was a distinguished Portuguese military officer, having commanded a battalion of the Portuguese Expeditionary Corps in Flanders during the First World War. He was honored with military decorations for bravery, including the War Cross. Previously, in 1910, shortly after he attended the War College, Barros Basto had become famous for his role in the reclamation of the republic and for being the soldier who raised the flag of the rebels in the city of Porto.

Notwithstanding, his existential journey was marked by the conversion to the religion of his ancestors, a fact that only took place after World War I; by his efforts in rescuing the Crypto-Jews, as well as those who considered themselves descendants of ancient Portuguese Jews forcibly converted centuries ago; and by the freedom of religious worship and the consequent assumption of faith and Jewish religious rituals.

Having adopted the Hebrew name of Abraham Israel Ben-Rosh, Barros Basto began a tenacious national and international campaign to search and convert the descendants of Portuguese Jewish Marranos, known as the “Work of Redemption of the Marranos.” He did it with such commitment and conviction that the English historian Cecil Roth called him the “Apostle of the Marranos.” From 1921, in Porto, Barros Basto began a profound revitalization of the local Jewish community, building the synagogue of

Porto, Mevor Haim, founding the newspaper *Ha-Lapid* and a theological institute (Yeshivah). He established new communities across the north of Portugal, creating the synagogue of Braganza. He exhibited a very active proselytization of Judaism that, although within the paradigm of religious freedom of the 1911 Constitution, did not sit well with the new regime after the coup of May 28, 1926.

With the change of regime, the “Work of Redemption” and the new Jewish converts began to find [life in Portugal] increasingly difficult. Even Barros Basto was subjected to personal and professional restrictions that leave no doubt about the trouble resulting from his behavior: in 1928, he was relieved from the board of directors of the military prison; in 1931, he was required to live at a fixed residence with a curfew; and in 1932, there was an attempt to expel him from Porto and relocate him to Évora (such relocation never took place).

The military disciplinary proceedings n. No. 6/1937, which resulted in his expulsion from the Portuguese Army, probably had its origin in two anonymous letters, dated 1934 and 1935, which accused the captain of practicing homosexuality. Thus, on June 12, 1937, the Supreme Council of Military Discipline, despite having acquitted Arthur Barros Basto on the counts on which the allegations of homosexual behavior were based, unanimously found that Barros Basto performed “the operation of circumcision on several students” of the Theological Institute of Porto, and treated them with “exaggerated intimacy, kissing them and caressing them often.”

Based on that evidence, the Supreme Council of Military Discipline considered it demonstrated on count 5, almost as a way of concluding that Captain Barros Basto had proceeded “in a manner affecting his respectability” and “military decorum.”

This inference is repeated in count 7, which dismisses the fact that Barros Basto had not used any “violent” attitude—which the Supreme Council of Military Discipline considered justified—to “vindicate and discharge his honor and dignity which had been so rudely attacked.” The said council even stated that the omission of the captain to use brutality as a means of redeeming his “honor” as well as the delay in complaining against his detractors had affected his “military dignity and decorum.”

It is these considerations, inferences, and suspicions on which the Supreme Council of Military Discipline based its final decision, reached unanimously, to declare Arthur Barros Basto devoid of the “capacity for moral prestige of his official duty and propriety of his uniform,” applying the penalty of “separation of service” provided for in Article 178 of the Rules of Military Discipline then in force—Decree 16963 of June 15, 1929. The decision ends with the Ministerial Decree dated 06/21/1937: “Execute it,” signed the minister Santos Costa. And so it was done.

3. *The application of the widow*

Arthur Barros Basto was definitively separated from his military career. He saw his life and rescue mission of the Portuguese Marranos fatally subjected to the decision of the Supreme Council of Military Discipline and the Minister Santos Costa. He died in 1961 without ever having been able to reverse the effects of his conviction.

After the revolution of April 25, 1974, on the following day, the Junta of National Salvation, assuming the legislative powers of government, adopted Decree-Law no. 173/74, which, in Article 2, No. 1, directed the reintegration, “in their functions, if they request it, the servants of the state, military and civilian, who have been dismissed, retired, pensioned or compulsorily moved to the reserves, and separated from service for reasons of political nature.”

It is within this political and legal historical context that the widow of Arthur Barros Basto, Lea Monteiro Barros Basto Azancot, on March 7, 1975, made a request addressed to the president of the republic, General Costa Gomes, asking him to do justice to the memory of her deceased husband “to promote social rehabilitation and reintegration, nullifying the deplorable case which had been organized and the sentence of separation so iniquitously ordered complied with by the minister Santos Costa.”

The answer was negative and sustained in an opinion concluding that the application should be refused. as “the case does not fall within the scope of Decree-Law no. 173/74.” The opinion/decision, which restricts its application logic to an application for financial benefits, is predicated on the assumption that the penalty imposed on Barros Basto in 1937 was based on homosexual practices with students of the Theological Institute of Porto, which, as we have stated, is entirely denied in the very disciplinary decision of the Supreme Council of Military Justice.

In other words, the opinion and the rejection of the 1975 application of the widow of Barros Basto, although seemingly in accordance with the condemning decision of 1937, is totally and integrally at variance with that decision!

Strictly speaking, thirty-eight years later, there are facts now given as proven that the Supreme Council of Military Discipline in 1937 decided were not proven “unanimously.”

The decision of 1975 is a strange reinterpretation of events, leaving aside the highly condemnatory decision that sanctioned Arthur Barros Basto, although formally wanting to support it, reinventing charges, circumstances, and motivations.

More than a confirmation of the first sentence, the opinion/decision of 1975 raises itself to the level of a second condemnation in impossible paral-

lel with the first. It wants to judge Barros Basto *ab initio*, sentencing the former Portuguese military officer *in absentia* by *mortis causa*, while it rejected with stunning swiftness a cluster of important legal and logical principles, among which is highlighted the always definitive *non bis in idem* (the double jeopardy principle).

The case of Arthur Barros Basto, above all the delay and the various blockages that have obstructed his rehabilitation, never ceased to cause disquiet both inside and outside Portugal. Already in the 1975 application of Azancot Lea Monteiro Barros Basto, the case refers to the fact that he had become known as the “Portuguese Dreyfus.”

And that is what he in fact is. Even considering only the last few years, the nonresolution of the case of Barros Basto has awakened increasing interest in Portuguese and international media through articles and petitions. The good image of Portugal has been compromised by the fact that among the many thousand situations of religious segregation and antisemitism that unfortunately occurred in the thirties and forties of the last century, the case of Arthur Barros Basto is one of the few that remain without a just resolution among countries under the rule of law and democratic freedom.

4. *Opinion of the rapporteur of the committee*

a) *The decision of the military disciplinary proceedings, 1937*

The sanctioning nature of the decision of the Supreme Council of Military Justice in military disciplinary proceedings n. No. 6/1937 is clear in the cognitive and evaluative methods that underlie it.

Without factual basis. in order to achieve a conviction based on charges of homosexual practices, raised by anonymous accusers, it tries to subsume the established facts in a similar juridical contortion, aiming to achieve a predefined result that would allow a sanction to be placed on Captain Barros Basto.

In this way, it overstates the relevance of Barros Basto’s comportment with his students of the Theological Institute—“exaggerated intimacy, kissing them and caressing them often.” Starting with that known and proven fact, the decision erupts to an illogical and disjointed conclusion that the captain decorated for bravery in World War I would not have the “capacity for moral prestige of his official function and decorum of his uniform.”

Even more serious and far more revealing in the decision of 1937 is the elevation of count 4, which was given as a fact, assuring that Barros Basto carried out “the circumcision operation on several students, according to a precept of the Israelite religion that he professes.” This fact also cements the conclusion of the lower count, “capacity for moral prestige of

his official function and decorum of his uniform,” for which Barros Basto was condemned.

Although it is explicitly recognized that such a practice derives from a religious ritual, the explanatory circumstances were not strong enough to remove it from subjective immorality in which the decision of the Supreme Council of Military Justice forcefully and deviously places it. Thus, one cannot fail to understand that the proof of the practice of that religious precept, as such, was taken and considered as an act capable of affecting the morality of a Portuguese officer, as well as the “prestige” and “the decorum of his uniform.”

Arthur Barros Basto was “separated from the Army” due to a general atmosphere of animosity against him motivated by the fact of his being Jewish, not covering it up, and instead exhibiting an energetic proselytism, converting Portuguese Jewish Marranos and their descendants. In a era colored by antisemitic sentiment, in which the most base theories about superior and inferior races festered across Europe, Portugal was not totally immune to these ideas, as no other European country of that time was. The sentence that victimized Arthur Barros Basto is the most lamentable and clear proof of that.

b) The opinion/decision of 1975

The 1975 decision is legally untenable and morally chilling. It contradicts the evidentiary material acquired in military disciplinary proceedings n. 6/1937, which sentenced Barros Basto. It extrapolates freely, invents facts, draws conclusions that are not justified, and reaches a second posthumous condemnation directed at Arthur Barros Basto without any factual or legal foundation. The significance of that decision, and, concomitantly, the opinion that supports it, constitute a legal opinion that is likely to cause the greatest perplexities.

First, it reduces the claim of the widow of Arthur Barros Basto, from March 7, 1975, to a mere “request for benefits resulting from reintegration, concerning a deceased military.” It ignores and avoids all the logic of the argument made to President Costa Gomes—above all, the clarity of the expression “moral rehabilitation,” which the widow used twice in that document, always immediately subsequent to the term “reintegration.”

Part of the premise was apparently disregarded by the author of the opinion/decision that the claim of the widow of Barros Basto was motivated by purely financial reasons in a futile thirst for “benefits”; in addition, he distanced himself from any consideration of the moral redress deserved by a deceased military officer who had been discredited during the twenty-four years that passed between the sentence that dictated the separation from the Portuguese Army and his death in 1961, as well as the indispensability of

the desire for justice and restoration of truth and the good name of his family, who suffered with him before and after his death on account of a disgraceful decision.

Then, even more surprising, the opinion that led to the decision rejecting the request of the widow supposedly uncovers a discrepancy between the facts alleged and what happened in 1937, expressly stating that “the problem the petitioner focused on in the spirit of Decree Law no. 173/74, of cases of political and religious segregation, especially when occurring at a time when, as is generally known, antisemitism raged in Europe, have much interest in being discussed; however, the facts would completely refute such a claim.”

And then, in section 4 of the same opinion, it is clarified to what extent the decision of the Supreme Council of Military Discipline of 1937 had been substantiated by facts different from those in the application of Azancot Lea Monteiro Barros Basto, “the facts justifying the decision, which came to be approved by ministerial decree, render themselves into homosexual practices with several students of the Israeli Theological Institute of Porto, of which he was the director, which practices were maintained for a long time—over two years and less five—which have nothing to do with the ceremonies prescribed by the Semitic religion.”

It should be noted that this decision of 1975 was not elaborated in the same context of antisemitic hatred that characterized the thirties in the twentieth century in most of Europe (although such an environment can never serve as a mitigating factor), but in a period of post revolution after April 25, 1974, in which Portugal woke up to freedom and respect for fundamental rights, values that today color our rule of law, making this decision a historical and legal paradox very difficult to understand.

The author of the opinion/decision of 1975 wanted to avoid the issue of political and religious segregation, perhaps realizing that it blurred the decision of the Supreme Council of Military Justice, 1937. He exerted all his argumentative strength in focusing it on the facts of homosexual practices, abjuring, as expressly and irrevocably illegitimate, all evidence taken in 1937 by the Supreme Council. He distorted the facts and remade them as he thought best to defeat the petition of the widow of Barros Basto. As already stated, the opinion/decision constitutes a second conviction, much more than a confirmation of the first and in an impossible parallel position with it.

c) Human rights and fundamental rights affected

The classical distinction between human rights and fundamental rights results from the different legal and historical perspectives into which these

two categories fall. The freedom of religion is present in either of these dimensions.

The conviction of Arthur Barros Basto by the decision of the Supreme Council of Military Justice in military disciplinary proceedings n. 6/1937 is factually justified and evaluatively motivated by religious intolerance and by a truly unmistakable preconceived antisemitism in the analysis of the case process. In turn, the opinion/decision rejecting the claim of his widow, Lea Azancot Monteiro Barros Basto, dated 1975, deceptively tries to compose that antisemitic motivation and produces a travesty of facts that had been given as unproven in 1937, trying in vain to convey some suitability to a previously defined decision, but distracting from the facts and falling hopelessly into another prejudice, homophobia.

Both decisions inevitably fatally collide with the materiality of the precepts that underpin freedom of religion, be it under human rights or fundamental rights. The answer to Petition no. 63/XII/1.a—“Application for reinstatement in the Army of Infantry Captain Arthur Barros Basto, who was the target of political and religious segregation in 1937”—for however much that can (and should) be done to fight for the limitless spatial and temporal protection of human rights, it should be evaluated, taking into account the object of the application: a posthumous rehabilitation of a soldier seriously wronged seventy-five years ago whose legal status should be remitted to the regime of fundamental rights currently existing under the Constitution.

In this framework, the rehabilitation of Arthur Barros Basto seems to be inevitable. The petition *sub judice* should be evaluated according to the law currently in force, i.e., the legal-constitutional framework existing at the time of filing of this Petition addressed to the President of the National Assembly by the granddaughter of Arthur Barros Basto, Isabel Maria de Barros Teixeira da Silva Ferreira Lopes.

And in that context, this Petition cannot fail to obtain approval.

d) Beyond the law

All nations, whether on their own volition or not, have forgotten pages in their history, made from unhappy or misguided past events, more or less vanquished, but few want to see them evoked into a present that considers itself emancipated from earlier traumas. The long centuries of antisemitism in Portugal cannot be denied, nor can the persecution of those who assumed their Jewish religion, or even directed at Catholics who were presumed to be descendants of the Hebrew people. The assumption of these traumas reveals itself more painful the less remote are the times of their occurrence. However, it's still rather difficult to admit when similar conduct only dates back a few decades ago.

The application for reinstatement of Arthur Barros Basto is not limited to rehabilitation and reintegration into the Portuguese army of a soldier wronged seventy-five years ago. It is much more than that. After the long and oblique ways that the case took before and after the implementation of political freedom and democracy in Portugal, the remedying of this case translates into repairing the moral dignity of our own country, a nation deeply respectful of the integrity of fundamental rights, the cornerstone of the materiality of our rule of law.

Rehabilitating Arthur Barros Basto is to recognize a tragic mistake made more than seven decades ago, thus regenerating the present and future of the Portuguese people, who want a free, democratic, and tolerant society. With the posthumous rehabilitation of Barros Basto, all Portuguese will be acquitted of an injustice done to a man—an injustice to one that turned out to tarnish an entire collective.

The posthumous restitution of honor to Carlos Arthur Barros Basto and his moral rehabilitation will make the most perfect justice: the undoing of an injustice. As such, all of us, Portuguese men and women, will be freer and more dignified.

Given the above, the Commission for Constitutional Affairs, Rights, Freedoms and Guarantees is of the opinion:

1. That, by force of the direct applicability established in Art. 18, No. 1, of the Constitution of the Portuguese Republic, and in the face of blatant violation of freedom of religion and worship that was perpetrated against Carlos Arthur Barros Basto and that is guaranteed by Art. 41, No. 1, of the same constitutional law, that in accordance with Art. 16, No. 2, of the same constitutional text should be interpreted and integrated in harmony with Art. 1 of the Universal Declaration of Human Rights, as well as by the conditions stated in Art. 10,* No. 1, of the Charter of Fundamental Rights of the European Union, and also the application of Art. 2,* No.* 1, of Decree-Law no. 173/74, of April 26, the Portuguese state has the indeclinable duty to grant the application embedded in Petition no. 63/XII/1, restoring posthumously in the Portuguese Army Captain Arthur Carlos de Barros Basto.

2. That this opinion should be sent for all intents and purposes to the National Defence Committee.

3. That the petitioner should be made aware of this opinion.

Palace of Sao Bento, February 28, 2012

The Deputy Rapporteur (Carlos Abreu Amorim)

Commission President (Fernando Negro)



Antisemitism and Hollywood—Part 1: *Gentleman's Agreement*

Daniel Vahab*

In the 1947 Academy Award-winning film *Gentleman's Agreement*, a star reporter is assigned a series on antisemitism. The editor of the magazine tells Phil Green that he doesn't just want the pieces filled with statistics, that anyone can find facts and figures to make a case on the prevalence of antisemitism. Instead, he wants Green to explore the human aspect of the hate, the visceral feelings against Jews. In order to really, personally experience the emotions needed to write the exposes right, to do them justice, Green must feel the injustice of being a Jew. Thus, he pretends he and his family are Jewish. After he goes to check into a country club and is revealed as Jewish, he finds the place is suddenly at full capacity. Other times, he applies for jobs that are vacant for non-Jews but not Jews. His son is called a "dirty Jew" at school and comes home crying. There are neighborhoods where no Jews reside, and it's no coincidence. Some people simply won't rent to Jews.

In the end, Green fools everyone. His secretary believes he's Jewish, the staff reporters, his super, everyone. But nothing about him has changed. He looks the same; he has the same hair, face, bone structure, personality, sounds the same—everything, in fact, is the same.

Only now he's Jewish.

And while Green delved deep into antisemitism and personally felt the pinch, critic Bosley Crowther of *The New York Times* complained, in 1947, that Green's character failed to fully explore antisemitism. Crowther noted that Green's purview of observation and analysis was flawed in that it was based solely on high society in business and social settings. This, he

claimed, was why the antisemitism Green experienced was “petty bourgeois rebuffs.”

I agree that Green should have widened his subject of study and report—his findings may have been worse in less refined, elitist circles. I would have to disagree, however, with the characterization of Green’s experience as “petty bourgeois rebuffs.” To characterize any hate as “petty” is an incredible understatement.

Noting that the character of Green, particularly because he was an astute reporter, was “extraordinary naïve” in that he was so surprised that antisemitism is “cruel” is perhaps a better assessment by Crowther. But I think Crowther overlooked the point that until you really experience something firsthand, you haven’t really experienced it. You may read and study and think you know what it feels like, how incensed it can make you, but your notion of cruel takes on new, more intense meaning when *you* feel it.¹

In 1997 (fifty years since the film’s premiere) the *Times* did another film review of *Gentleman’s Agreement*. It in, writer George F. Custen uncovered the film’s subtle shortcomings that tell of a Hollywood and its Jewish stewards not yet comfortable with the public’s eye on the issue of antisemitism. As Custen reveals, this is evidenced by the title of Green’s exposé on antisemitism, “I Was a Jew for Six Months,” and what the title *didn’t* say rather than what it did say. The title was clear and concise; it lacked, however, blunt moral authority and social correctness. For Custen, the title implied that being known as Jewish would mean you would suffer antisemitism. The title didn’t necessarily make a strong point against antisemitism. Had the title instead been, “This Country Needs to Stop All the Unfair Discrimination of Jews”—much more assertive—it would have had more force.²

Producer Daryl F. Zanuck’s use of a non-Jew to play a Jew as a way to protest antisemitism was not unlike Zanuck’s use of a Jewish jazz performer as a way to protest white protest toward African Americans’ contribution to Hollywood in the 1920’s film *The Jazz Singer*.³ Near the end of the film at a climactic scene, Jack Robin, played by Al Jolson, pretended he was black, seamlessly rubbing a black substance all over his face. He did

1. Bosley Crowther, “Movies—*NYT* Critics’ Pick,” *The New York Times*, November 12, 1947, <http://movies.nytimes.com/movie/review?res=9E0DE7DE113AE233A25751C1A9679D946693D6CF>, accessed March 2010.

