UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS (Boston)

No. 1:25-cv-10685-WGY
Volume 1, Page 1 to 74

AMERICAN ASSOCIATION of UNIVERSITY PROFESSORS, et al,
Plaintiffs

vs.

MARCO RUBIO, in his official capacity as Secretary of State, et al,
Defendants

****

For Bench Trial Before:
Judge William G. Young

United States District Court
District of Massachusetts (Boston.)
One Courthouse Way
Boston, Massachusetts 02210
Tuesday, July 8, 2025

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P R O C E E D I N G S

(Begins, 9:00 a.m.)

THE COURT: Good morning. Because I've allowed internet access to these proceedings, I should say that if you are observing the proceedings on the internet, the rules of court remain in full force and effect, and that means there is no taping, streaming, rebroadcast, screen shots, or other transcription of these proceedings.

Further, it is very important that you keep your microphone muted at all times. If you do not, you will be cut off, because we don't want these proceedings interrupted.

There was a witness on the stand and she may --

Or are you done?

MR. BIALE: No, your Honor, and I'll call her back in a second. I just wanted to give the Court a quick update on the evidence. It will take 30 seconds.

I'm sorry, Noam Biale for the plaintiffs. Good morning, your Honor.

So the parties were able to work together productively yesterday and we have given the Court a joint numbered exhibit list and you have now all of the numbered exhibits that we have stipulated are coming into evidence.

You also have our lettered exhibits. I understand the government had a printing problem, but they are working to get a copy of their lettered exhibits to the Court.

So we do have the witness we were examining at the end of the day yesterday. We're going to have also a couple of our authentication witnesses. One other, um, professor witness who will testify today. And there's a chance we will get to our remote witness. I've spoken with the government about that. It looks like we're getting there. We will test out the system during the break. I just wanted to give the Court a preview.

THE COURT: Are you going to start with one of these authentication witnesses or recall the witness?

MR. BIALE: I'm going to recall the witness first.

THE COURT: She may be recalled.

MR. BIALE: Okay. Thank you.

(Pause.)

MR. BIALE: And just for the record, the plaintiffs recall Nadje Al-Ali.

THE COURT: She may be recalled.

And if you would remind the witness she's still under oath.

THE CLERK: Ms. Al-Ali, I remind you that you remain under oath.

Do you understand?

THE WITNESS: I do understand.

THE COURT: And you may continue with your interrogation.

MR. BIALE: Thank you, your Honor.

DIRECT EXAMINATION BY MR. BIALE: (Continued.)

Q. Good morning, Professor Al-Ali.

A. Good morning.

Q. Thank you for coming back.

Professor Al-Ali, how do you define "antisemitism."

A. Well as someone who grew up in Germany, um, I encountered antisemitism as the way that Jewish people were seen as inferior and a threat to Germans, but later on more current definitions evolved around prejudice, harassment, discrimination, of Jewish people as Jews, which can be -- I mean that can manifest in various contexts in speech, in action, in policy, and target individuals or institutions or organizations.

THE COURT: Well I was following, I think, until the end --

THE WITNESS: Uh-huh.

THE COURT: -- with the definition. You, um, were saying that it was an animus towards Jewish people.

THE WITNESS: Yes.

THE COURT: And I followed that. And then you were talking about manifesting itself as to institutions?

THE WITNESS: Right. I mean when it's sort of, um, if prejudice or sort of conspiracy theories are being used to describe -- I mean so, for example, I would make a distinction between a critique of the State of Israel in terms of policies, but if someone says, "Well, um, all Jews are responsible for the policies of the state of Israel," if there is a conflation, then that would be antisemitic. So I make that distinction.

THE COURT: Yes. And to see if I understand it, while the line is never perfectly clear --

THE WITNESS: Yes.

THE COURT: -- policies of the State of Israel, in your mind, whether you're supportive or hostile, that's not antisemitism?

THE WITNESS: To critique those, no.

THE COURT: To critique those. But animus toward Jewish people, as you use the word, that is antisemitism?

THE WITNESS: Absolutely, yes.

THE COURT: And it may be that the two are conflated in someone's mind.

Is that what you're saying to me?

