

How the Trump II Administration Can Combat Antisemitism

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Antisemitism is not just a pernicious ideology; it is a hatred so intense and conspiratorial that it frequently leads to criminal behavior and lawlessness.

For years, antisemitic crimes in the U.S. have been largely underreported by the media and not sufficiently addressed by law enforcement. But since Oct. 7, 2023, the lawless behavior has increased exponentially, with more physical attacks against Jews, more extensive property destruction, and more violent riots and protests. Campuses have become hostile to Jewish students, and universities have acted unlawfully by failing to provide Jewish students safe learning environments. In Brooklyn, assailants attack Hasidic men, women and children on the streets. And in rural New York and New Jersey, local citizen groups have tried to keep Jews from moving into their neighborhoods through discriminatory zoning decisions.

Unfortunately, our federal government has failed to match the vigor with which antisemitism has risen. While the Biden Administration made some strides and struck some sound chords, it was ultimately not up to the task. The second Trump Administration has a unique opportunity



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to combat antisemitism by taking a multifaceted, whole-of-government approach, and by more rigorously enforcing the laws that some Biden appointees refused to enforce. To succeed on a larger scale, the Administration must recognize that not only is the problem of antisemitism deeply rooted in certain institutions, but also that it implicates numerous federal laws and falls within the jurisdiction of several federal agencies, including ones with both civil and criminal jurisdiction. The Trump Administration can make

improvements in these areas of federal enforcement, particularly where the previous administration was too lax.

One of the main hotbeds for high-profile actions of antisemitism, for example, has been college campuses. In the wake of Oct. 7, student protesters have assaulted and spit at Jewish students, surrounded them, and harassed and intimidated them. Some have posted explicit threats of anti-Jewish violence on school platforms. They have blocked visibly Jewish students from accessing public facilities, and they have taken over campus quads with weeks-long encampments. Many faculty have encouraged and participated in this lawlessness, and have discriminated against Jewish students in their classroom. Administrators have also discriminated against Jews by refusing to enforce school policies to protect them, while vigorously enforcing the same policies to protect other minorities.

This conduct is not only immoral, it is unlawful. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, prohibits discrimination based on race, color or national origin in federally funded programs. Because most public and private universities accept federal funding, they are subject to Title VI and have a legal obligation to provide a “non-hostile” learning environment.

While many Jewish students and student associations are pursuing private lawsuits under Title VI, the Department of Education (“DOE”) should play a larger role, specifically its Office for Civil Rights (“OCR”), which enforces civil rights law at schools that accept federal funds. To combat antisemitism on campuses, the Trump Administration should focus on applying real consequences through the OCR process. While OCR has, laudably, opened more than 100

investigations since Oct. 7, many of those investigations have languished. The few that have reached resolution have involved inadequate settlements that likely will not lead to any change.

To improve the OCR process, the Trump administration can find ways to expedite and strengthen investigations. Republicans in the House Committee on Education & the Workforce have already done yeomen’s work studying the problem at universities, and OCR should build off that work. Most importantly, it should take steps towards terminating federal funds for schools that refuse to comply. Taking away billions of dollars in funding will have a powerful deterrent effect.

Title VI is not the only legal tool to combat antisemitism on campuses. Much of the problem arises from foreign funding from anti-Israel and authoritarian regimes, who have essentially paid for anti-American and anti-Jewish academic programs and faculty. A recent study by the Network Contagion Research Institute and the Institute for the Study of Global Antisemitism and Policy found that the receipt of foreign funding was associated with substantially increased levels of campus antisemitism, especially when the funding came from Middle Eastern and/or authoritarian states.

For years, much of that funding went unreported in violation of federal law. Section 117 of the Higher Education Act of 1965 requires federally funded schools to report gifts from and contracts with foreign sources over a certain amount. In 2019, the Trump Administration began to scrutinize Section 117 institutional compliance, uncovering billions of dollars of unreported funds. Toward the end of his first term, the Trump DOE attempted to shore up

Section 117 reporting by promulgating a rule requiring true copies of gifts or agreements. But the Biden administration froze that rulemaking upon taking office. The DOE under Secretary Cardona then retreated from enforcing the Section 117 by transferring responsibility to a small division of DOE that lacks the skills or capacity to track foreign funding. President Trump now can reinvigorate Section 117 enforcement, as he started to do in his first term.