2. George Custen, “Film View—Over 50 Years, a Landmark Loses Some of Its Luster,” *The New York Times*, November 16, 1997, <http://www.nytimes.com/1997/11/16/movies/film-view-over-50-years-a-landmark-loses-some-of-its-luster.html?scp=4&sq=an%20gentleman’s%20agreement%20film&st=cse>.

3. *Ibid.*

this backstage right before he was to perform to a standing ovation. In both films, a social issue is challenged and overcome as the leading actors, Phil and Jack, are heroes in the end.

A *Times* article in 1948 reported that *Gentleman's Agreement* was being banned in Spain by the order of the ecclesiastical member of the Film Censorship Board in Madrid. A source in the story that had ties with the board said the order “stipulated that while it was a Christian duty to ‘stimulate love among individuals, societies, nations and peoples,’ ” Jews should not be included in this duty.

Some six reasons were cited for the board's decision. Among them were that Jews and Christians were seen as equals and to believe otherwise is “poison”; that Green couldn't act as a Jew, even temporarily, when in reality he was a Christian (when you become a Jew you must give up being a Christian), and to do so is a “grievous sin”; that Jewish pride mentioned in the film is confusing and degrading—“The pride of being the people who put God to death? Of being perfidious, as they are called in Holy Scripture?”⁴

The following day, the *Times* published an article on the negative reaction by Catholics and Jews to the banning on “moral grounds.” Citing a statement from Cardinal Francis Spellman of the Chancery office of the New York archdiocese, it stated that Jews are indeed included in the Christian duty to spread love. Other religious figures in the article agreed that Christian doctrine maintained love for Jews as well as everyone else.⁵

A few days later, again in the *Times*, it was reported that the president of the Board of Film Censors announced that the board's decision was not based on antisemitism. The president sought to set the record straight on what the source had quoted: “Through love of individuals, nations and all peoples, including, naturally, the Jews, it is not possible to foment the propagation of errors such as some contained in the film . . .” The president went on to say that Spain does not have an issue with antisemitism; rather, he noted, Spain has a “beautiful and traditional Spanish idea of human freedom.”⁶ (Apparently, the Spanish Inquisition never registered in his mind or the ripping off of limbs or torture of non-believers who refused to convert to Christianity was a part of Spain's “beautiful” legacy of “human free-

4. Paul Kennedy, “Spain Bars *Gentleman's Agreement* Movie; Church Censor Hits Film on Moral Grounds,” *The New York Times*, September 30, 1948.

5. “U.S. Catholics Hit Spanish Film Ban,” *The New York Times*, October 1, 1948.

6. “Spain Says Theme Banned U.S. Movie,” *The New York Times*, October 4, 1948.

dom.”) Yet, the next year the same censorship board in Madrid had lifted its ban on the film.⁷

So powerful was the film that in the National Museum of American Jewish History there is a plaque noting that, in 1948, a year after the film debuted, “the *Journal of Psychology* published a study showing that nearly three-quarters of those who had viewed the movie felt that it gave them a more positive attitude toward Jews.”

Coincidentally, Gregory Peck, who portrayed Phil Green, was a hero as well in the classic film *To Kill a Mockingbird*, in which he starred as white lawyer Atticus Finch, who defended a black man wrongly accused of rape. The setting was the American South, where racism was rampant. By defending a despised person, Finch placed himself and his family in danger. This is also seen in *Gentleman’s Agreement*, when the star’s son is taunted at school for being perceived as Jewish.

As Atticus Finch says, “You never truly know someone until you’ve stood in their shoes and walked around in them.” The second part of this two-part essay will appear in the next issue of the *Journal for the Study of Antisemitism*.

*Daniel Vahab is a freelance writer, proofreader, and copywriter. He is currently writing a book on antisemitism.

7. “Madrid Lifts Ban on Film,” *The New York Times*, August 22, 1949.



What Palestinian Polls Reveal

Ryan Jones*

Israel is widely portrayed as the primary obstacle to peace in the Middle East, but a new poll reveals that Israelis may have very good reason for not trusting the intentions of their Palestinian peace partners. Conducted by American pollster Stanley Greenberg and the Palestinian Center for Public Opinion, the survey found that 61 percent of Palestinians *do not* accept the “two states for two peoples” formula that has thus far driven the peace process. An even larger 66 percent said that while they would accept a “two-state solution” as a first step, they would want to eventually move on to *replacing Israel with a single Palestinian state*. A full 92 percent said that even in a two-state solution phase, Jerusalem can be the capital of Palestine only, regardless of whether or not Israel retains control over the Jewish-dominated western half of the city. Their intractable hard-line positions are the result of the fact that an overwhelming 72 percent of Palestinians reject any Jewish historical connection to Jerusalem and the land as a whole.

When your opponent is painted as an occupying invader with no legitimate reason to be in the land, it is easy to support violence against him, which most Palestinians do. Over 62 percent of respondents said Palestinian terror groups should abduct more Israeli soldiers until their demands are met, and 53 percent said they are in favor of teaching songs about hating Jews in Palestinian schools.

Note: that’s not songs about hating Israel or the Zionists, but songs about hating the Jewish race of people. In other words, antisemitism is

taught in Palestinian schools with parental approval and support. It is that kind of education that has kept a healthy 73 percent of Palestinian adults in agreement with the old Islamic teaching that one day every Jew must be hunted down and killed. For now, the poll showed that an average “only” 30 percent of Palestinians support open warfare against Israel, while 65 percent feel that diplomatic efforts are currently meeting most of their needs.

In contrast, the vast majority of Israelis, even many of those on the right, long ago surrendered to the idea that an independent Palestinian Arab state is needed to end the conflict. The problem most Israelis have is that while an agreement to a two-state solution may be signed with the current Palestinian leadership today, there is no telling who will be in charge of a Palestinian state tomorrow, especially given that a majority of Palestinians appear ready to vote into power groups like Hamas, which have the ultimate goal of removing Israel from the map.

*Ryan Jones is a writer who lives in Jerusalem. This essay first appeared in *Israel Today Magazine* as “Poll: Palestinians reject 2-state solution,” February 12, 2012. Reprinted by permission of Ryan Jones.



Venezuela's Chavez and State-Sponsored Antisemitism

Dina Siegal Vann*

Those of us who continue to care deeply about the fate of Venezuelan society and democratic rule are disturbed by the country's stepped-up antisemitic rhetoric, a favorite political tool in the arsenal of Hugo Chavez supporters.

Venezuelan media outlets—70 percent are owned by the state—have, during the past six years, systematically produced attacks against Jews, Zionists, and Israel. The intensity of the antisemitism often turned up at certain times to disparage and intimidate.

The latest wave of government-inspired hate comes after Henrique Capriles Radonski won the opposition party's primary vote on February 12. He will face Chavez, the incumbent, in the country's presidential elections in October. Capriles might win if the playing field was even; opinion polls have showed him closing in on Chavez. But Chavez is determined to stay in power no matter what. He enjoys the following of the poor, due to his huge spending spree and government control of the media, and has a track record of vicious attacks against the opposition.

Hence, the recent stepped-up antisemitism. Though Capriles is a practicing Catholic, he has Jewish roots. His maternal grandparents, Polish Jews, perished in the Holocaust—and that's the hook for Chavez and his minions to use disgracefully antisemitic canards with deep echoes harking back to *The Protocols of the Elders of Zion* in an effort to challenge Capriles as a legitimate candidate.

This despicable behavior has profound negative implications for the Venezuelan democratic process. Yet, despite the domestic, regional, and international negative backlash—even among some of Chavez's closest allies—to the previous immoral use of antisemitism for political gain, Presi-

dent Chavez and his supporters insist on using it again in his reelection campaign.

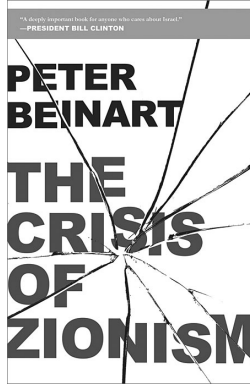
A steady barrage of attacks against Capriles has appeared in official print and electronic media. "The Enemy Is Zionism: A Ravine as Promise," an article by Adal Hernandez that appeared February 13 on the Web site of the National Radio of Venezuela, set the tone for subsequent attacks. As has been the case in the past, Zionism and Judaism are used interchangeably. Traditional antisemitic themes, including Capriles' alleged support by "international Zionism," seek to portray him as operating contrary to the aspirations of the Venezuelan people. The Chavez government severed ties with Israel in 2007 and has become one of Iran's only allies in the global community and its gateway to an increased presence in the Western Hemisphere.

By allowing once again a permissive environment for these types of expressions, President Chavez and his cronies are creating the conditions for unfortunate situations similar to the 2009 attack against a synagogue in Caracas; in fact, a mob occupied another synagogue in the capital city. Although the police intervened, this attack can be attributed to the incendiary rhetoric being channeled through the media.

President Chavez needs to act immediately to stop these unwarranted attacks. They threaten not only the local Jewish community but also important legitimate democratic aspirations. It's time to recall that on December 17, 2008, Chavez joined with presidents Kirchner of Argentina and Lula de Silva of Brazil in declaring that he stands against discrimination and racism. Chavez cannot sit on the sidelines now while allowing the official media and its spokespeople to continue promoting messages filled with hate and aimed at dividing the Venezuelan people.

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Remarkably Unremarkable Crisis



Peter Beinart's *The Crisis of Zionism*
(New York: Henry Holt & Co., 2012). 304 pp. \$26

Alexander Traum*

For the past several months, it seems like Peter Beinart is everywhere. Between appearances on radio, television, and in print, one has not had to search far to hear or read Beinart, the former editor of *The New Republic*, plug his new book on the failures of Israel and her American friends.

For all the attention paid to Beinart's polemic *The Crisis of Zionism*, the thesis is remarkably unremarkable. The Jewish state, governed by right-wing zealots and blindly supported by the American Jewish establishment, is approaching a precipice where the fate it awaits is either the end of its Jewish character or, alternatively, the end of its democratic character.

Or so the argument goes.

It is an argument, roughly construed, that can be found regularly in the editorial pages of *Haaretz* or the columns of Thomas Friedman.

Despite the book's ultimate banality, it is a book that supporters of the Jewish state cannot merely ignore. Unlike Walt and Mersheimer's antisemitic screed, Beinart's is subtly duplicitous. A self-styled prophet seeking to "save" Israel, Beinart speaks the language of many American Jews, who, despite their admiration of the Jewish state, are justly concerned with the country's dominion over the Palestinian territories. Often, Beinart tells his readers that he loves Israel and hopes only that the country remains the Jewish social democratic state that its pioneering founders originally envisioned it to be.

Yet, as Beinart tells it, the decades-long conflict between Israel and her neighbors is primarily the result of Israeli and not Arab recalcitrance; Israeli incitement against Palestinians and not the classical antisemitism that flourishes in the region; and the organized Jewish world's reluctance to question Israeli policies and not the Arab world's refusal to recognize the legitimacy of a Jewish state.

To be fair, Beinart does give lip service to several factors that perpetuate the conflict, such as Arab and Muslim antisemitism and Palestinian violence, but his use of some handy conjunctions negates all sincerity. For example:

Yes, there are some who oppose Israel's existences as a Jewish state, "*but* they are marginal compared to the much broader and more influential swath of people who seek to 'delegitimize' not Israel but its occupation."

Yes, "Israel has real enemies, some of which spew the vilest antisemitism. *But . . .*" American Jewish leaders misunderstand the majority of anti-Israel sentiment.

Yes, Arafat's fueling the fire of the second intifada "was a crime. *Still*, it was not the second intifada's sole cause."

That Beinart places the blame in Israel's corner and relieves the Palestinians of any agency is not the book's primary offense. Rather, Beinart's crime is his near pathological tendency to disbelieve anything an Israeli leader or Jewish official utters—all while suspending disbelief at every utterance by a Palestinian or Arab leader.

When Netanyahu reverses his years of opposition and endorses the prospect of a Palestinian state, the *Likudnik* is a cunning politician seeking to confuse the world community so he can prolong the occupation indefinitely. Yet when Hamas, the terrorist group that glorifies the killing of Jews and whose charter calls for the destruction of Israel, obliquely suggests that it may be receptive to a long-term ceasefire, it is Israel's mistake to ignore such an overture.

Or, when an American Jewish group like the Anti-Defamation League fights anti-gay or anti-immigrant bigotry in America, this is merely a front (according to Beinart) for its right-wing agenda vis-à-vis Israel. Yet, when the United Nations targets Israel for condemnation, this is not because the international body is against the existence of Israel as a Jewish state per se but rather because Israel is perceived as part of the West. Never mind that since its founding in 2006, the UN-affiliated Human Rights Council has issued resolutions condemning Israel 44 times, making up over 41 percent of all country-specific resolutions. For comparison, the second most con-

demned country is the brutal dictatorship of Myanmar, with 10 such resolutions. Iran has received two.

Despite Beinart's posturing as a *Realpolitik*, he is anything but. Part moralist, part fantasist, Beinart believes that Israel's settlement policies, sustained with the support of American Jewish organizations, is the primary impediment to a peaceful resolution.

And despite all this, it is not Beinart's diagnosis that should worry supporters of the Jewish state, but rather his proposed cure.

For Beinart, American Jews are ethically compelled to cajole or coerce Israel to unilaterally concede its negotiating positions without any meaningful assurances of safety or recognition. Palestinian leaders and laymen would embrace Israeli concessions, and Israel and Palestine would live next to one another in mutual recognition and respect.

This sort of magical thinking would be laughable if it were not for the many American Jews drawn to this simplistically satisfying narrative, divorced from the realities of practical politics.

Beinart yearns for an organized American Jewry comprised less of pro-Israel stalwarts like the American Jewish Committee and AIPAC, and more of the likes of J Street and Peace Now, organizations that, like Beinart himself, question Israel's intentions at every opportunity.

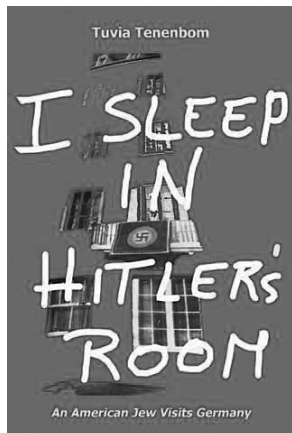
Of course, Jewish organizations should not criticize Israeli policies, including the weightiest ones of war and peace. And no one does, indeed, say that. Beinart, however, does not merely insist that Jewish groups criticize the Jewish state a *bit* more often or a *tad* more sharply; instead, he essentially encourages Jewish organizations to join the anti-Israel chorus whose refrains echo from the UN to American college campuses.

Jewish organizations, in Beinart's conception, should not be overly occupied with Jewish concerns. Any distance between Jewish groups and the so-called human rights organizations that derive such pleasure from demonizing the Jewish state represents Jews' capitulation to tribalism and their abandonment of liberalism.

The seemingly never-ending omissions and distortions of Beinart's analysis of the Israel-Palestinian conflict are easy enough to dismiss with facts and figures. His directives for American Jews, however, are not. For those many American Jews uncomfortable with the very idea of Jewish sovereignty and Jewish power, Beinart's template for organized Jewry's path forward is alluring. But it is a path toward weakness, not strength, fragmentation, not solidarity, and continued conflict, not peace.

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A *Bisl* Antisemitic?



Tuvia Tennenbom's *I Sleep in Hitler's Room*
(New York: The Jewish Theatre of America, 2011). 356 pp. \$15

Michael Bates*

Tuvia Tennenbom's book offers an idiosyncratic, Gonzoesque account of one Jewish journalist's search for Germanness in contemporary Germany. Early in the preface, we are warned of a disquieting account of Rowohlt Verlag reneging on their contract to publish the book in Germany, that while "it's a horrible thing [. . .] to accuse a whole nation of racism," it is a "more horrible thing to find out that this is the truth" (xvi). The unceremonious elision of *I Sleep in Hitler's Room* from Rowohlt Verlag's portfolio, following the publisher's realization that the book suggests Germany remains, at least latently, an antisemitic nation, only supports the author's claim. The two ubiquitous enemies of truth in Tennenbom's travelogue, capitalism and censorship, which are characteristic of the German zeitgeist he portrays, unite within this decision: to publicly acknowledge the depth and range of antisemitic thought in Germany would be bad for Rowohlt's bottom line.

The polished veneer of Germany's economic success is balanced precariously against the recurring claims of those whom Tennenbom meets—the Jews (not the Christians) are rich and control the media, the banks, and the political agendas of the world. It seems, therefore, that Rowohlt failed to receive the memo regarding the change of ownership. The author's day trip to Volkswagen's Autostadt, while comprising one of the book's shortest episodes, offers one of its most brilliant insights into the German people's

obsession with precision, technology, and outward perfection as it outweighs any desire to discover the true impact and wider repercussions of their technophilia. Floundering beneath a barrage of the carmaker's political claims of being green, the author asks the CEO of Autostadt for the truth—whether it is possible for the modern automobile manufacturer to make a valid claim of ecological responsibility. The answer is simple, honest, and above all unsettling: “My purpose is to sell cars” (46). The contrast depicted between the professed altruism of the people and organizations Tennenbom encounters with their underlying corruption is something that fascinates and disturbs in equal measure as it resurfaces throughout.

Even Frank, the neo-Nazi owner of Club 88, is outwardly “friendly, sympathetic, always smiling” (25). His obsession with the club's tidiness, as he “keeps on cleaning every dirty spot he finds”—while plying his interviewer with free drinks and a lesson in how “The Jews control Germany” (26)—reveals a similar concern to that displayed by the hosts at Autostadt. It is crucial that he maintains the appearance of a perfect, personable host, while concealing the truth from the masses if his business is to prosper.

This deception is everywhere in Tennenbom's Germany: nearly everybody he meets is generous and friendly, willing to discuss their most intimate thoughts with their interviewer, even if these ideas are not necessarily in keeping with their outward self-representations. All too often these views negatively regard Jewish culture and the issues surrounding Gaza, with the vast majority siding *against* Israel without questioning the evidence the media has presented to them. It is hardly surprising that the media have successfully turned public opinion against Israel, when it transpires that a major broadcaster, WestDeucher Rundfunk, aids the distribution of antisemitic propaganda (273). When Tennenbom attempts to interview someone at the station regarding the matter, he is passed from person to person, until eventually he is dismissed without explanation.

The most alarming realization is left unadorned on the page for the reader to digest: questioning the history of the Jews and Germany leads not to humility and understanding, but to defiance and vitriol. Tennenbom does not protect himself, his subjects, or the reader from the reality of antisemitism in Germany. When he asks why it is that a hotel is seemingly comfortable offering to host weddings next to Wannsee House, he is initially informed that “No one ever, up to this day, posed this question,” betraying a wider unwillingness to acknowledge the legacy of the Holocaust. Suddenly a third party interjects, unprovoked: “[the Jews] killed the Indians!” (65), defending his cohort with wild accusations, not reasoned debate. The conversation rapidly turns back to how “the Jews control the American economy,” the defense becoming an attack without skipping a beat. The fascination with Jewish conspiracy theories, particularly concerning their

control of the world's finances and media, is ever-present, and whenever Tennenbom hits upon a raw nerve with his questions they appear time and again as a rudimentary defense mechanism. It is the matter-of-fact discussion of these falsehoods that makes for some of the more disturbing passages in Tennenbom's book; for those individuals featured within this volume, there is seemingly no shame in believing these appalling stereotypes.

Tennenbom's narrative comes to a head when, interviewing a guide from the Buchenwald camp, he discovers that the guide has participated in charity missions and protests in Nazareth and the West Bank, aiding the Palestinians. The author discards his journalistic mask and confronts his subject: "Gaza has the world's highest concentration of people who believe in driving the Jews into the sea. Why would anybody from Buchenwald join them?" The lack of forethought, the depths to which this unthinking disrespect plunges, destroy both parties' ability to communicate with one another. Preserving the Kill Zone has done little to warn people off the trail of racial hate—how, we must wonder, can one presented daily with the brutal facts go on to endorse such politics? The guide's silence when challenged is, perhaps, answer enough.

*Michael Bates is a graduate student at the School of English Literature, Language and Linguistics, University of Sheffield.

A Promising Start



Richard L. Cravatts' *Genocidal Liberalism: The University's Jihad against Israel and Jews* (Sherman Oaks, CA: David Horowitz Freedom Center, 2012).
306 pp. \$15

Manfred Gerstenfeld*

In his book *Genocidal Liberalism: The University's Jihad against Israel and Jews*, Richard Cravatts analyzes a number of key issues of anti-Israel activity on university campuses, mainly in America. In doing so, the author offers much information, provides many sources, and makes a number of valid points. From this rather general perspective, the book gives an overview of the broad issues concerning the delegitimization of Israel and antisemitism on campus.

The book's title, however, is poorly chosen. One has to be more precise to be effective in public debate about false humanitarians and liberal indirect supporters of ideological delinquency. Such crimes, going as far as incitement to genocide and often based on religious doctrine, have profoundly permeated many Muslim societies, including the Palestinian culture. Anti-Israeli liberals on campuses in the Western world, however, are usually not direct inciters to genocide. Most of them do not call for the destruction of Israel.

The key perpetrators of a potential second Holocaust—this time against Israel—will most likely originate in the Islamic world. The

Supreme Leader of Iran, Grand Ayatollah Ali Khamenei and his country's president, Mahmoud Ahmadinejad, are the most notorious promoters of Israel's elimination. Hamas, which explicitly calls for the genocide of the Jews in its charter, is another example. Tens of millions of Muslims, if not more, support the ideology of Al Qaeda.

One can accuse almost all liberals involved in delegitimizing Israel on campuses and elsewhere as being genocide-blind. One can accuse some of them of being apologists for genocide promoters. One can accuse many of them of being collaborators with enemies of humanity, or accomplices in a process where others incite to genocide. These so-called "progressives" help to create the demonizing mood and infrastructure that aspires to turn Israel into a pariah state; they are a contemporary mutation of religious and ethnic-nationalistic antisemites. The great majority of the liberal anti-Israel hatred agitators on campus, however, do not directly support those Muslims who explicitly promote a second Holocaust.

In 2007, my book *Academics against Israel and the Jews* was published. At that time, it was still possible to give a strategic overview of the main aspects of the delegitimization of Israel on Western campuses. The anti-Israel incitement was largely concentrated in a number of countries that included the United States, Canada, and the UK. As far as extreme antisemitism was concerned, Ukraine belonged to that list as well.

Due to the major growth in incitement against Israel and antisemitism, it is probably no longer possible to provide a full overview of hate promotion on campuses in the Western world. What remains possible is what this book attempts to do: study a number of important issues in depth.

When this is the author's aim, one should expect that all major elements of the issues concerned are discussed. This book, however, falls short on a variety of topics, of which only a few can be mentioned here. An example is Chapter 5, which has as its title "Criticism of Israel or Antisemitism? The Corruption of Academic Free Speech." The "working" definition of antisemitism of the EUMC—a body that has since been replaced by the European Agency for Fundamental Rights (FRA)—is internationally recognized as a tool to distinguish between antisemitism concerning Israel and acceptable criticism of the country. This text states that "criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic."

It then lists examples of how antisemitism can manifest itself toward Israel. If the author had been familiar with this text, it would have enabled him to provide a far clearer analysis of the subject. The examples given by the FRA definition are:

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of Israel a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel.
- Drawing comparisons of contemporary Israeli policy with that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

Chapter 7 is titled “The Radicalization of Californian Campuses.” Many of the most severe expressions of anti-Israel hate-mongering in the United States can indeed be found at various campuses of the University of California and other institutions of higher learning in that state, such as San Francisco State University. The first two detailed essays—not mentioned in this book—on antisemitic hate-mongering on California campuses were published more than five years ago. Leila Beckwith, Tammi Rossman-Benjamin, and Ilan Benjamin wrote about combating antisemitism and anti-Israeli bias at the University of California, Santa Cruz. Beckwith also wrote on anti-Zionism and antisemitism at the University of California, Irvine.

Both texts can be found on the Jerusalem Center for Public Affairs’ Web site. They are also included in *Academics against Israel and the Jews*. This book’s second edition (2008) has been downloadable for free from the Web site of the Jerusalem Center for a few years. Cravatts refers to various other essays from this source. He should have perused the Web site to familiarize himself with all the material available. The struggles waged by Tammi Rossman-Benjamin against university administrations in California are not mentioned in this chapter. She has fought lengthy, courageous, intelligent, and multifaceted battles against inciters, who often benefit from the indifference and inaction of university administrations. Rossman-Benjamin is mentioned in a later chapter, but only on far more limited issues.

When Cravatts moves on to international matters, the book’s shortcomings increase. For instance, he mentions the anti-Israeli actions of the academic Mona Baker in England. In 2002, she fired two Israeli scholars from the boards of two academic journals on translation studies, which she and her husband owned. What is not mentioned in the book is that many academic and public figures condemned her and other academic boycotts. After several months, then British prime minister Tony Blair also came out against this phenomenon of Israel hatred. The author presents a one-sided picture of this issue.

There is far more that is lacking. Ed Beck was the first president of Scholars for Peace in the Middle East, the organization that Cravatts now heads. Beck’s name does not appear in the book’s index; it only shows up

in some footnotes. Years ago, Beck described on several occasions—among others in the Jerusalem Center’s publications—concepts for fighting anti-Israelism and antisemitism on university campuses worldwide. One of SPME’s most important undertakings under Beck’s leadership was the one started in September 2007, in which 11,000 academics—including 33 Nobel laureates—signed a statement that in essence read: “If one boycotts Israeli academics and professionals, one also boycotts us.”

Beck’s successor as the head of SPME, Peter Haas, along with then executive director Samuel Edelman, ran a similar crucially important campaign against NTNU University in Trondheim, Norway. A proposal to boycott Israeli universities was brought before its board. In that context, NTNU’s rector Torbjørn Digernes financed a lecture series on the Middle East where only anti-Israeli academics were invited to speak. Several thousand scholars and academics in many countries signed a statement that they would boycott NTNU if it boycotted Israel. Among them were a number of Nobel prize winners, including the two Norwegians.

While many other Jewish and academic organizations came out against NTNU, SPME’s campaign garnered the most attention. Ultimately, the NTNU board voted against the boycott. These actions taken by SPME are among the most important campaigns in the battle against anti-Israel agitation on campuses anywhere. They are not mentioned in this book, however.

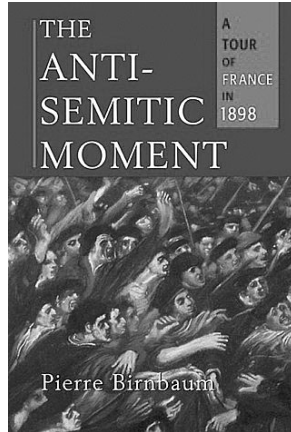
There are other international milestones that could have been mentioned when one wants to make recommendations on how to fight the battle against anti-Israel incitement. One important case was the suspension without pay as well as additional punishment of the pathologist Professor Andrew Wilkie at Oxford University in 2003. He wrote to Israeli student Amit Duvshani explaining that Duvshani could not get a research position with him because he was Israeli.

Even more important was the strong position taken by Donald Kennedy, publisher of *Science*, the leading general-interest magazine in the scientific field. In 2002, a Norwegian scholar had initially refused—for political reasons—to supply genetic material to an Israeli research laboratory. Kennedy condemned this practice and wrote that *Science* might take discriminatory measures against future publications of scholars who behaved in this manner.

The last chapter in Cravatts’ book deals with the necessity of reframing the story about Israel. This chapter is an incomplete overview of the main actions that can be taken to fight delegitimization campaigns. A variety of already proven approaches are not mentioned. If a second edition of this book comes out, perhaps the research can be better extended.

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Dreyfus on Dreyfus

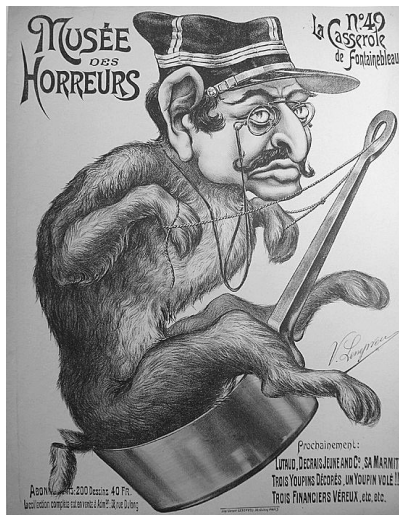


Pierre Birnbaum's *The Anti-Semitic Moment: A Tour of France in 1898*
(University of Chicago Press, 2011). Paper \$22

Jean-Marc Dreyfus*

It is to a rather depressing tour of France that Pierre Birnbaum invites us in this book, first published in French in 1998 and already a classic in the study of French antisemitism. Birnbaum, a noted sociologist and historian, gives the first description of the wave of antisemitic riots that swept across France during the Dreyfus affair. If the public opinion and its massive leaning against the trial revision have been studied, the previous lack of description of violence is in itself interesting; it makes *The Anti-Semitic Moment* more important. The book has a unity in time: the year 1898, the peak of the popular agitation around Dreyfus, was a year opened by the acquittal of Major Ferdinand Esterhazy on January 11. Zola's "J'accuse" letter was published on January 13 and the Zola trial took place in March. Riots, attacks on passers-by, smashing of Jewish-owned shops—all those street manifestations continued throughout the year. The republic was threatened by those movements, which were fueled by the *Ligues*—the most notable being the *Ligue antisémitique*—and by the Catholic reaction. The press enjoyed great freedom after the liberal laws of the 1880s, which permitted libels and the worst of the anti-Jewish statements to be published with no hindrance. The violence in the streets was most of the time stopped by firm police intervention, leaving numerous wounded and material damages. *Fin-*

de-siècle Vienna had been described as a hotbed of popular antisemitism, as was Algeria, with anti-Jewish, murderous riots in Oran in May 1897 and in Algiers in May 1898, but not Paris. Reading Birnbaum's first chapter, "Is Paris Burning?," however, one is convinced that Jews were endangered there as well. Riots, attacks in the streets—all this occurred in the French capital; they are described as a new enterprise in the national press, when the official organ of organized Judaism, *L'Univers Israélite*, was vehemently condemning them. The grand boulevards, the Latin Quarter, and the main avenues near the Seine were scenes of violent demonstrations throughout 1898. But the tension did not remain high at all time: when an apex seemed attained, the calm was coming again, often thanks to strong policing.



In the deepest provinces, riots were not that common. In Orléans, for example, where republicanism was deeply entrenched, no antisemitic demonstrations took place. But the battle developed in the local press and in the local elections: the Dreyfusard candidate was ousted by the voters and the local newspapers campaigned against Dreyfus. In the small city of Blois, an antisemitic demonstration took place but was less violent than its Paris counterparts. Using mostly police reports found in the departmental archives and the local press, Birnbaum leads us from one French city to the other. Demonstrations occurred in the solidly republican Clermont-Ferrand, and in smaller cities as well. Beyond the national movement constituted by the new form of antisemitism cemented by the Dreyfus affair, local tensions were reflected in the demonstrations, even when some shops under attack were not Jewish-owned. Some very small towns had also their riots; a second circle of cities experienced more violent demonstrations. In the French

Lorraine, where Maurice Barrès' ideas were thriving and where the influence of the Catholic Church remained vivid, demonstrations became commonplace in May 1898. If Marseilles became a hotspot for antisemitic agitation, mostly due to the presence of Max Regis, the mayor of Algiers and an accomplished agitator, no region was spared of riots and demonstrations.

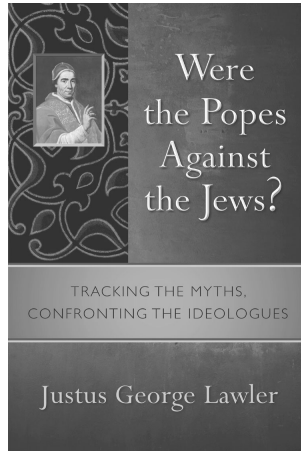
A chapter is dedicated to the attitude of the French police, torn between its own antisemitism and prejudice and its loyalty to the republic; some policemen remained passive in face of violent demonstrations. The last chapter of the book is dedicated to the reassessment of Jewish attitude. When French Jews have been described as indifferent or passive—by Léon Blum or by Hannah Arendt, for example—countless stories exhumed by Pierre Birnbaum show the opposite.

In his conclusion, Birnbaum expresses a mixed verdict on 1898's France. Yes, millions of people voted for openly antisemitic candidates, even if few were elected. But the time of the Franco-French wars was over and the street agitation led to no deaths. Not one Jew was killed in those riots, "and yes, certain ingredients of civil war even came into being at Tivoli Hall and on the avenue de Wagram. But none of it went very far," Birnbaum writes. "The police charged, but they did not fire; nationalists demonstrators and Dreyfusard counterdemonstrators—long the minority—did not murder each other." The republican state and police stood strong: they prevented murderous violence; they protected the Jews. "Countless mayors, prefects, subprefects, and police superintendents, constantly present in the streets, checked, broke up, or diverted the antisemitic violence."

In reviewing this classic text, I note that the translator succeeded in rendering a clear text is not surprising considering that Pierre Birnbaum writes in a clear and articulate way, but the lively rendering in English of the numerous antisemitic songs, libels, flyers, and other material is in itself a tour de force.

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Maybe, Maybe Not



Justus George Lawler's *Were the Popes Against the Jews?: Tracking the Myths, Confronting the Ideologies* (Grand Rapids, MI/Cambridge, UK: Eerdmans, 2012)
387 pp. \$35/£20

John T. Pawlikowski*

The very title of this book reveals its problematic nature. Picking up this volume and reading the dust cover would lead one to believe the book provides a comprehensive overview of papal policy and actions with regard to Jews over the centuries. It does not. The highly polemical tone of the volume can also be seen on the dust cover in its subtitle: “Confronting the Ideologies.” Throughout the book, Justus George Lawler tends to dismiss the views of any author not in agreement with his perspective as an “ideologue.” This charge he applies even to certain of the most distinguished contemporary Catholic historians.

Lawler is no apologist for the popes with respect to their outlook toward Jews and Judaism; they were generally anti-Jewish in his view. But his overall analysis in terms of history is rather thin. The real focus of the volume is a detailed response to David Kertzer's book *The Popes Against the Jews* (Vintage, 2002). In addition, he takes up the work of some other scholars in this field, including the University of California-Berkeley historian John Connelly. Lawler could have made a definite contribution to the discussion of papal policy toward the Jews in the modern era with a balanced critique of the writings of Kertzer, Connelly, and other historians;

instead, however, he has chosen to engage in a largely polemical battle with their viewpoints, vitiating the overall value of his book.

With regard to Kertzer, Lawler argues that his volume is full of questionable uses of sources, though he regards him as somewhat better than John Cornwell. On this point I am certainly in agreement with Lawler. He also critiques those in the Catholic scholarly community, such as Dr. Eugene Fisher and me, for what he claims were blanket endorsements of the Kertzer volume when it first appeared. In this context, an example of Lawler's own selective reading of materials can be seen. Neither Eugene Fisher nor I canonized the Kertzer volume. We did feel his arguments provided a challenge for Christians that deserves a thoughtful analysis. If Lawler had provided such an analysis, he would have had my praise. I would say that there is the making of such a constructive critique in sections of his analysis, but the highly charged language in which he presents his arguments undermine their ultimate value.

Several years ago, at a conference at Pacific Lutheran University in Tacoma, Washington, a conference co-sponsored by the Church Relations Committee of the United States Holocaust Memorial Museum, I took on Kertzer publicly for some of his unwarranted assertions and his overly negative interpretation of certain statement by Dr. Fisher in his capacity as secretary of the Catholic Bishops' Committee on Catholic-Jewish Relations, together with Kertzer's negative comments of the Vatican document on the Holocaust, "We Remember."

So I have always maintained a critical posture toward Kertzer's interpretations—as have most, if not all, of the circle of scholars with whom I have partnered over the years. We have tried, of course, to retain balance in our response to Kertzer, including praise for his surfacing of the repeated anti-Jewish outlook found in the Vatican's semi-official *La Civiltà Cattolica* (<http://www.laciviltacattolica.it/it/>).

Beyond his critique of Kertzer, Lawler's major target is John Connelly. The polemical style of his analysis is once again in full view here. Knowing Connelly, I see him as a somewhat gentle and very serious, competent scholar who would have welcomed a constructive exchange on central issues in the ongoing debate about papal attitudes toward the Jews. But this is the type of exchange in which Lawler seems disinclined to engage.

There are two other troubling examples of totally less than nuanced interpretations in Lawler's book. The first is a somewhat cynical dismissal of the letter signed by nineteen prominent Catholic scholars, including some of the most distinguished American Catholic historians, to Pope Benedict XVI, urging the pope to withhold beatification/canonization for Pius XII until scholars have the opportunity to undertake further research into yet unexamined materials. Their argument in part was that it would prove far

more difficult for Catholic scholars to scrutinize the over-all record of a pope already declared a saint. Certainly Lawler has every right to analyze the text of this letter. But rather than solid analysis, he simply rejects it out of hand, as though it were penned by a group of amateurs. It is interesting to note that this letter received some support in Vatican circles and may be one reason Pope Benedict XVI has never acted on the positive recommendation for beatification/canonization presented to him by the curial office in charge of sainthood investigations.

My final example of superficial scholarship in Lawler's book is found on page 238. He has a footnote in which he asserts that much of what has been undertaken in the name of Christian-Jewish dialogue has little to do with authentic theological exchange. The "dialogue," he maintains, focuses on "support of Israeli policy toward Palestinians and support of critics of the wartime church." He praises the work of Jacob Neusner and Bruce Chilton as an exception to his critique. As one who has engaged in such dialogue for some four decades, I can only describe this statement as nonsensical. If Lawler had merely read the book catalogue from his own publisher, he would have noted the recent publication of a volume from a four-year scholarly colloquium whose patron was Cardinal Walter Kasper (who also contributed a thoughtful essay). This volume, titled *Christ and the Jewish People Today*, with essays by American and European Christian scholars with Jewish respondents, is a solidly theological work. Another volume, soon to be published by Eerdmans and that is edited by Robert Jensen and Eugene Korn, falls into the same category. There have also been the theological writings of Monika Hellwig, Peter Phan, Paul van Buren, Clemens Thoma, and Michael Signer, to name just a few. The substantial new material on the Jewishness of Jesus, the Jewish-Christian relationship in the first several centuries, and Paul's continued links to Judaism add to the theological foundation of the dialogue. In making such an unfounded assertion Lawler is exposing the shallowness of his scholarship in many areas. In sum, this could have been a very valuable book. Sadly, it falls far short of acceptable scholarly standards.