Like universities, many employers have permitted their workplaces to devolve into hostile environments for Jews. This also violates federal law. Title VII of the Civil Rights act prohibits workplace harassment and discrimination based on religion. The U.S. Equal Employment Opportunity Commission (“EEOC”) has jurisdiction over employment discrimination. But, as with the DOE, there have been problems with federal enforcement of Title VII. Among other deficiencies, the EEOC has failed to collect data to understand and report on the true severity of antisemitism. Sen. Bill Cassidy recently wrote a letter to the EEOC demanding “detailed data involving religion-based discrimination,” which has thus far been underreported and under-examined.

Antisemitism has also pervaded labor unions under the watch of the National Labor Relations Board (“NLRB”). Many unions have passed highly controversial anti-Israel resolutions and have supported anti-Israel advocacy to the point where the work environment has become downright hostile to Jewish members. Worse, they have done so using member dues, even though Israel has nothing to do with the unions’ missions. One union member successfully sued to enforce his rights under

Communications Workers of America v. Beck, 487 U.S. 735 (1988), which allows members to opt out of paying dues for the union’s political activities. Despite the successful suit, the member testified to Congress that his union refused to change its illegal tactics, and the NLRB closed his case without taking further action.

In addition to creating hostile environments at schools and in the workplace, antisemitism has led to violence and mayhem in the streets. Anti-Israel rioters have defaced Jewish-owned businesses, evoking memories of Kristallnacht and anti-Jewish pogroms in Europe. The rioters have damaged and defaced property, stopped traffic, interrupted public events, and violently attacked Jews on the street. During a protest in California, a university professor struck a 69-year-old Jewish in the head with a megaphone, killing him.

While violence and property crimes are typically handled by local law enforcement, many of these recent antisemitic crimes violate federal law. Nonetheless, the Justice Department has been lax when it comes to enforcing laws to combat antisemitism. Notwithstanding the substantial property damage to federal property from D.C. riots, for example, the Justice Department and Office of Attorney General for D.C. declined to charge dozens of individuals arrested by D.C. metro police. Likewise, while the Garland Justice Department vigorously prosecuted pro-life protesters under the federal Freedom of Access to Clinic Entrances (“FACE”) Act, 18 U.S.C. § 248(a)(1), it has not yet charged a single anti-Jewish protester of the many who have violated the FACE Act provision that makes it unlawful to block access to places of worship, including synagogues. The Justice Department under Trump should prioritize enforcement of laws

applicable to protesters who damage federal property, impede access to places of worship, or violate other federal law during their riots.

The Justice Department, IRS, and State Department must also take much more aggressive measures against terrorist-funding individuals, organizations, and financial institutions. While malicious foreign states and entities have influenced American universities by sending money into the country, many individuals and entities are sending money out of the country to support terrorist organizations. As it did in its first term, the Trump Administration should prioritize enforcement of antiterrorism statutes that criminalize “material support” of foreign terrorist organizations. The Justice Department and the IRS must investigate and root out the many charitable organizations that terrorist organizations have been using as fronts for funding. These crimes involve a complex web of funding and money movement, which will require extensive resources to investigate and pursue.

Finally, the Trump Justice Department should take a more active role in enforcing the Religious Land Use And Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. §§ 2000cc, *et seq.*, which protects individuals and religious institutions from discrimination in zoning. While RLUIPA gives aggrieved citizens a cause of

action against local governments and zoning boards, the Justice Department can also intervene and enforce the law as well. Although less publicized than other events, many well-funded groups—particularly in rural New York and New Jersey—have organized to exclude Orthodox Jewish communities from their neighborhoods. The Justice Department should organize a task force to investigate this problem and intervene when local zoning boards violate the federal civil rights of Jews and other religious groups.

These are only some of the many laws implicated by the spate of antisemitism and only some of the federal agencies tasked with enforcing those laws. President Trump made substantial progress in his first term, and he has already shown great promise as president-elect. But the problem has grown far worse over the last year. Given the scope and complexity of these legal issues, President Trump should convene a committee of experts to devise a whole-of-government law enforcement approach to combatting antisemitism.

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