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Not How but Why Antisemitism Persists



Steven K. Baum's *Antisemitism Explained*
(Lanham, MD/Plymouth, UK: University Press of America, 2012).
+ 253 pp. \$30

Steven Leonard Jacobs*

Building upon his earlier important texts *The Psychology of Genocide: Perpetrators, Bystanders, and Rescuers* (Cambridge, 2008a) and *When Fairy Tales Kill: The Origins and Transmission of Antisemitic Beliefs* (iUniverse, 2008b), and his numerous authored and co-authored articles and conducted surveys (see his extensive bibliography in this volume, 226-242), psychologist Steven Baum has attempted the near impossible: to proffer *an* explanation of the world's longest hatred—antisemitism. As he himself notes in his own Introduction, the book's title is something of a misnomer, and, perhaps, should have been instead: *Antisemitism: An Attempt at an Explanation*. (Such are, indeed, the wonders of marketing: so-called “catchy” titles sell more than accurate ones!) Be that as it may, early on Baum presents to the reader his psychologically oriented theoretical understanding; the book itself then becomes a working out of his thesis:

I will offer a new model of antisemitism based on social beliefs and their transmission. The model begins with a sender who creates an antisemitic message within the larger social group. If the content of the message meets rumor criteria—provocative, concise, and consistent with what is previously known—it spreads through the culture like wildfire. People in the social circle distribute the hot message to hubs (people who are well-connected), from which it is dispersed even more widely. The repetition of the message [i.e., that Jews are *the* enemy, à la Nazi Joseph Goebbels,

1897-1945, and others], along with its dispersion through multiple channels, affords the message greater reliability and validity. It becomes a social truth. The message is reinforced in both cultures—explicit and implicit—in a closed feedback loop. A national and perhaps international narrative is formed and, if repeated enough, affords the impression of reality. In the court of public opinion or social beliefs, everyone knows of the Jews' culpability, so it is just a question of time before you round up the usual suspects. It does not matter if it is real. Paybacks are what they deserve (6).

While this reviewer would suggest that Baum's model of the social transmission of antisemitic beliefs and their working out in real physical manifestations is not necessarily new (see, e.g., Gavin Langmuir, 1990a, 1990b); what *is* new, and therefore invaluable, is Baum's updating of this understanding in light of the emboldened antisemitism that now presents itself in the disguised form of anti-Zionism (i.e., strident disagreements with the sovereign State of Israel as solely responsible for the ongoing Middle East crises and the result of its governmental, political, and military policies, and actions).

Also what is new, and most genuinely appreciated, is Baum's theory of the spreading of antisemitism based on a social communications theory (i.e., "based on social fantasy" [114]) in Chapter 3 and the turning of such perverse fantasies in the case of antisemitism into reality even though based upon little more than rumor-mongering and having little to no basis whatsoever in fact. Coupled with the presence of such questionably successful "advertising" and the avoidance of shortchanging the powerful influence of the various media, Baum's arguments regarding the longevity and durable staying power of antisemitism make that much more sense.

Furthermore, by appealing to baser instincts, antisemitic mythmaking and mongering relies on all-too-easy, catchy sloganeering (e.g., the infamous Nazi slogan that regularly appeared in Julius Streicher's *Der Sturmer*: "*Die Juden sind unser Unglück!*"/The Jews are our misfortune!," thus fueling an already predisposed population to engage in the lethality of actions that have for far too long accompanied antisemitic chants and boasts, as Baum makes transparently clear in Chapter 4. As he sets out in his text:

Chapter One describes the psychology of the social mind—the formation of social beliefs as a narrative and the ease with which the social mind distorts . . . Chapter Two offers the reader an overview of how an ongoing narrative is formed . . . Chapter Three offers a communications model of antisemitic belief transmission with a focus on why it is the case that, as journalist Charles Krauthammer quipped, "the Jews are news." . . . Chapter Four introduces the theoretical notion of a cultural cauldron of superstitions, racist ideas, magical thinking, and folk tales [Here is where

[Baum's] *When Fairy Tales Kill* is particularly valuable to the reader as a corollary text.] . . . Chapter Five addresses this master narrative, a social trend that labels Israel with traits of a collective Jew [Thus, anti-Zionism = antisemitism.] . . . The final chapter explains why the pathology of antisemitic beliefs is here to stay in all its forms, and examines some alternatives for stemming the communication flow (7-8).

While occasionally lapsing into the jargon of his own professional discourse, particularly in the narrative explanations of the various surveys and data, Baum does an excellent job of laying out for the non-psychologist/non-psychotherapist reader his various theses chapter by chapter.

Sharing his conclusion echoed numerous times throughout his text that “antisemitism will always exist because *people are prone to believe social fantasies about the Jews more than realities*” (xvi, emphasis in original), and even go far to say, “I am scared enough because I know enough about the psychology of genocide to believe that a Second Holocaust of Israel is imminent” (xiv), this reviewer would rephrase these tragically sad comments even more pointedly: “as long as there is Judaism, there will be anti-Judaism (antisemitism); as long as there are Jews, there will be Jew-haters (antisemites); and as long as there is Israel and Israelis, there will be anti-Zionists (antisemites, despite their protestations to the contrary!).” The ultimate question, then, becomes not the *how* of antisemitism—i.e., how it manifests itself over the generations, because we already have a cache of far too many examples, but the *why* of antisemitism (what there is in the human personality that all too easily predisposes itself to prejudice, hatred, stereotyping, and worse). Given Baum's professional experiences as a practicing psychotherapist, and references to having worked with patients one manifestation of whose illness is hatred of the other, his concluding chapter is particularly significant and important. Before doing so, however, one is well advised to heed Baum's cautionary note regarding “the futility of trying to fight bad information with good information” with “the disturbing reality that once an idea has been implanted in people's minds, it can be difficult to dislodge” (137). Hence, the challenge—despite the additional awareness that “politics and power will always trump mental health” (208).

Finally, while Baum does make the rather astute negative observation:

Can sufficient interventions be made to stem the flow of antisemitic beliefs? Probably not. Perhaps some changes are possible, but the need to stay tribal through our social identity remains, and in that sense the die is cast in the world's morality play” (209).

He does hold out two inviting possibilities: education (217-219) and defiance of collective social (im)morality (219-221). From his unique van-

tage point and perspective, therefore, one would have wished for an additional final chapter exploring in far greater depth these two possibilities, with concrete suggestions for their implementations. One can only hope that book is in the offing.

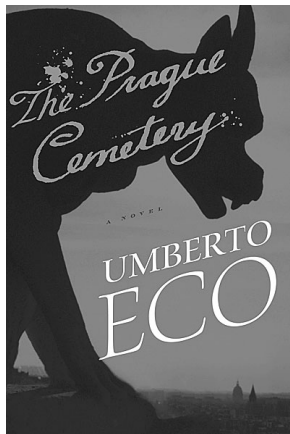
Overall, Steven Baum has written an important text on the difficult topic of understanding antisemitism. In doing so, he has enlarged our common conversation by bring to bear the insights of a discipline of which far too many of us know far too little. For that, too, he is to be commended.

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The Successful Antisemite



Umberto Eco's *The Prague Cemetery*
(New York: Houghton Mifflin Harcourt, 2011). 444 pp. \$27

David Sokol*

Umberto Eco's latest book, *The Prague Cemetery*, published in 2011, is a confusing and challenging novel. When Eco was asked why his books are so difficult to follow, he said every book that he writes sells a million copies, so some people must want to be challenged. I took on this challenge with *Prague* because the subject matter is deeply entwined with antisemitism. This is a novel about a man, Simonini, you will love to hate while he prowls all over nineteenth-century Europe making money as a forger and as a political behind-the-scenes huckster. When he is not writing hate literature and planning espionage, he is stabbing people and dragging them down to his favorite sewer. He works for and against the Bourbon monarchy, the same as Garibaldi. He fights and murders for and against religious cults. He spies and does espionage work for governments. One of those governments, the Russian, is desperate to find an enemy to distract animosity from itself and weaken the Bolshevik revolution. His motivation is always money. Targeting the Jews is a natural; his most lasting "contribution" is the final creation of the *Protocols of the Elders of Zion*.

The Prague Cemetery is supposedly where *The Protocols* originated. In this spooky, overgrown cemetery, a group of Jewish leaders met one deep dark night to plan to take over the world. *The Protocols* reads like a corny Halloween melodrama. Simonini is the fictional author of *The Protocols* and protagonist of Eco's otherwise historical novel. What is unique

about Simonini is not his Jew hating or bigotry in general, but his skills in his behind-the-scenes Machiavellian endeavors.

There have been many literary reviews of the *The Prague Cemetery*. This is not a literary review but a psychological and social inquiry. I am interested specifically in what Eco's tale tells us about successful racism, hatemongering, and antisemitism.

By successful racism, or in this case antisemitism, I mean having a strong influence in damaging the Jewish people, negatively prejudicing large numbers of people and organizations against them over an extended length of time, and overcoming truth with hateful lies.

All of that Simonini has accomplished, most notably with *The Protocols of the Elders of Zion*—a work any student of antisemitic studies is familiar with. The successful antisemite can be distinguished from the run-of-the-mill hater by his special motivations and skills. First, quick money and political popularity are motivators. The ordinary antisemites, who are the followers, may hate just for the hope of a better life in the future or to blame their misery on someone else, particularly someone vulnerable. Then, writing and/or public speaking skills have to target the Jew. The successful hater has these communication skills in abundance; the followers need no special skill.

Eco's creation of Simonini give us an ability to get to know what makes a character like this tick and how he finds his opportunities in society.

Because the actual author of the plagiarized compilation called *The Protocols of the Elders of Zion* is unknown, Eco fills in the story with colorful contemporary intrigue and characters and writings that are known to be connected to *The Protocols*. Simonini is the fictional wild card Eco has invented.

The novel is a story of the making of stories. It is a tale of conspiracies to spread conspiratorial myths. It is told mostly through the eyes of Simonini, a man who says that hates just about everyone but himself. Although he declares this, however, he is a mentally diseased man who does not know who he is. Today he would be diagnosed as suffering from a severe case of dissociative disorder, of the type previously called multiple personality disorder. He enters fugue states and has blackout spells and has a subpersonality, a Catholic priest who dresses in robes.

Multiple personality disorder, along with the new psychiatric diagnosis of hysteria, was an up-and-coming diagnosis in the late nineteenth century at the birth of modern psychology, the period in which the novel takes place.

Simonini is a hater, a liar, and a racist. His profession is forger and murderer, propagandist and spy. His strongest traits may be his ambition and desire for money and food. He hates Italians, Germans, Jesuits, Masons, and of course Jews. The author has gone into competition with Shakespeare's *Richard III* for creating the most unlikable villain in literature. Simonini is involved in so many diabolical plots it is the rare reader who will be able keep up with them. He bounces around nineteenth-century Europe, taking advantage of every opportunity to spread hate, political animosity, and misinformation. Several characters, such as Dumas and Garibaldi, are known. Familiar groups such as Jesuits and Masons take on evil knife-carrying qualities as Simonini takes on tasks, creating roiling conflict between everyone.

Although Simonini ascribes the principle *pecunia non olet* (money does not stink) (Eco 2011, 317) to another character, it fits well as a motto for Simonini himself. Although money itself does not stink, everything Simonini does for money morally reeks to high heaven: "I hate women, from what little I know of them" (Eco 2011, 14). Women join the long line of groups hated by Simonini. In fact, Simonini hates so many groups one wonders why he is so successful at focusing on Jews. In one word, the answer is *opportunity*.

Why are there antisemitisms? What makes a successful antisemitic propagandist? There are no conclusive answers in *The Prague Cemetery*, but buried in this equally dense cemetery and book is some wisdom on the subject.

Eco shows us that the Jews provide the best opportunities to make money by writing hate literature and passing false stories. Simonini realizes that "There was an anti Jewish market among revolutionaries, republicans and socialists" (Eco 2011, 194). It may be that Simonini is like any other talented and ambitious person without a conscience. His unique and salable asset is his deep understanding of Jew hatred taught to him by his grandfather. He matches his skills as a forger and liar with his talent for Jew hating, and finds success.

The canny and practical side of Jew hatred is demonstrated by Simonini, who declares:

"I don't want to destroy the Jews. I might even say that the Jews are my best allies . . . We therefore need an enemy . . . For the enemy to be recognized and feared, he has to be in your home or on your doorstep. Hence the Jews. Divine providence has given them to us, and so, by God, let us use them, and pray that there is always some Jew to fear and to hate. We need an enemy to give people hope" (Eco 2011, 341).

We see this thinking in the leadership of antisemitic governments throughout history. Maybe Eichmann had this very tactic in mind when he anticipated the extinction of his valuable enemy—the *Jews*. He was planning the extensive Jewish museum that would stand after all Jews were wiped off the earth. People could be reminded of the threatening nature of these dangerous creatures and keep the fear of them alive.

Another example of Jews as useful enemy is the exile of Jews from England in 1290. The exile was not because of a sudden rise in antisemitism, which was a constant in medieval England. There were only 2,000 Jews left in England when they were finally driven out. The expulsion of the Jews allowed Edward the First to institute a new tax, much opposed by the population, by uniting all factions and giving them hope that banishing the Jews would bring them all together and make them safer and stronger (Shapiro 1996, 54). This diversionary tactic is the basis of Simonini's sales pitch when selling hate to his various government and other customers.

In Andre Martin's recent interview (Martin 2011), Eco says that *The Protocols* were so successful because "they were not creating new ideas. They were reinforcing previous prejudices."

This may be the most important ingredient to the recipe for cooking up a false racist document that will be believed for over one hundred years—even though it has repeatedly been proved a complete hoax. People are comforted in thinking that they were right all along in their prejudices. Building hate for one-eyed redheads would be a daunting task, but the groundwork already set by historical Jew hating makes for fertile creative ground. Ironically, this does provide some hope that undermining the history of negative Jewish propaganda may make antisemitism less an easy target than it has been. According to clinical psychologist Steve Baum, hate literature would lose its hook if the "social unconscious" (Baum 2012, xv) can be drained from Jew-hating beliefs like those found in the *Protocols*. This line of thinking indicates that there is a *momentum* of hate that could be reversed.

Who is the successful antisemite? Are they crazy geniuses? Although Eco's Simonini hates Jews, he seems to have a fondness for a Viennese psychiatrist named Dr. Froide. The doctor is in France to study with Charcot. Simonini meets Froide in a tavern and becomes very interested in his talking cure—psychoanalysis. Even by Simonini's own judgment he is ill. Simonini decides to keep a "diary, writing down my past . . . until (what did Dr. Froide say?) the traumatizing element reemerges" (Eco 2011, 45).

Is antisemitism a mental illness? The invention of this character, as a severely mentally ill sociopathic forger trying to heal himself through the early discoveries of Sigmund Freud, indicates that Eco suspects so.

Simonini murders, sometimes with passion, sometimes without. He throws away life as though it were a tissue. His paranoid view of the world is convinced that “Jews become doctors and pharmacists in order to control Christian bodies as well as minds” (Eco 2011, 44).

Baum (2005) has addressed the question of whether antisemitism is a mental disease. Although Baum does not postulate mental illness as a cause, in a research paper of Christian and Muslim antisemites, he finds statistical correlations that suggest:

The more one held antisemitic beliefs, the more likely they were to harbor psychotic thinking. Conversely, the opposite was true. Persons who believed the less antisemitic stereotypes had less pathological thought.

Diana is a strange character in the novel, an American expat who has attained some popularity as a mystic. She is a woman who switches into bizarre personalities and is used as a propaganda source by Simonini and others. She is another clearly insane character caught up with the successful antisemites. After Simonini has intercourse with the drugged Diana, he murders her. He stashes her body in his favorite sewer, a sewer in which he has also stashed several other victims. This sewer is an integral part of Simonini.

Anthony Julius, referring to the writing of his book about antisemitism in England, observed that: “Writing this book has been somewhat like swimming long distance in a sewer” (Julius 2010, x). The metaphor of a stinking sewer is an apt one for the vilest aspect of humanity. Many of the mentally ill are stuck in this nightmarish environment. Simonini returns regularly. This rank, insensate place, one that a healthy person would choose to exit from as soon as possible, is as much a part of him as his right arm.

There is some indication that the successful antisemite—those with same traits as Simonini and Asa Carter—may be mentally ill.

Asa Carter wrote the touching *The Education of Little Tree*, which was a runaway best-seller. He later claimed it was an authentic autobiography as an American Indian child in the 1930s. The entire work, however, was one of fiction. Carter as well had renamed himself four times before he died. Each name had a different personality.

Carter probably knew he was lying when he claimed some of the names were not connected to him. The real Asa (Ace) was a Klu Klux Klan organizer. He was so antisemitic that in the 1950s even native Alabama citizens protested him. He organized violent racist groups. He shot two men in an argument over finances of his racist group. He was a speechwriter—unacknowledged but well paid—for George Wallace in his most racist days.

Carter edited a racist newspaper called *The Southerner*. When his book became a best seller, he denied his past. What did this antisemite have in common with Simonini? He was a liar, an attempted murderer, a hater; if not a multiple personality, he showed very different personalities to the world. He was a talented speaker and writer who intended to make a well-paying career in hate. None of his five immediate family members went to his funeral.

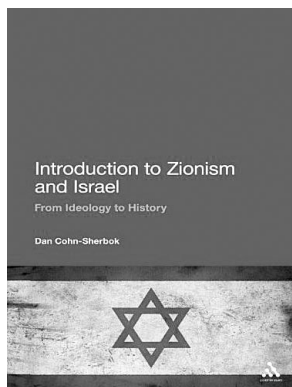
Understanding the successful antisemitic leader's mind is an important tool in countering the damage they do. Umberto Eco in *The Prague Cemetery* may have given us some insight into those psyches.

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Almost There



Daniel Cohn-Sherbok's
Introduction to Zionism: From Ideology to History
(New York and London: Continuum, 2012). 250 pp. \$25.00

Michael Berenbaum*

Some books attempt to cover too much and some too little: this book does both. Permit me to explain: in a brief and well-written work, Daniel Cohn-Sherbok attempts to cover the history of Zionism. His survey is interesting but shallow. He includes Christian Zionism, covering early Christian Zionism, premillennial dispensationalism, as well as the early links between Christian leaders and Jewish efforts to achieve the Jewish commonwealth. He then drops the subject altogether and does not consider the contemporary impact of Christian Zionism, which pervades the Republican race for U.S. president and support for hawkish Israeli policies in the United States.

In the second part of the book, when Cohn-Sherbok moves swiftly—all too swiftly—from Zionist theory to an abbreviated history of the state of Israel and the Arab-Israeli conflict, he neglects to carry forth Zionist ideology into its current iterations. For example, he draws no connection between the Zionist thought of Rav Kook the elder and his son's more explicitly messianic views articulated on the eve of the Six-Day War, which were regarded as words of prophecy by his disciples and led them to settle the West Bank in the post 1967 euphoria and to join the secular settler movement with a messianic passion and ultimately to dominate it; some religious Jews in Israel regard the conquest of the land as the prelude to imminent redemption. Nor does Cohn-Sherbok explore the link between the Stern Gang's ideology and the religiously motivated violence that pits Jews

against Arab and Jews against Jew, significant tensions within the Zionist movement.

His work has none of the richness of the late Arthur Herzberg's now classic collection, *The Zionist Idea*, with its brilliant and enduring essay on Zionism as an ideology and as an outgrowth of Jewish life and thought and the Jewish disappointment with the Enlightenment and its confrontation with modern European thought. Cohn-Sherbok's work also does not have the philosophical acumen of Shlomo Avineri's work, which grapples with Zionist thought philosophically and politically, and his most significant attempt to educate young Israelis who were leaning to a post-Zionist ideology on the philosophical richness of the movement that made them Israelis.

Where does one begin Zionist thought? Just before I began reading this book I had lunch with two women who were developing curricula for teaching about Israel in Jewish schools. They begin their course in the Bible with Abram's call to begin the journey. A theologian by training and a rabbi by calling, perhaps Cohn-Sherbok should have begun in the biblical era. He certainly should have considered the central motif of the Jewish narrative—exile and return—and the cry that culminates Yom Kippur prayers and marks the end of the Passover seder: “Next year in Jerusalem.” With certain Arab leaders denying any connection between Jews and the land of Israel, refusing to acknowledge the archeological evidence of the land itself and the scriptural writings of the Hebrew Bible, which were venerated by Islam, such a beginning is essential.

The Jewish link to the land also underscored the half-hearted approval and soon thereafter full-throated rejection of the Uganda option at the turn of the century, the great clash between Zionism as a political program divorced from its ancestral ties to the land and one that emphasized the intimate connection between the people and the land. Cohn-Sherbok not only begins too late; he also begins by being dismissive of the messianic impulse in Judaism, even among secular Jews who were drawn to many messianic movements in the 19th and 20th centuries. It is not as if Cohn-Sherbok does not know this material, but he avoids even a suggestion of grappling with it; in addition, though he has been an astute observer of post-Holocaust thought and of the impact of the Holocaust on the Jewish experience, he avoids confronting the impact of those memories on the policies of Israel in the post-1967 war.

Cohn-Sherbok has chosen to present a history of the Arab-Israeli conflict, event by event, battle by battle. Here too much is attempted, not enough is achieved. Details are given, but few overarching themes. Any history of the conflict that takes shape in a book runs the risk of being outdated even before its publication; hence, there is no discussion of the Arab Spring, nothing of the threat that Israel perceives coming from Iran,

and little of the virulent antisemitic and not just anti-Israel sentiment prevalent in too much of the Arab world. The specifics of his narration are far too kind to Yassir Arafat and Arafat's dismissal of the proposal offered in the waning days of the Clinton administration. The launching of the second Intifada did not sweeten the terms of the deal, but killed it. Palestinian history will not be so kind to Arafat, whose reputation diminishes year by year.

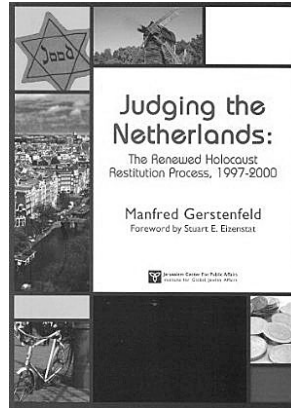
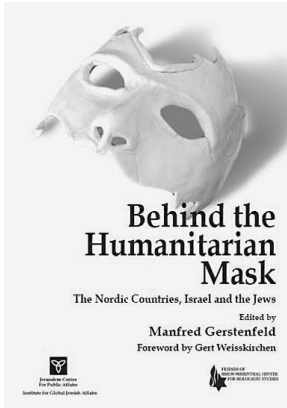
And yet, there are two great advantages to Cohn-Sherbok's decision to present the history of the conflict as a series of actions and reactions: we can perceive more easily the degree to which the violent actions of the radicals—from Arab suicide bombers, Hamas, and Hizbollah to the settler movement; Baruch Goldstein, the mass murderer in Hebron, and Yigal Amir, the assassin of Yitzhak Rabin—drive the conflict and prevail in halting the peace processes that might otherwise develop. Opportunities have been lost by both sides; violence pays immediate dividends time and again.

The other advantage is the futility of the pretense of peace. As one who has never favored Israel's settlement policy, the central motif of the right in Israel, nor the pretense that peace could be achieved "now," the rallying cry of the left, I have long felt that the more direct way to characterize what is achievable is "divorce." The parties must separate because they cannot live together. As in divorce, both parties cannot live in the same house and share the same bed. They negotiate not because they like each other or trust each other but because the current path is intolerable. There has to be some reasonable distribution of the resources so that each can survive on their own, make a life alone and not together. And, perhaps, ultimately hatred can diminish and a measure of cooperation can be achieved.

I remain uncertain who Cohn-Sherbok has in mind when he wrote this book. It will not satisfy scholars who look for more. Advocates on either side who seek to arm themselves for intellectual combat will find it unfair to their side, too balanced, too objective. It offers too little to be a primer for the uninformed; maybe it is a refresher course for those with a passing interest in this all-too-enduring conflict.

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Double Gerstenfeld



Manfred Gerstenfeld, ed. *Behind the Humanitarian Mask: The Nordic Countries, Israel, and the Jews* (Jerusalem: Jewish Center for Public Affairs, 2008). 256 pp. \$29
Available online: www.jcpa.org.

Manfred Gerstenfeld's *Judging the Netherlands: The Renewed Holocaust Restitution Process, 1997-2000* (Jerusalem: Jerusalem Center for Public Affairs), 2011. 217 pp. \$29

Steven Leonard Jacobs*

Writing in the (British) *Weekly Standard* on the controversial right-wing Dutch politician Geert Wilders, founder and leader of the third largest political party in Holland, the Party for Freedom, Sam Schulman makes the following comment:

Looking, no doubt, for a noncontroversial way to recapture his momentum, in the new year, Wilder's eyes fell on an unlikely savior: Manfred Gerstenfeld, an Israeli who grew up in Holland and now directs a Jerusalem think tank. Gerstenfeld is widely feared among European elites. He is the scourge of anti-Semitism masquerading as anti-Zionism and is likely to pop up in any EU country with carefully documented statistics and dramatic examples of mistreatment of Jewish schoolchildren, hypocrisy on the part of proudly anti-Israel governments and media, and a well-turned phrase describing the level of anti-Semitism in contemporary Norway, Germany, Poland, Italy, France, Belgium, Sweden, Britain, and the

Netherlands—to name only countries that he eviscerated in the first three weeks of 2012.¹

These two texts presently under review further concretize Schulman's observation about Gerstenfeld's important and significant work. Taken together with three previous volumes also reviewed in this journal—*The Abuse of Academic Memory* (2009), *Academics Against Israel and the Jews* (2007), and *Europe's Crumbling Myths* (2003)—they are a veritable encyclopedia in microcosm of the treatment of Jews throughout the EU, before, during, and after the Holocaust/Shoah.² And while Gerstenfeld's anger is apparent in all these volumes, it is his disturbing and uncomfortable comment that “it now seems that the Holocaust's impact on European democracies may largely have been a *temporary* phenomenon” that must give us pause.³ And given the reporting of increasing incidents throughout the European continent, and Great Britain as well, of the so-called “new antisemitism,”⁴ it is not too far-fetched to suggest that Jews, once again, find themselves at the precipice edge of the abyss waiting for the next bomb to drop.

Turning first to *Judging the Netherlands: The Renewed Holocaust Restitution Process, 1997-2000*, Gerstenfeld's solo-authored text, one must begin with the sobering fact that “the Dutch Jewish community lost a larger percentage of its population [upwards of 70%—SLJ] during the Shoah than any other West European Jewish community.”⁵ As Gerstenfeld writes:

The aim of this book is thus not only to describe the research findings of the commissions of inquiry and the negotiations of the renewed Dutch

1. Sam Schulman, “So Sorry: The Old sStory: European Politician Gets in Trouble, Helps the Jews,” *The Weekly Standard*, February 13, 2012, 30. Emphasis added—SLJ.

2. Steven Leonard Jacobs, “Gerstenfeld Redux,” *Journal for the Study of Antisemitism*, 2(2): 495-499.

3. Manfred Gerstenfeld, ed., *Behind the Humanitarian Mask*, 20.

4. The term “new antisemitism” is itself a controversial and much-debated term but nonetheless fully equated with either “anti-Israelism” or “anti-Zionism,” using the tropes of “classical” antisemitism, such as blood libels, global conspiracy, financial acumen and ruination of others, and governmental manipulation and control.

5. Manfred Gerstenfeld, *Judging the Netherlands*, 13. The pioneering work of Dutch historian Jacob Presser (1889-1970), professor of modern history at the University of Amsterdam, remains the best overall telling of this tragic story, and one commissioned by the Dutch government. See Jacob Presser, *Ashes in the Wind: The Destruction of Dutch Jewry* (London: Souvenir Press, 2010; originally published in 1965. Translated by Arnold Pomerans.).

restitution process. It also attempts to create a perspective about the interaction between the Jewish community and the Dutch government, as well as with other powerful segments of Dutch society: the banking sector, the insurance world, and the stock exchange . . . The description of the essence of the research findings of the commissions of inquiry and the ensuing negotiations with their counterparts is one main aspect. This book, however, also deals with issues concerning the Jewish community. Another aim was to show the actions and feelings of those involved and how they expressed themselves.⁶

Given Gerstenfeld's extensive agenda for this volume, and his accompanying documentation, it is certainly not surprising that he skewers the "myth" of the supposedly positive attitude of the Dutch toward the Jews, buttressed by the fact that "the Netherlands—relative to its population—had the highest number of Waffen SS volunteers in Western Europe" (24), and further buttressed by its vaunted parading of the Anne Frank story but without reflecting Dutch reality at all, explicitly stating instead that "the vast majority of the nation accommodated itself to circumstances" (27). Following Presser and others, Gerstenfeld also concludes that "The Dutch government in exile made little effort to help the Jews. Nor was it prepared to ease the plight of returning Jews after the war" (25).

Assessing and documenting the work of the Kordes Commission (1997), the Scholten Commission (1999), and the Van Kemenade Commission (1999), coupled with the weakness and lack of unity of the surviving Jewish community and its hesitancy and reluctance to involve international Jewish organizations in its situation (e.g., the World Jewish Congress and the World Jewish Restitution Organization [WJRO]), it is not surprising that years later the Jews remained vulnerable and somewhat at risk, not only from the government but powerful banking, insurance, and stock exchange interests as well. Though commenting directly on the Kordes Commission, Gerstenfeld's conclusion applies equally well to the other two: "How coldly the surviving Jews were treated by the Dutch postwar governments and other authorities" (65). Earlier, his summary conclusion is equally transparent: "The renewed restitution process of the late 1990s underlined that the Dutch government had no intention of taking full responsibility for the shortcomings of its wartime and postwar predecessors toward the Jews" (19).

Expanding his reach, Gerstenfeld devotes significant chapters to the cases of the insurance industry (Chapter 10) and the banking industry and the stock exchange (Chapter 13), all of which derived significant financial benefits from the plight of the Jews and their own collaboration/accommo-

6. Gerstenfeld, *Judging the Netherlands*, 16-18.

dition to their Nazi overlords. Though all three industrial areas have been forced to acknowledge their own complicity and have made numerous attempts to downplay and limit those involvements, when all is said and done, the picture Gerstenfeld paints is one of overriding tragedy for those who survived and their descendants, and a token pittance (upwards of only \$250,000,000 guilders), which dishonors both those who did not survive and the past and present Dutch governments and their participating institutions as well. Given all the denials and attempts at obfuscation, political manipulations, and other excuses, Gerstenfeld is forced to conclude that “what was achieved by the Central Jewish Council can be considered reasonable under the circumstances even if far from optimal” (188)—much to his own sadness, and ours as well.

Turning next to his edited text, *Behind the Humanitarian Mask: The Nordic Countries, Israel, and the Jews*, Gerstenfeld takes great pains to remind his readers that the Jewish communities in Nordic countries are very small, numbering altogether about 25,000. The largest community is in Sweden, with an estimated 15,000 Jews. There are about 7,400 Jews in Denmark, 1,300 Jews in Norway, and 1,200 Jews in Finland. Iceland has a few Jewish inhabitants. but no organized Jewish community.⁷

After a long essay by Gerstenfeld (18-77), what follows are a series of essays and interviews focusing specially on the countries under his microscope by a variety of distinguished colleagues—historians, professors, journalists, ambassadors, parliamentarians, NGO executives: four on Sweden, four on Norway, two on Denmark, two on Finland, and one on Iceland. While not major players on the world’s political stage—with the possible exception of the international hue and cry and responses over the case of the Danish anti-Muslim/anti-Islamic satirical cartoons in 2005⁸—the pictures painted are uniformly bleak and depressing; “the projection of anti-Israel sentiments onto Jewish communities is a widespread pattern throughout Europe” (15). Such an assessment must, therefore, be coupled with the understanding that “anti-Semitism is a deep-rooted, integral part of European culture and has been promoted systematically and intensely over many centuries, initially by large parts of Christianity and since the nineteenth century by nationalist movements” (19).

In addition, specific examples abound throughout this text that further reveal the increasing vulnerabilities of Nordic Jewish communities and the refusal of their governments to acknowledge their own complicities in the

7. Manfred Gerstenfeld, ed., *Behind the Humanitarian Mask*, 30.

8. See Jytte Klausen, *The Cartoons that Shook the World* (New Haven and London: Yale University Press, 2009).

past and continuing antisemitic activities in the present. Let me cite a few brief instances:

Denmark: “. . . the increasing indifference toward Holocaust victims . . . the state-run Department for Holocaust and Genocide of the Danish Institute for International Studies decided, regarding the annual Auschwitz Day ceremony, not to commemorate or even mention the Jewish victims of Danish expulsions” (199)—Vilhálmur Örn Viljálmsson and Bent Blüdnikow.

Denmark: “The issue of Denmark’s wartime collaboration with the Nazis may be much more substantial that has been acknowledged until now. Unopened archives may contain the names of about three hundred thousand Nazis or Nazi sympathizers . . . much of Denmark’s industry and agriculture collaborated with the Nazis, and . . . twelve thousand Danes actually fought with the Germans against the Russians” (64-65)—Manfred Gerstenfeld.

Finland: “A few years ago, it became known that Finland had handed over Soviet prisoners of war—among them a number of Jews—to the Germans during World War II. Finland’s wartime past regarding the Jews is worse than usually portrayed” (209)—Serah Beizer.

Iceland: “The situation for Jewish refugees in 1930s Iceland was generally worse than for other foreigners . . . The Jews were simply not welcome in this country . . . Jews in Iceland experienced open anti-Semitism before the issue of Israel and the Middle East conflict emerged” (222, 223, 233)—Viljálmur Örn Viljálmsson.

Norway: “In principle, the Norwegian law and constitution grant freedom of religion to everyone. In practice, the one exception is the Jews. Norway is one of the few countries in the world where *shechita* [ritual slaughtering] is banned . . . In Norway . . . the ban was introduced three years before the Nazis took power in Germany and continues until today, whereas *hallal* [Muslim ceremonial slaughter] is permitted” (143) —Erez Uriely.

Sweden: “Sweden remains only one of the few countries in the world that refuse, in principle, to investigate suspected Holocaust perpetrators, regardless of their being Swedish citizens or not, and the places where they are suspected of having committed their wartime crimes” (116)—Efraim Zuroff.

If “eternal vigilance is the price of liberty [or freedom],”⁹ then for Jews especially and others who support them, including governments and

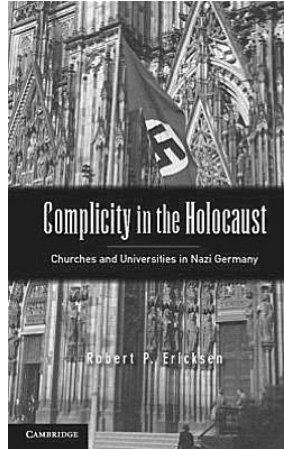
9. Not earth-shaking, to be sure, but the actual authorship of both of these versions is somewhat contested. Among the suggested authors are Irish politician John Philpot Curran (1750-1817), African-American journalist Ida B. Wells (1862-

their various ancillary institutions, the work of Gerstenfeld and others and the Israeli think tank the Jerusalem Center for Public Affairs (JCPA) and its Institute for Global Jewish Affairs (IGJA) remain valued as *primary* sources not only for the past but for the present and future as well. While guaranteeing neither Jewish safety, security, nor survival, armed with this information, we realize that what is now called for is a worldwide movement committed to the survival of one of the world's oldest contributory groups whose own difficult journey continues to benefit humankind.

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1931), U.S. president Andrew Jackson (1767-1845), and/or American abolitionist Wendell Phillips (1811-1884).

Couldn't Have Done It Without You



Robert P. Ericksen's *Complicity in the Holocaust: Churches and Universities in Nazi Germany* (New York: Cambridge University Press, 2012).
261 pp. \$90/\$27 paper

Michael Berenbaum*

I am currently working on a film project on Treblinka with an experienced and talented filmmaker who is a novice about the Holocaust. He has a handicap, but also an advantage, as he approaches this important work. He intends to use his lack of knowledge as a tool of his filmmaking—as he learns, so the audience will learn as the story of Treblinka unfolds. In beginning our discussion, he raised the burning issue: how could Germany, the most culturally sophisticated, scientifically advanced, philosophically disciplined, and theologically grounded of all European societies, have committed such an evil, in such a sustained way, over so long a period of time?

To answer that question, one should turn to Robert P. Ericksen's slim but impressive work, *Complicity in the Holocaust*. Ericksen is that rare scholar who seems to know every detail about his subject but never loses sight of the larger issue. He knows every leaf on every tree in the forest, but can see the trees and understand the forest. His most basic argument is that the churches—Protestant and Catholic—even the much-celebrated Confessing Church, were complicit in the rise of the Nazis to power in the rapid erosion of democratic norms and in the unrelenting unhindered progress of German policy toward the Jews that resulted in the death camps. He traces the world of the churches before, during, and after the Nazi reign, and his

chapter on the failure of denazification after the war will leave the reader crying “When will they ever learn? When will they ever learn?”

The universities fare no better in Ericksen’s estimation. He follows the careers and the careerism of individual faculty members and the corruption of entire universities, the introduction of Nazi racial science, the Aryanization of university faculty and students, and the quarantining of ideas of Jewish origin from the academic life of the university. There were efforts to rid Christianity of the Old Testament and to cleanse Jesus of his Jewishness; so too did philosophers deny Spinoza, Wittgenstein, and Husserl, and not just Maimonides. Physics denied the contributions of Einstein and Planck. Nobel Prize winners were cast aside and isolated; some collapsed under the weight of their oppression.

Students betrayed their teachers, scholars their disciplines. Students attacked their professors. They monitored their teaching and castigated those who would not comply. Professors were craven; they lacked courage even in the early days. No better than the general populace and perhaps even more profoundly, they were enchanted by German nationalism and seduced by their own sense of elitism and the prominence of their cultural achievements to proclaim the master race. The structure of the university from rectors to department chairs, the very advancement of careers, depended on compliance and complicity. The faculty succumbed to the addition of men—and they were almost inevitably men—without academic qualifications but politically well connected to their inner circles. These pseudo-scholars were hired and then promoted, put into positions of power and influence where they used their newly won positions to instill cooperation with the agenda of National Socialism and prominent scholars. Even the most distinguished among them, such as Martin Heidegger, became enthralled with the Nazi ethos and with Hitler and his henchmen.

Heroes were few and far between. Even the seemingly heroic, those who became icons of the “good German” as opposed to the evil Nazi, do not withstand the scrutiny of Ericksen’s critical eye.

As if that were not bad enough, Ericksen is equally critical of the half-hearted and ineffectual postwar efforts to denazify German society, especially once the responsibility for denazification was returned to German rather than Allied hands and once the cold war made the Allies want to contest for allegiance of the German people.

Ericksen understands the big picture, but the devil is in the details and he has his facts down cold as well; detail follows detail to present a picture that is both comprehensive and contemptible.

His final chapter is devoted to the implications of his research. Two major elite institutions—the church and the university, the cornerstone of

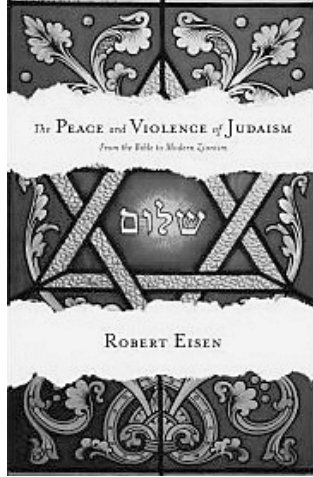
moral values, of the quest for truth and integrity—can become deeply corrupted by a totalitarian state. Great institutions can become small, great scholars can diminish themselves, and university and church politics can become petty indeed.

Though there is no violence in this work, it paints a painful picture and shatters the illusions of academics, clergy, and laity that somehow their religious or intellectual values would promote ethical and responsible behavior. Would that it were so!

But Ericksen will not permit cheap grace or easy absolution. This is a work that lingers, provokes, and challenges. The younger generation of scholars are prepared to ask tough questions and to be unwilling to settle for easy answers.

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A Question of “Ambiguity”?



Robert Eisen's *The Peace and Violence of Judaism: From the Bible to Modern Zionism* (Oxford and New York: Oxford University Press, 2011).
x + 265 pp. \$29.95.

Steven Leonard Jacobs*

As one who has written on “Judaism and Human Rights” (Forsythe, *Encyclopedia of Human Rights*, 2009), “Judaism, Jews, and Violence” (Ross, *Religion and Violence II*: 405-414, 2010), and “Zionism and Violence” (Ross, *Religion and Violence III*: 814-818, 2010), I eagerly welcome Robert Eisen's *The Peace and Violence of Judaism: From the Bible to Modern Zionism*. Difficult and uncomfortable as such negative and potentially explosive topics as violence in a religious tradition tend to be, they help contribute to further rounding out a fuller and more complete and complex understanding of the evolving nature of the totality of the Jewish and other religious traditions. Thus, they provide the reader an equally compelling “look-see” into both the historical context of much of the Jewish story (a point Eisen consistently raises throughout the text), as well as the vastness of much of its literature.

Indeed, the very vastness of this literature (Bible, Talmud, Midrash, Kabbalah, Codes, Responsa) leads to the conclusion of its “ambiguity” (Eisen's term), as he notes in the Preface: “In every major period in Jewish history, from the Bible to the modern period, one can find Jewish texts that

seem to promote violence against non-Jews alongside texts that seem to promote a peaceful relationship with them” (ix).

Thus, after his Introduction (3-14), Eisen divides his book as follows: 2. Bible (15-64), 3. Rabbinic Judaism (65-110), 4. Medieval Jewish Philosophy (111-128), 5. Kabbalah (129-140), 6. Modern Zionism (141-204), 7. Conclusion (205-216), and Epilogue: “Personal Reflections on Where We Go from Here” (217-238).

With regard to the biblical texts he selects (and there are others not selected, of course), Eisen concludes:

The differences between the two readings can thus be largely explained by three sources of ambiguity in the Bible: ambiguity in the semantic meaning of the biblical text, from the smallest to the largest units; ambiguity in the relative weight given to particular phrases, passages or concepts within the overall scheme of the Bible; and ambiguity regarding the use of historical context to explain violent passages (64).

In so doing, Eisen raises the larger question of how one ultimately reads these texts—or any other text, for that matter: in the historical context that initially gave rise to them, or independent of that original context and thus maintaining contemporary integrity in each generation. Such a larger question certainly informs the uses of sacred texts in every religious tradition, but parochially here for Jews and Christians, who share these same texts. This question could equally be applied to all religious traditions that rely on the very sacrality of their textual materials (“God[s] words, holy words) as foundational to their enterprise, e.g., Islam, Hinduism, and so on.

Turning to the rabbinic (post-biblical) period, Eisen correctly writes that “given the history of Jewish subjugation before and during the rabbinic period, it should therefore come as no surprise that rabbinic Judaism would speak badly about non-Jews” (80), while at the same time “whatever dislike the rabbis felt toward non-Jews, that antipathy did not translate into a violent ethic” (81). Much more important and significant, therefore, that translation into violent *behavior* was prevented due to the simple fact that Jews up until 1948 (the birth of modern Israel) were powerless in every locale and nation-state in which they resided. Thus, it is equally important to note that “the rabbis endorsed nonviolence as a far-reaching value applicable beyond their own immediate circumstances” (87), perhaps in effect becoming a religion of powerlessness despite words to the contrary. One hesitates but is likewise compelled to speculate what, indeed, would have been the case were Jews under the leadership of their rabbis, in positions of power and authority prior to the modern period. Would they have exercised violent control toward others over whom they were the dominant power? Over

those of their own who did not conform to the dominant narrative? Such negative speculation can only be labeled “iffy” (historical conjecture) at best, a term coined by the late U.S. president Franklin Delano Roosevelt, and thus we will never know.

Yet Eisen correctly concludes that the evolution of rabbinic thinking was a step forward from that of their biblical predecessors, adopting a more peaceful ethic than that presented in the Hebrew Bible and tending toward peace rather than war, largely rejecting violence, while at the same time giving additudinal evidence both positive and negative toward non-Jews in whose midst they lived, even if ghettoized, and thus “on balance . . . more negative than positive” (108). Eisen also correctly chides his colleagues, both past and present, when he writes: “However, a violent dimension in rabbinic Judaism is evident in some of its core doctrines and in its prescriptions regarding war, and it has often been glossed over by Jewish scholars and ethicists” (108-109).

The further intellectualization of the Jewish religious tradition is reflected in the initial philosophical discussions of the medieval period (the shortest chapter in the book), in which “intolerance toward non-Jews has therefore been replaced by intolerance toward those who have not achieved intellectual perfection” (121). And that elitism with which even the neo-Aristotelian Moses Maimonides (1135-1204), perhaps the greatest intellectual figure in Jewish history, says must be identified includes Jews as well. That many during that same period truly believed all “truth” was ultimately derived from the God-given gift of the Torah/Hebrew Bible does not lessen that orientation toward the intellect.

Turning next to the mystical aspects of Judaism subsumed under the umbrella of the Kabbalah (Hebrew, “received tradition”), negativity toward others again rears its head: “According to most Kabbalists, the non-Jewish soul was inferior to the Jewish soul” (131), and thus “Kabbalists tended to have hostile views of Christianity and Islam” (132)—even if, again, powerlessness dictated restraint and, at times, more diplomatic and disguised language than historical reality warranted. If the New Testament understanding that “Vengeance is mine, and I will repay, saith the Lord” (Romans 12:19) is accepted and ultimately reflects a Judaic/rabbinic perspective (which it does), then for the earlier rabbis as well as the Kabbalists, at some future time, the God of Israel will smite its enemies and exact the vengeance/revengence that is its due. Faith in the future is a hallmark of both literary traditions.

The longest chapter in the book deals with modern Zionism, and, given the ongoing reality of the now sixty-plus-year Arab/Muslim-Israel conflict, this makes sense. Also, the post-1948 reality of the small nation-state of the Jews presenting themselves as having successfully won its wars and

defeated its enemies in 1948, 1956, 1967, 1973, and 1981 has dramatically, and perhaps even unthinkably, “changed the game.” The “new Jew” of the contemporary moment harkens back to the biblical traditions of the warriors of ancient Israel defending their people against all comers, as opposed to the impotent leaders and followers of the last 2,000 years. Intriguing, therefore, is Eisen’s comment that “everyone [unnamed!] is in agreement that Zionism has bred Jewish violence, but there is deep disagreement [among the same unnamed? others?] over the moral status of that violence” (145, i.e., offensive vs. defensive). Further:

many of the concepts that were identified in previous chapters as potentially violent in the earlier schools of Judaism have been woven together in a highly combustible combination in religious Zionism. Those concepts include the ideas that (1) the Jews are God’s chosen people; (2) the land of Israel was promised to the Jews; (3) in the messianic era, Jews will regain sovereignty in their own land and their enemies will be destroyed; (4) Jews are commanded to exterminate the Amalekites¹; and (5) in Kabbalistic dualism, Jews represent all that is good in the world, and gentiles all that is evil (159).

Continuing in the same theme, Eisen writes that “there is a general consensus [though he only cites Ruth R. Wisse, *Jews and Power*, 2007] that, at the very least, Jews have acted violently against Palestinians and that in some instances the violence has been aggressive” (167). And while the story of the re-founding of the State of Israel (the Third Jewish Commonwealth) was the result of the work of secular, left-wing, socialist/Marxist Jews, primarily of Eastern European origin, as well as present-day right wingers, they too were and are the recipients of a heritage of religious Judaism without which their own activism was foundationless:

Secular right-wing Israelis could not have formulated their views, nor would their passions for those views have been sustained, without Judaism, which attached great significance to the land of Israel as the Jewish homeland . . . Secular Zionists, though not technically “religious,” have often been violent, and their actions have been inspired in part by the same religious concepts that have motivated religious Zionists to be violent . . . secular Zionists have some of the characteristics that are often attributed to modern religious fundamentalists (175-176).

1. The contemporary question of who is an Amalekite—present-day Palestinians? Only their leadership? All Muslims? The nation-states of the Middle East?—is one that is stridently debated among traditional rabbis in Israel and elsewhere.

Here, too, the historical context comes to the fore in two important ways: the rise of various European nationalist movements in the 19th century, and the antisemitism that was endemic throughout Europe during this same period. Add to this the global impact on Jews once the revelations of the Holocaust became public (and with those same revelations, the awareness of what had been done to the Jews as the result of European complicity and centuries-old religio-theological antisemitism at the hands of "the Church," primarily Roman Catholic, though Lutherans and others cannot escape some condemnation), and the modern relationship of Jews in Israel toward their non-Jewish citizens, other Palestinians, other Muslims, and the surrounding Arab nation-states becomes a pressure cooker waiting to boil over and explode. Parenthetically, a not unsubstantial additional factor in this uneatable stew is a (mis)perceived understanding of Israel as an ally/vassal of the United States in its own colonialist/imperialist agenda in the Middle East.

While this reviewer agrees with Eisen that "the Jewish element in Zionism, far from encouraging violence, has often acted as a restraint to it" (191), if truth be told, that voice of positivity and restraint has too often been far quieter and far less activist oriented than those who oppose them. Indeed, at the present moment, the right-of-center Israeli leadership under Prime Minister Benjamin Netanyahu appears to listen more to Foreign Minister Avigdor Lieberman and an entrenched fundamentalist Jewish religious orthodoxy than those on the left and/or American Jews, whose distance affords them a certain luxury of critique in their ongoing brokering of the relationship between the United States and Israel. (For example, both anecdotal and survey results among America's Jews seem to indicate increasingly lessening support for the so-called "settler movement" and that the building of additional settlements is perceived as stumbling blocks to resolving the Israeli-Palestinian conflict. Yet, realistically and honestly, these voices, no matter how loud nor who articulates them, appear to have little to no impact on Israeli domestic policy decisions.) Even comments such as these, and others throughout this review, are indicative of the highly complex and complicated reality of Israel and its place in the modern Middle East, and to a somewhat lesser extent, the relationship between religious and textual Judaism and religious and secular and textual Zionism. This is neither a pretty nor comfortable picture, and one certainly not discussed openly within the various organizational structures of the various American Jewish communities. (Ironically, however, it *is* discussed and quite vociferously within Israel itself. On numerous occasions, for example, Jewish Israelis have taken to the streets *en masse* to protest the policies of their government toward others.)

The only discordant minor note in this review is Eisen's decision not to address substantively the various religious denominational movements within Judaism outside of orthodoxy—Reform/Liberal/Progressive, Conservative (originally called Positive Historical), Reconstructionist, and Humanist. These movements, too, which collectively represent a large proportion and percentage of Jews worldwide, have their own interpretive textual traditions of reading Jewish sources and thus affect and influence their own constituencies, who remain active in many, many arenas in the Jewish world, including the political.

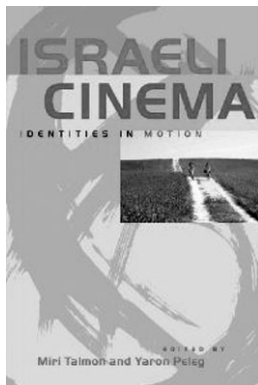
To summarize, Eisen has shown quite clearly and transparently “that ambiguity in the Jewish textual tradition regarding peace and violence is both broad and deep” (220). For that reason alone, *The Peace and Violence of Judaism: From the Bible to Modern Zionism* is worth reading, and reflects by its publication by a distinguished non-Jewish publishing house (Oxford) a maturing of Judaic studies presented to an increasingly wider audience. While scholars, intellectuals, and Jewish and non-Jewish activists will tend to applaud this important book, one cannot escape the uncomfortable or worse feeling that antisemites, too, will find much within to shore up their own increasingly louder hate-filled protestations of Jews and Israelis as the very incarnations of evil.

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Lights, Camera, Identity



Miri Talmon and Yaron Peleg, Eds.

Israeli Cinema: Identities in Motion Austin

(University of Texas Press, 2012) xvii + 392 pp. \$35/£34.40 paper

Ofer Ashkenazi*

The story of Israeli cinema begins, much like organized Zionism itself, with the initiative of the movement's inspiring leader, Theodor Herzl. A Viennese playwright and journalist, Herzl was early to grasp the superb capability of the new medium to document Jewish life in the Land of Israel and to propagate the Zionist cause. "The kinematograph is going to be . . . a most efficient weapon of modern propaganda," he stated in October 1900, and promptly concluded: "Let's use it now!" Herzl also secured the funding for a film and appointed the first Zionist filmmakers. The result was an absolute—though also in retrospect amusing—failure: the first three cinematographers Herzl assigned could not operate the camera he bought; the fourth finally sent the camera from Palestine back to Vienna, together with some filmed material that had never been developed because of its "poor quality."¹ Herzl's failure to produce the initial Zionist film was the starting point for the peculiar relations between ideologically motivated filmmakers and the suspicious (though not entirely unsupportive) establishment, which characterized decades of Jewish cinema in the Land of Israel. On the one hand, Zionist funds demonstrated little interest in sponsoring film produc-

1. See Yoseph Halachmi's detailed account of the production of this film: Yoseph Halachmi, *Ruach Raanana: Parashat Ha'Seret Ha'Zioni Ha'Rishon Be'Eretz Israel, 1899-1902* (Jerusalem: Carmel, 2009).

tions, expressed in Ben Gurion's famous disdain for the medium, reminding listeners that Moses did well without ever going to the movies. On the other hand, the principle that instigated Herzl's flop continued to excite Zionist activists, who believed that a "realist" portrayal of Jewish life in Palestine would help facilitate the formation of the national community. Influenced by Herzl's vision and by popular Zionist tropes, Jewish European filmmakers of the early 1910s laid the foundations—and outlined the standard imagery—of Zionist and early Israeli cinema. The aesthetic and ideological preferences of directors and spectators have considerably changed over the years. Yet, the early filmmakers' aspiration to document, define, and transform collective identities has informed a century-long effort to envision the Israeli self-image on the screen.

Miri Talmon and Yaron Peleg's *Israeli Cinema: Identities in Motion* is an intriguing inquiry into this ambition to negotiate self-perceptions in Zionist and Israeli films. With the premise that film provides a glance into the "collective unconscious" (ix), it introduces a diverse collection of studies that analyze the varying expression of Israeli identities from the early years of the British Mandate to the early 2000s. As an introduction to Israeli visual culture and its relationships with major trends in Israeli society, this volume is a significant addition to the scholarship in this field. Together with a few other recent publications, it reflects both the growing international interest in the intricacies of Israeli identity politics and the current prevalent recognition of Israeli cinema manifested *inter alia* in the multiple Oscar nominations, prestigious prizes, and presentations at international festivals during the last decades.²

According to the authors of this volume, Israeli and Zionist films have generally conformed—through different methods and in different contexts—to a specific mood of the time of their production. Most articles in the book seem to embrace a distinct categorization of Israeli films that corresponds with certain "phases" in Israeli history. The initial phase, according to this approach, demonstrates commitment to the Zionist narrative, propaganda, and self-image. Beginning in Mandate Palestine, with filmmakers such as Yaacov Ben-Dov, Nathan Axelrod, and Helmar Lerski, this stage, with films such as *Hill 24 Doesn't Answer* (1955), continued into the early 1960s. In accordance with the culture of this first phase, these films displayed the new muscular, heroic Jew; adopted the Labor Zionist's enthu-

2. Yosefa Loshitzky, *Identity Politics on the Israeli Screen* (Austin: University of Texas Press, 2001); Ella Shohat, *Israeli Cinema: East/West and the Politics of Representation* (London: I. B. Tauris, 2010); and Raz Yosef, *Beyond Flesh: Queer Masculinities and Nationalism in Israeli Cinema* (New Brunswick: Rutgers University Press, 2004).

siasm for manual work and collectivism; presented Zionism as the remedy for past traumas; and showed the “Other” as primitive and perilous. The second phase, which lasted into the first Intifada, shifted the emphasis from a deliberate effort to “consolidate and create an Israeli community” to a “normalized local cinematic idiom” (xii). While they still featured a mostly “masculine world” of Ashkenazi Jews, films also expressed willingness to challenge and deviate from the traditional conventions (manifested in the criticism of Israeli militarism, the focus on the individual rather than the collective, and the introduction of new heroes—war widows, *Mizrahim*, Holocaust survivors, and young, horny, selfish city-dwellers). The third phase, developing since the early 1990s, corresponds with the optimism generated by the Oslo Accord and with the desertion of melting-pot ideology in favor of Israeli multiculturalism. It featured the work of a new generation of filmmakers, who often celebrated their *otherness*—e.g., homosexuals, Orthodox Jews, new immigrants, Mizrahi Jews, and Arabs. These filmmakers, according to the reviewed articles, were not merely critical of old Zionist paradigms and current politics; they also expressed a “post-Zionist” approach (i.e., they were ready and eager to question the principles of the Zionist credo, and were sympathetic to its victims and outcasts). Finally, the collapse of the Israeli-Palestinian peace process added a sense of depression, helplessness, and sometimes apathy to the multiculturalism of the 1990s.

The generalization about the historical development of the identity discourse in Israeli cinema has some notable advantages as a starting point for the discussion of Israeli films. Mainly, it reveals similarities and links between seemingly unrelated phenomena. Thus, for instance, the avant-garde aesthetics and fascination with decay and death among the young auteurs of the new sensibility á la Judd Ne’eman concurred with new visibility of Mizrahi Jews and urbanite bums in the early seventies (see Peleg and Yaron Shemer’s article). Both identified with the new readiness to challenge the existing image of the Israeli collectivity. Similarly, Anat Zanger shows how the biblical story of the *Akedah* is repeated in the contemporary phase of Israeli cinema in different films with the same woeful conclusion, which underscores contemporary awareness to “the complicated relations between Zionism and its concomitant ethos of binding and sacrifice” (235).

This scheme, however, overlooks several complexities and nuances. This is most evident in the articles that consider the early years of Zionist and Israeli cinema, which allegedly demonstrate an “intensive and deliberate effort” to envisage *the* ethos of Labor Zionism. Ariel L. Feldstein’s informative article, for instance, has some noteworthy insights on the uniqueness of Zionist propaganda films; yet, he depicts Zionist filmmakers as a homogenous group of people with similar views and objectives. This

approach disregards the different aesthetic and the different ideological influences on its development. Emphasis on the tensions and diversity that shaped early Zionist films would have resulted in a much more nuanced image of Zionist identities and their integration within the Zionist movement. An alternative approach is demonstrated in Jan-Christopher Horak's article on Helmar Lerski, which shows how Lerski's unique biography and experiences were integrated into his Zionist films. This point could have been pushed much further: a photographer and cinematographer who worked in North America, Weimar Germany, and Palestine, Lerski embodied the notion of transnational German (liberal) culture. The assimilation of his bourgeois liberal sensibilities into Labor Zionist art discloses the tensions, conflicts, and oppositions that were incorporated within Socialist Zionism. In addition, as Horak himself has noted in previous publications, many Zionist films in the 1930s catered first and foremost to a German-speaking audience in Palestine and in the Jewish communities in Germany.³ As in many articles in this volume, a careful consideration of the specific target audience could have unveiled the different self-perceptions within the Zionist camp. A focus on the visualized cracks in Labor Zionist ideology—and the ways different views have finally been integrated within it—would probably teach us more about Zionism than the premise that early films adhered to it.

The assumption that Israeli films correspond with *the* Israeli self-image—or with *the* Israeli society's outlook vis-à-vis Zionist nationalism—is problematic mainly because within this framework film often functions as an illustration for a presupposed disposition. In such cases, film analysis plays the subsidiary role of explaining how a particular film belongs to the presumed hegemonic paradigm of its era. Certain articles in the volume transcend this obstacle and introduce alternative contexts for the reading of Israeli film. The articles on the cinematic language of trauma, on the changes in the moral judgment of the kibbutz, and on the representation of religious women in a transnational context of filmmaking are good examples of potential paths for future studies. Another significant example is the interesting debate between Sandra Meiri and Dorit Naaman about the interpretation of the film *Fictitious Marriage* (1988): the former argues that the failure of the protagonist to remain “the Other within” at the end of the film manifests the filmmaker's criticism of the rigid, e.g., white male Zionist perspective; the latter sees this ending as an indication of the Israeli inability to assume the Other's perspective. This fascinating debate has an essential place in a book that seeks to map Israeli *identities in motion* through

3. Jan-Christian Horak, “Zionist Film Propaganda in Nazi Germany,” *Historical Journal of Film, Radio and Television* 4, no. 1 (1984): 49-58.

film analysis. But the discussion of these opposing perspectives here is too narrow. In order to evaluate these interpretations, we probably would be interested in questions such as how was the film marketed; who was the target audience; what were the specific political, cultural, and social conditions in which it was produced; how does it compare to the literature and theater of the time; and so on. The constructive discussion of film as an emblem of major tendencies within its social and cultural surroundings requires a serious consideration of the broad historical and cultural contexts.⁴

The selection of films discussed in this volume is also noteworthy. While the perspectives and themes vary, many of the authors repeatedly discuss the same works. Films such as *Hill 24 Doesn't Answer*, *Beaufort* (2007), *Walk on Water* (2004), *Turn Left at the End of the World* (2004), *Wooden Gun* (1979), *Siege* (1969), and a few others are markedly over-represented in the volume's articles—by contrast, the remarkable exceptions to this propensity include Gilad Padva's article on Amos Gutman's films and Olga Gershenson's piece on Russian-speaking filmmakers. This selection of films raises a few important questions. First, what makes a *typical* Israeli film? The English-language *Hill 24*, directed by the British Thorold Dickinson, receives much attention in the book, while Otto Preminger's *Exodus* (1960), perhaps the most explicit manifestation of mainstream Zionist self-perception, is left out; similarly, *Siege* was directed by the Italian Gilberto Tofano. The thoughtful comparison between Amos Gitai's *Kedma* (2002) and Tawfik Abu Wael's *Atash* (2004) in Nurith Gertz and Gal Hermoni's article extends further the boundaries of Israeli film. (*Kedma* was funded largely by European capital and premiered in France; *Atash* is described in Gertz's previous publication as a Palestinian film⁵). This article also highlights the relative scarcity of the Arab Israeli voice in a volume that—justly—takes pride in disclosing the voices of various Israeli "Others."

With few exceptions, neither the editors nor the authors explain the selection of the repeatedly discussed films. The contributors might have expanded their discussions by including other equally important and interesting feature films, e.g., *Life According to Agfa* (1993), *Rocking Horse* (1978), *Avanti-Popolo* (1986), *Hole in the Moon* (1964), or *But Where Is*

4. Such broad-contexts approach is common in current studies of national cinemas; for instance, an example is Noah Isenberg, ed., *Weimar Cinema: An Essential Guide to Classic Films of the Era* (New York: Columbia University Press, 2008).

5. Nurith Gertz and George Khaleifi, *Palestinian Cinema: Landscape, Trauma and Memory* (Bloomington: Indiana University Press, 2008), 197-198.

Daniel Wax? (1972). In addition, the discussion of certain topics in the book is conspicuously crippled by the omission of documentary films. For instance, the representation of the Holocaust in Israeli films is considerably limited without a serious discussion of documentaries such as *Because of That War* (1988), *The Specialists* (1999), *A Film Unfinished* (2010), *The Flat* (2011), and even *Pizza in Auschwitz* (2009). Similarly, it is hard to think of the representation of the Arab “Other” without documentaries such as the highly influential television productions *Amud Ha’Esh* (1981) and *Tkuma* (1998), or, for that matter, Avi Mugarbi’s disturbing cinematic journeys. The past two decades have witnessed a booming industry of Israeli documentary film productions. Analysis of these documentaries—many of them, indeed, are obsessed with the notion of identity and its fluid meaning—would arguably teach us more about the current Israeli “unconscious” than the lavish productions of the kind that *Beaufort* exhibits.

That said, Talmon and Peleg’s *Israeli Cinema: Identities in Motion* is a valuable contribution to the study of Israeli cinema and Israeli culture in general. The eloquent articles discuss a variety of topics and viewpoints that results in a broad survey of different genres in different historical and social contexts. The emphasis on the connections between film and its social surrounding makes this book an extremely useful tool for the teaching of Israeli cultures and ideologies. The volume’s methodological framework leads to intriguing analyses, which demonstrate the potential trajectories of the future scholarship of Israeli cinema. *Israeli Cinema* is an excellent starting point for the discussion of Israeli visual culture and its expression of transient Israeli identities.

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Fathers and Sons



Joseph Cedar's *Footnote*

(Sony Pictures Classic, North American Release, 2012). DVD \$29

Joanne Intrator and Scott Rose*

Only rarely are scholars of the Talmud featured as characters in popular entertainments. Isaac Bashevis Singer's short story "Yentl the Yeshiva Boy" became a Broadway play first in 1975, with the intensely committed Tovah Feldshuh as its protagonist, and then in 1983, as a smash-hit Hollywood musical film starring Barbra Streisand. Among well-known movies to mention the Talmud in passing are *The Chosen*, *The Seven-Percent Solution*, *Ally McBeal*, *Schindler's List*, and *The Simpsons*. (Bart tries to placate a rabbi displeased over his son's entry into the profession of circus clown by quoting from the Babylonian Talmud).

There is precious little clowning around, however, in Joseph Cedar's 2011 Israeli film *Footnote* (Hebrew title: העזרה שוליים, in transliteration: *He'arat Shulayim*), although some marketing materials and commentators allege broad humorous intent in the movie. If anything, *Footnote*, set in the Department of Talmud at the Hebrew University of Jerusalem, is a powerful, Kafkaesque study in angst-twisted, soul-stifling internecine ambiguity. With a degree of detachment, it may be allowed that the Talmud itself represents an ambiguous attempt to apply—with a largely elusive fixed certainty—the Torah to everyday life.

A passion for examining a question every which intellectual way, without necessarily formulating a definitive answer to the question, is not unique to, yet is splendidly characteristic of, Jewish *Hochkultur*. *Footnote* has the virtue of lifting viewers up through its manifest passion for Jewish philology. Cedar—who studied philosophy at the Hebrew University of Jerusalem—has told interviewers that he knows actual members of the Department of Talmud and that he loves them and their world. Though the movie's narrative compellingly centers on claustrophobic academic rivalries, some lighter moments provide satirical "you-are-there" realism in a

world-class contemporary Talmud Department. For example, during a cocktail party toward the beginning of the film, two scholars joke at each other with a mocking discussion of Daniel Boyarin's book *Unheroic Conduct: The Rise of Heterosexuality and the Invention of the Jewish Man*.

Boyarin's notions, while certainly not without their merits, are more characteristic of *Footnote's* popularizing—"dumbing-down type," if you will—the Talmudic scholar character, Uriel Shkolnik (Lior Ashkenazi), than of his classically rigorous scholar-father Eliezer Shkolnik (Shlomo Bar Aba)—*shkolnik* being a Russian word for student. Shkolnik *père* is palpably embittered that his most cherished student, Shkolnik *fils*, rebelled against *the* critical lesson of scholarship *qua* scholarship—whether or not it is applied to theological disciplines)—namely, that it should be considered as though it were like an inviolable religion unto itself.

Uriel is a glad-hander, a people person—and people have rewarded him with popular success. Eliezer, by contrast, has alienated himself from, and been alienated by, others, because—though he adheres to the strictures of his academic discipline with unimpeachable integrity—his Sisyphean labors have never earned him any significant recognition. The despicable character that pays most attention to Eliezer's professional activities, department head Yehuda Grossman (Micah Lewensohn), views and treats him with sadistic disdain.

Through force of his formidable, hateful will, Grossman sets *Footnote's* plot in motion by getting the Israel Prize committee to award the Israel Prize to Uriel. In reality, the Israel Prize is awarded to a variety of figures and organizations, but truly *never* in the field of Talmudic studies to a popularizer like Uriel. For example, the towering man of Hebrew letters, Yehuda Even-Shmuel, won the Israel Prize in 1973. In 2000, the Prize for Talmudic Studies was awarded to Avraham Goldberg, responsible for critical editions of *Massechtot Oholot* and *Bava Kamma* as well as of other key texts. In 2008, David Weiss Halivni was awarded the Israel Prize for Talmudic Studies; his seminal *source critical* analysis of the Talmud caused an earthquake, and he is noted for his theological perspectives on the Holocaust, in which he concludes that God was wholly absent at the time (in marked contrast to theologians who see the Holocaust as constituting part of a divine plan).

Grossman had schemed to award the Israel Prize to Uriel only to spite Eliezer, whom he knew suffered absurdist delusions that he might one day win this ultimate Israeli distinction. Grossman's malevolent depravity is further illustrated when he has a committee official call Eliezer to tell him that he has won the Israel Prize, but pretend not to notice that she is not speaking with the correct Shkolnik. As a result, Eliezer believes that his just reward is coming due, whereas Uriel would not be a likely Israel Prize

holder because he has accomplished much—but absolutely not in the right ways. Eliezer would not be a probable Israel Prize holder, either, because though he toiled in the right ways, he accomplished next to nothing. In fact, just as he thought he had achieved an important breakthrough, Grossman beat him to the punch on the same research topic. To rub it in, he cited Eliezer's work as a minor footnote.

Grossman waits long enough for elation to take hold of Eliezer and the Shkolnik family before he calls Uriel in for a meeting with the Israel Prize committee, to watch him squirm after telling him there was a mix-up, that he, not his father, won the prize, and that he must tell that to his father. Uriel, no idiot, understands what Grossman is doing, and why, and confronts him about it, even drawing some blood from Grossman in a physical assault, yet it is too late for Uriel to stop Grossman from pointlessly inflicting more pain on his family. That Grossman—this latter-day Iago—intended to hurt the Shkolnik family is highlighted in a scene in which Uriel begs Grossman to allow the Israel Prize to go to his father, so he will not be forced to tell Eliezer the nightmare truth. “There are more important things than truth,” Uriel says, giving the supercilious Grossman an opening to twist the knife in the wound by asking, “Like what—family?”

Grossman winds up agreeing to allow Uriel to let Eliezer have the Israel Prize on two conditions: that Uriel write the fraudulent committee recommendations himself, and agree that he may never have his own name submitted for the prize. Out of love and consideration for his father, Uriel agrees, only to have his father, the presumed Israel Prize winner, give a journalist a devastating, no-holds-barred condemnation of Uriel's popularization of scholarly materials. Subsequently, Uriel—contaminated by what psychiatrists call “identification with the aggressor”—acts out angrily in turn against his own son. By the film's end, the whole Shkolnik clan realizes that the committee had designated Uriel, not Eliezer, for the Israel Prize, but we are never unambiguously shown which of the two wound up accepting the honor.

The performances in the movie are superb. Cedar won the Best Screenplay Award at Cannes, *Footnote* was nominated for an Oscar, and much ink has been engagingly spilled over the film elsewhere.

Tribute must be paid here to a great man who is but a footnote within *Footnote*. Menahem Stern was a giant of Jewish studies and the 1977 Israel Prize winner. Among Stern's works is *Greek and Latin Authors on Jews and Judaism*, an annotated compilation of references to Jews, Judaism, and the area of Israel found in ancient Greek and Latin texts. Aristotle, it turns out, wrote something about the Dead Sea in his treatise *Meteorologica*. Megasthenes, a Greek ethnographer who lived between 350 and 290 BCE, included Jews in his comparisons of the philosophies of ancient peoples. On

his walks between his Rehavia home and the National Library, Eliezer passes the memorial to Stern, stabbed to death on June 22, 1989, during the First Intifada. For this *Journal for the Study of Antisemitism* commentary, it seems apposite and fitting to recall that Menahem Stern was slaughtered for simply being a Jew.

*Joanne Intrator is a New York-based psychiatrist; Scott Rose is a New York-based writer. Both are frequent *JSA* film reviewers.

Honoring Those Who Fight Antisemitism



Jerzy Buzek
(1940–)

The Conference of European Rabbis (CER) bestowed the first Prix du Judaïsme Européen—Prix Lord Jakobovits on former Polish prime minister Jerzy Buzek in a ceremony held at Brussels’ Great Synagogue of Europe. “As both Polish PM and European Parliament president, he built bridges, vigorously fought antisemitism, helped to keep up the memory of the Shoah, and was a supporter of the State of Israel,” CER president Rabbi Pinchas Goldschmidt said in a press release.



Raymond Aubrac
(1914-2012)

Raymond Aubrac, born Raymond Samuel to Jewish parents who were deported to Auschwitz, with his wife helped set up Liberation-Sud (Liberation South), one of the first networks of the Resistance against the Nazi occupation of France. Aubrac was captured along with celebrated Resistance hero Jean Moulin on June 21, 1943, when police raided a Resistance meeting spot. Lucie Aubrac helped orchestrate her husband’s escape from a Lyon prison following his arrest. She persuaded the local Gestapo leader, Klaus Barbie, to let her meet with her imprisoned husband. During the meeting, she told Aubrac of the Resistance’s plan to attack the German truck that was to transfer him to another prison, then she herself led the armed commando attack that sprung both her husband and Moulin. After the war, Lucie Aubrac returned to the classroom, teaching history and geography, while Raymond went on to a successful career in government and banking.

Honoring Those Who Fight Antisemitism



David Littman
(1933-2012)

David Gerald Littman was a British historian and human rights activist and tireless fighter against antisemitism and anti-Israeli rhetoric. David married writer Gisèle Orebi (Bat Ye'or). At age 27, he volunteered on a Mossad mission to evacuate Jewish children from Morocco to Israel (see "Operation Mural"—*JSA* 3, No. 2). He has addressed human rights issues at the United Nations in Geneva since 1986. In March 1987, he precipitated the Soviet delegation walkout when he arranged for Natan Sharansky to address the plight of the Jewish refuseniks. David sought to make public the fact that Hamas calls for the annihilation of Israel. Responding to a Palestinian Authority charge that Israel had infected Palestinians with AIDS, he defended Israel against the libel. After London's 7/7 bombings, he tried to convince the UN Sub-Commission on Human Rights to condemn killings in the name of religion, but was interrupted so many times by delegates from Muslim countries he could not finish his request. The *New York Daily News* referred to David Littman as a "rare but tenacious [voice] who confront[s] Islamic human rights abuses at the UN at every turn." He is survived by his wife, Bat Ye'Or, two children, and their grandchildren.

JSA Merit Award: The Righteous Who Fight Antisemitism



Stephen J. Harper
Prime Minister of Canada

For his acts of unwavering support and protection of Canada's Jewish people, we hold Prime Minister Stephen Harper in the highest regard and honor him with the JSA Lifetime Achievement Award. Below is a partial list of acts of his compassion and care.

2012

- In March 2012, John Baird, the Canadian foreign affairs minister, said, "There is no better friend to Israel than Canada."
- In his keynote address at the 2012 National Holocaust Remembrance Day ceremony at the Canadian War Museum in Ottawa, Prime Minister Harper said that in spite of the magnitude of the number six million, each individual person who perished in the Holocaust was innocent, each had a name, each was "precious, irreplaceable, and deserving of honor," and he gave thanks "for those who survived and found their way to our country, and who have enriched its life immeasurably." He went on to say:

We strengthen our resolve to defend the vulnerable, to challenge the aggressor and to confront evil.

We renew our vow: never again.

Truly remembering the Holocaust must also be . . . an undertaking of a solemn responsibility to fight those threats.

We see it in the manifestos of organizations which deny the right of Israel as a Jewish state to exist.

We see it most profoundly and clearly in the ravings of a ruthless leader who threatens to wipe Israel off the map . . .

We see it in the slaughter of Jewish children . . . just last month, by a man born and raised in a tolerant, Western country.

We see it . . . on some university campuses, in the unconscionable slur that is the so-called Israeli Apartheid Week.

- In May 2012, Israeli president Shimon Peres praised Canada as an “extraordinary friend” and thanked Canadians for supporting Israel’s efforts to “achieve real peace and to deter dangers.”
- In a letter to International Olympic Committee (IOC) president Jacques Rogge in June 2012, Foreign Affairs Minister Baird voiced Canada’s disappointment and asked the IOC to reconsider its denial of Israel’s request for a moment of silence to remember the massacre of Israeli Olympians in 1972 by Palestinians belonging to the terrorist group Black September.

2011

- In September 2011, Canada opposed the Palestinians’ bid to be recognized as a state and to be allowed to join the UN. In his speech to the General Assembly, Foreign Affairs Minister Baird expressed Canada’s disapproval, calling it a “unilateral action.”
- Prime Minister Harper announced that his government will create a special Office of Religious Freedom in the Department of Foreign Affairs to monitor religious freedom around the world, to promote religious freedom as a key objective of foreign policy, and to advance policies and programs that support religious freedom around the world. “It will call attention to the religiously persecuted and condemn their persecutors. It will signal to religious minorities everywhere that they have a friend in Canada,” Harper said.
- The Harper government *defunded* Canadian groups involved in anti-Israel activity and slashed its contribution to UNRWA, the UN organization founded to prevent resettlement of Palestinian refugees so the refugee crisis could feed anti-Israel sentiment.
- The Harper government refused to join the United States in calling for a return to 1967 borders as a starting point for peace negotiation. At the G8 summit, Prime Minister Harper refused to accept any resolution that mentioned borders without mentioning Palestinian refusal to accept Israel’s right to exist, the Palestinian demand to destroy Israel through Arab immigration, and Israel’s right to defensible borders. Had he not,

the Palestinian position could have led to a U.S.-sponsored anti-Israel Security Council resolution.

- In October 2011, the government signed the Ottawa Protocol to Combat Anti-Semitism, recognizing it as a global threat to the Jewish people and the State of Israel, declaring that it will not be tolerated in Canada, and setting out an action plan to combat it. Minister Baird expressed the government's unequivocal support for the State of Israel with these words: "Canada will not stand behind Israel at the United Nations; we will stand right beside it. It is never a bad thing to do the right thing."
- In November 2011, after release of the IAEA *Director General's Report on Iran*, Minister Baird said: "Canada is deeply disturbed . . . Canada will continue to work with its like-minded allies to take the necessary action for Iran to abandon its nuclear program. We encourage others to join in this effort. It is not a question of if, but to what extent, we will act in response." In 2012, Prime Minister Harper told the CBC, "These are people who have a particular . . . fanatically religious worldview, and their statements imply to me no hesitation of using nuclear weapons if they see them achieving their religious or political purposes."

2010

- In September 2010, at the UN, the Canadian delegation was the first to walk out when Iran's dictator took to the podium.
- Canada joined the Inter-parliamentary Coalition for Combating Antisemitism and hosted its 2010 conference in Ottawa, where Prime Minister Harper spoke about his commitment to combating antisemitism and supporting Israel and the Jewish community. He stated:

Two weeks ago I visited Ukraine . . . I laid a wreath at Babi Yar, the site of one of the numerous atrocities of the Holocaust.

The horror of the Holocaust is unique, but it is just one chapter in the long and unbroken history of antisemitism.

Jews today in many parts of the world and many different settings are increasingly subjected to vandalism, threats, slurs . . .

Antisemitism has gained a place at universities . . . at times it is not the mob who are removed, but Jewish students under attack.

When Israel, the only country in the world whose very existence is under attack . . . we are morally obligated to take a stand.

I know, by the way, because I have the bruises to show for it, that whether it is at the United Nations, or any other international forum, the

easy thing to do is simply to just get along and go along with this anti-Israeli rhetoric, to pretend it is just being even-handed, and to excuse oneself with the label of “honest broker.” There are, after all, a lot more votes—a lot more—in being anti-Israeli than in taking a stand [Canada has 940,000 Muslims and 345,000 Jews]. But, as long as I am Prime Minister, whether it is at the UN or the Francophone or anywhere else, Canada will take that stand, whatever the cost.

We are free citizens, but also the elected representatives of free peoples. We have a solemn duty to defend the vulnerable, to challenge the aggressor, to protect and promote human rights, human dignity, at home and abroad.

- Stephen Harper’s government has worked with the Jewish community to address threats from antisemitic attacks on schools, community centers, cemeteries, and synagogues by providing millions from its Security Infrastructure Program and Communities At Risk Fund to assist with the installation of security equipment to help keep those institutions, and those who attend them, safe.
- Conservative MPs were instrumental in passing legislation and ensuring \$100 million in federal funding for the construction of the Canadian Museum for Human Rights, to teach Canadians about the Holocaust and other human rights atrocities.



- The Harper government pledged funding for the Wheel of Conscience monument to memorialize the refusal of entry in 1939 to over 900 Jewish refugees fleeing the Nazis on the *SS St. Louis*, many of whom perished in the Holocaust after being sent back to Poland.
- The Harper government played a major role in the approval of Canada’s first National Holocaust Memorial.
- Under Prime Minister Harper, the Canadian government supported the creation by B’nai Brith’s League for Human Rights of a National Task

Force on Holocaust Education, Remembrance and Research, which led to the development of new research and educational tools.

2009

- Stephen Harper visited the sites of the Mumbai attacks and memorializes the Jewish victims.
- When Venezuela expelled Israel's ambassador, Canada stepped in to represent Israel's diplomatic and consular interests, and also to encourage Venezuela to ensure the security of its Jewish community and end state-sponsored antisemitism.
- Canada was first to boycott Durban II after its predecessor conference descended into an anti-Israel antisemitic political opportunity.
- Prime Minister Harper sent minister Jason Kenney to Prague to submit Canada's participation as a full member in the International Task Force on Holocaust Education (Canada will chair the task force in 2013).
- Israeli prime minister Benjamin Netanyahu made special mention of Canada in a speech to the UN General Assembly when he said, "I wish to extend my thanks to Prime Minister Harper for his staunch support for Israel's right of self-defense."

2008

- On the occasion of Israel's 60th anniversary, Prime Minister Harper said:

All of my life, Israel has been a symbol of the triumph of hope and faith. After 1945, our battered world desperately needed to be lifted out of postwar darkness . . . needed to be inspired. It was the people who had suffered most who provided that inspiration . . . From shattered Europe and other countries near and far, the descendants of Abraham, Isaac, and Jacob made their way home.

In the sixty years that followed, Israel blossomed into one of the most successful countries on earth . . .

Israel at 60 remains a country threatened by those groups and regimes who deny to this day its right to exist . . .

Canada stands side by side with the State of Israel, our friend and ally in the democratic family of nations. We have stood with Israel even when it has not been popular to do so, and we will continue to stand with Israel, just as I have always said we would . . .

- Canada and Israel agreed in 2008 to raise cooperation in security and military sectors, in public safety, and in counterterrorism. Canadian and Israeli governments fund the Canada-Israel Industrial Research and Development Foundation to collaborate on research and development projects in surveillance, nanotechnology, photonics, precision optical equipment, and the life sciences.

2007

- In 2007, Canada condemned the UN Human Rights Council's undue focus on Israel and its one-sided resolutions. John McNee, Canadian ambassador to the UN, chastised members for naming only Israel to the Council's permanent agenda. Prime Minister Stephen Harper has consistently directed Canada's delegation to the UN to oppose such anti-Israel resolutions.
- At Francophonie Summits, Prime Minister Harper was directly responsible for stopping passage of one-sided resolutions.

2006

- After elections that swept Hamas to power, Canada was first to boycott the Hamas government—even before Israel. In one of his first acts as prime minister, Stephen Harper removed \$30 million in funding to the Hamas-controlled Palestinian government. Minister Peter MacKay said: "There will be no contact and no funds, period . . . to an organization that refuses . . . to renounce violence."
- On the Israel-Hamas and Israel-Hezbollah conflicts, Prime Minister Harper stood firmly with Israel: "Extremists who committed cross-border murder and kidnapped Israeli soldiers bear responsibility for instigating the crises." Harper described the actions of Olmert's government as a measured response. "We are not going to give in to the temptation of some to single out Israel, which was the victim of the initial attack." He later said, "When it comes to dealing with a war between Israel and a terrorist organization, this country, and this government, cannot and will not be neutral . . . Those who attacked Israel and those who sponsor such attacks seek what they and those like them have always sought: destruction of Israel and the Jewish people."

Stephen Harper's unwavering support for Israel and the Jewish community has won him special recognition from the Simon Wiesenthal Center, B'nai Brith, the Canadian Jewish Congress, Yad Vashem, and today, the Journal for the Study of Antisemitism. For his acts of unwavering support and protection of Canada's Jewish people, we hold Prime Minister Stephen Harper in the highest regard and honor him with the JSA Merit Award: The Righteous Who Fight Antisemitism. Thank you, Prime Minister Stephen Harper.

Steven K. Baum, Editor

Journal for the Study of Antisemitism

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Florette Cohen, Psychology, College of Staten College, New York

Steven L. Jacobs, Judaic Studies, University of Alabama

Lesley Klaff, Law, Sheffield Hallam University, Sheffield, UK

Ruth L. Klein, B'nai Brith Canada, Toronto

Kenneth I. Marcus, Louise D. Brandeis Center, Washington, DC

Neal E. Rosenberg, Co-Editor, *JSA*, Marlton, NJ

Shimon T. Samuels, Chair, *JSA*, Simon Wiesenthal Center, Paris

This list of Stephen Harper's record in protecting Canadian Jews was provided by Honey and Isaac Apter. Honey Apter is the child of Holocaust survivors and holds membership in the Holocaust Resource Program Advisory Committee and the Apotex Family Advisory Committee (Baycrest Centre for Geriatric Care, Toronto). Her son, Isaac Apter, is a political operative and PC consultant residing in Toronto.

JSA Lifetime Achievement Award



*For more than half a century, Richard L. Rubenstein has been a unique voice in Holocaust and genocide scholarship. His first work, *After Auschwitz*, caused considerable controversy within the Jewish community, as he insisted that no Jewish theology would be adequate if it did not address the twin revolutions of 20th-century Jewish history: the Holocaust and the establishment of the State of Israel. And address these issues he did. His timing was impeccable; for an entire generation, these issues were paramount to an understanding of the Jewish experience, and Rubenstein's own writings anchored one part of the debate.*

*Few thinkers are privileged to reach the age of four score and eight with no loss to their intellectual vigor and moral ardor. Fewer still see the issues that they raised half century ago still occupying center stage. Rubenstein's *The Cunning of History* made two central and enduring points: that the Holocaust was an expression in the extreme of what was common to the mainstream of Western civilization, and that the central issue of our time was how society responded to the issue of superfluous population. This debate is dominating the political landscape of 21st-century America as the covenant between generations is fraying and we are reexamining our responsibilities to the old and the young, to those who cannot work, and to those who can find no place in our globalized economy.*

Rubenstein has brought the insights of a lifetime of work to bear on the question of radical Islam and the Jewish people and the West. The result was a powerful and deeply disturbing work that engages the reader in considering issues that polite society would prefer to avoid.

For more than forty years he has been my esteemed teacher, my friend, my Doctor Father, and we consider each other family. While we don't always agree, we have respected our differences and celebrated the intellectual engagement those differences allow. I cherish our relationship. I cherish his intellectual integrity and brilliant insights. We all look back on the past with admiration and look forward to his ongoing contribution.

—Michael Berenbaum

“What I’ve Learned”

Richard L. Rubenstein*

I must begin by expressing my regret that I cannot receive this ASC Holocaust and the Churches recognition in person. Because of the illness of my wife, truly my intellectual and spiritual partner over the years, I am reluctant to make the journey to Rochester. I am, however, grateful that my very good friend and, if I may say with a full measure of pride, my former doctoral student, Professor Michael Berenbaum, has agreed to accept it on my behalf. [The award was made at Monroe Community College in Rochester on May 14.]

I am profoundly moved by this recognition. Little did I realize 42 years ago, when I participated in the first Annual Scholars Conference, that I would be beginning relationships that over time included not only partners in dialogue but scholars who became lifetime friends. Chief among them were Franklin Littell and Hubert Locke, and there have been many others.

When I learned of the recognition, I decided to read once again the text of the address I gave at the first conference. It was published in *The German Church Struggle and the Holocaust*, edited by Franklin Littell and Hubert Locke, and made available to a wider audience in *The Holocaust: Religious and Philosophical Reflections*, edited by John K. Roth and Michael Berenbaum. That address was especially important to me. Many of the issues that have remained lifelong concerns were briefly expressed there. Moreover, the address was the occasion of a memorable encounter with Elie Wiesel, whose full stature was yet to be recognized. Elie was scheduled to speak after me on “The Literature of the Holocaust.” After hearing my talk, he decided to address himself largely to my remarks, which, together with his rejoinder, were later presented as a dialogue in the volumes referred to above.

I had enormous respect for Elie then, as I do now, but the differences between us were striking. Immersed in and nurtured by traditional Jewish culture, Elie had experienced the full horror of Auschwitz and the death march that followed. Classified as a divinity student, 4D, by my local draft board, initially possessing only a minimal knowledge of Jewish tradition, I spent those years, 1942-1945, in the comfort and security of Cincinnati’s Hebrew Union College, the training institution for Reform rabbis.

Nevertheless, both of us spoke out of our deepest and most personal insights. I told of my efforts to talk to my three children as each became aware of the Holocaust, the Germans, and the American refusal to bomb Auschwitz when they controlled the sky.

I also spoke briefly of my 1961 Berlin encounter with Dean Heinrich Grüber and our discussion of God and Auschwitz. My view reduced itself to a stark either/or: either there is a biblical God of History, covenant and election, Auschwitz is God's handiwork, and Hitler is the twentieth century's preeminent Nebuchadnezzar—or Auschwitz was the dire consequence of German power and abject Jewish powerlessness. If the latter is the case, as indeed I believe it to be, then we live in a universe utterly devoid of divine providence. Put differently, we live in the world of the death of God, by which I do not mean atheism—but that is an issue for another time.

Elie did not attempt a logical rebuttal. Instead, he told tales of faith and doubt in the Kingdom of Death. Admitting his own doubts, he nevertheless offered an emotional, overwhelmingly powerful affirmation of faith and fidelity in a miserably broken world. The issues expressed in that encounter are as alive today as they were at that first Scholars Conference.

In the essay, I cited Hannah Arendt's 1951 observation that after Auschwitz "the only rights an individual has are those he possesses by virtue of his membership in a concrete community that has the power to guarantee those rights." I have long held that position. Clearly, the victims of the Shoah had no such rights, and paid the ultimate price. I again quoted Arendt, who wrote that at the end of the war, the Italian government offered all Jews on Italian soil full Italian citizenship. Almost all declined. They understood that in times of stress, citizenship as a minority in a European nation-state might prove as worthless to them as it had to the Jews of Germany.

The sad wisdom of those Holocaust survivors was validated in a July 8, 2008, interview by Francesco Cossiga, from 1976 to 1992 Italy's minister of the interior, prime minister, president of the Senate, president of the republic, and senator for life. In that interview, published in the Italian daily *Corriere della Sera*, Cossiga revealed the existence of an agreement dating from the early 1970s between prime minister Aldo Moro and Yasser Arafat's PLO in which the PLO was granted the freedom to come and go, as well as stock weapons on Italian soil, in exchange for immunity for Italy's domestic and foreign interests. *Cossiga admitted that Italian Jews had been excluded from protection.* The results were soon forthcoming. On October 9, 1982, six terrorists fired on members of Rome's Great Synagogue, wounding dozens and killing a two-year-old child; the congregation's police protection had been withdrawn several hours before the attack.

There were other such attacks that Cossiga commented on. One of the worst was the Strage di Bologna, in which 85 were killed and 200 wounded. Italian authorities blamed neo-fascists, but in his interview Cossiga acknowledged that the railroad station explosion at Bologna was accidental

and that the real perpetrators were members of the Popular Front for the Liberation of Palestine, who intended to target Jews, not Italians, with their explosives. Under the circumstances, the Italian government made no attempt to prosecute the perpetrators.

If the Jews of Europe had a fundamental flaw during the Holocaust, it was that they had neither the numbers nor the weapons with which to defend themselves; *put differently, they lacked effective sovereignty*. This was, of course, nothing new, but the gravity of that deficiency had only become fully apparent when they were confronted with a unique foe determined on their extermination. Moreover, extermination invited repetition. From the end of the war to this day, there have been those who promised to complete Hitler's work, and their voices have become louder and more numerous recently.

Fortunately, bitter experience has taught a critical mass of Jews that an adversary who promises to destroy them and actively seeks the weapons with which to carry out the threat must be believed. That is at the heart of the crisis between Israel and Iran; it is also at the heart of the crisis between Israel and radical Islam. Ironically, Israel's most potent weapons may be the Dolphin-class attack submarines produced by German firms and partly financed by the government of Angela Merkel. These submarines are said to be capable of launching cruise missiles with 200kg nuclear warheads at a range of 1,500 km or more. What this means is that the submarines and the Israeli Air Force provide that nation with devastating, second-strike, retaliatory capability. Unfortunately, however, even this awesome capacity will not defend adequately against an enemy prepared to sacrifice millions of its own people out of messianic, apocalyptic zeal.

No one can predict the outcome of combat between Israel and its enemies, but how different is Israel's situation from that of Europe's Jews during the Second World War. Israel's Jews have the one thing the Jews of Europe never possessed: the capacity, if necessary, to render catastrophic retaliatory damage to enemies that threaten them with annihilation. *That capacity may be the ultimate significance of effective sovereignty*, and it may also be the only thing that the Israelis can ultimately rely on. Certainly, they cannot rely on the United Nations, with its 56 Muslim member nations, or on the paper promises of the Israeli-Egyptian Treaty of 1979. Nor can they even rely on the friendship of the United States. As Charles De Gaulle and Lord Palmerston have observed, Nations have no friends, only interests. I would add, "as perceived, rightly or wrongly, by a nation's leaders."

These are, I believe, some of the bitter lessons I have learned, having lived through the age of actual genocide and, now, the threat of future genocide. At the age of 88, I hope to continue my writing, teaching, and religious and inter-religious activities, as long as I am blessed with the strength

and mental clarity so to do. I thank the Scholars Conference for this honor and for the forum in which to share ideas and insights with colleagues over the years. I look forward to meeting with you again, hopefully at our next conference.

*From the 42nd Annual Scholars Conference Holocaust and the Churches Recognition Award, Rochester, NY, May 14, 2012. Richard L. Rubenstein is president emeritus and Distinguished Professor of Religion at the University of Bridgeport. A Reform rabbi, he is author of several books, including *Jihad and Genocide* (Rowman and Littlefield, 2010). He is a *JSA* board member and contributing writer for the *New English Review*.

Antisemitica



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Thoughts by Hugh Mann*

WHAT IS RELIGION? Notwithstanding all of its respectful liturgy and doxology, religion is, in part, frustration and anger with the Creator, who gave us just enough intelligence to understand life’s dilemmas, but not enough intelligence to do anything about them.

WHAT IS SCRIPTURE? Scripture is divinely inspired, but is also divisive, epic poetry about a promised, but disputed, messiah whose supernal power heals our infernal nature by fixing factual, but fabled, family feuds over food, fortune, freedom, favoritism, fairness, fame, fate, and faith.

WHAT IS POLITICS? Politics is pervasive, but not persuasive. Eternal and infernal, politics is false promises based on false premises, and false choices based on false voices; while politicians are euphonious phonies, impostors who posture, bandits backed by pundits, and back-stabbers disguised as backslappers. As the *circus maximus* of politics, elections are a tug of war between the left and right, with the center of the rope wrapped around the public’s neck.

WHAT IS PC? As a sociolinguistic philosophy of equality and reform, PC is a mixed blessing. It sensitizes us to the negative nuances of normative labels, but it also sanitizes language, paralyzes communication, and stigmatizes us with pseudo-peccadillos and *faux-pas* phobia. Scripted and insipid, PC is semantic antics with veridical indirectness and lame sameness, both of which stultify results and reduce everything to nothing. Sadly, PC is a parody of parity that leaves us languishing in language.

WHAT IS RACISM? As the pigment that darkens the color of our skin, hair, and eyes, melanin is a mixed blessing. It protects us from the harsh rays of the sun, but it also subjects us to the harsh gaze and words of racists, who blindly and blithely dislike and disrespect all dark-skinned people. Fusing ignorance with arrogance, avarice with cowardice, and caprice with malice, racism is a pigment of the imagination and an impediment to every nation. Racism is lunacy, not supremacy.

*Hugh Mann is a widely published holistic physician-poet. His Web site, organic MD.org, promotes peace and health.