THE WITNESS: Yes. Yes.

THE COURT: All right.

Q. Thank you for that definition.

With that in mind, in your opinion, Professor, does the United States have a legitimate interest in combating antisemitism?

A. Yes, I hope so.

Q. Now, um, I want to go back to -- we spoke yesterday about some of the ways in which the policy, um, that was enacted and manifested in the arrests of, for example, Mr. Khalil and Miss Ozturk, in March of 2025, we talked about how that has affected your behavior.

Do you remember that?

A. Yes.

Q. So I want to go back to, um, prior to March 2025 now.

A. Okay.

Q. Tell us again, when did you arrive at Brown University?

A. In January 2019.

Q. Okay. And around that time do you recall signing onto an open letter, um, to the Brown, um, administration?

A. Not directly, just generally. But I think it was a

few months later, 3 or 4 months later, there had been a referendum on divestment on, um -- many of us felt that the reaction of the President was worrying, so I signed a statement.

Basically it was about -- it referred to -- we wanted to make sure that there would not be a Palestine exception to academic freedom. We knew that in the past at Brown, there were other forms of political activism, um, that were seen to be part of Brown's legacy, against antiblack racism, for example, and also the legacy of slavery, um, apartheid in South Africa. And, um, so I don't remember the exact wording of the letter.

Q. Well why don't I show it to you.

THE COURT: I just need to be clear.

When you said the "President" --

THE WITNESS: Oh, sorry, the President of Brown University. Yes, that is unclear.

THE COURT: Yes, thank you.

Q. And just so I can clarify. When you said it was about a referendum about divestment, what did you mean?

A. Yes, sorry. That was, um, the students put together a referendum on the question whether Brown University should divest from all companies that are involved in the, um, occupation of Palestine, so that are contributing to, um, the Israeli military occupation.

Q. Thank you. Let me show you what has been marked for identification as Exhibit K.

MR. BIALE: And for the benefit of my friends on the other side, this is AAUP 690 to 696.

Can you pull that up, Mr. Kumar.

(On screen.)

Q. Okay. Take a look at this document, if you can.

A. (Reads.) Yes.

Q. Okay.

MR. BIALE: And, Mr. Kumar, go to the second page, please. (Scrolls.) And now go to the third page.

(On screen.)

Q. Okay. Professor Al-Ali, do you recognize this document?

A. Yes.

Q. What do you recognize it to be?

A. I recognize it to be a letter signed by a number of faculty of Brown University addressed to the President of Brown University, um, asking the President to not treat student activism around Palestine differently from other forms of student protest, and specifically this was around the question of the referendum. And it asked her to not engage in a Palestine exception of academic freedom and protest.

Q. Okay. And if you look, I think it's 4 lines down

in the signature block, um, is that your name?
A. Yes.
Q. Indicating that you signed the letter?
A. Yes.
MR. BIALE: Okay, your Honor, we offer Exhibit K into evidence.
MR. KANELLIS: No objection. But, your Honor, it is hearsay.
THE COURT: Well it is. But do you object?
MR. KANELLIS: Yes.
THE COURT: All right, they object. And I admit it.
MR. BIALE: It's not for its truth, your Honor, we're simply introducing it to --
THE COURT: That's what I thought you'd say. So why is it relevant?
MR. BIALE: It's relevant to show that she was signing open public letters prior to the ideological deportation.
THE COURT: Not for its truth, but it's admitted. It will be Exhibit 100 -- it's 223.
MR. BIALE: Yes, thank you, Judge.
(Exhibit 223, marked.)
Q. Okay.
MR. BIALE: And, Mr. Kumar, if you could please go

back to the first page, um, and pull up the date of the letter, which is on her -- yeah.

(On screen.)

Q. Okay. So you see this was sent in April 2019, correct?

A. Correct, yes.

Q. And I think you said that this was a few months after you arrived at Brown University?

A. Yes, correct.

Q. Did you have any concerns that by signing onto this letter supporting the students who had passed the divestment referendum, that that could cause you any problems with your employer, Brown University?

A. No, I did not.

Q. Did you have any concerns that signing onto this letter could affect your immigration status in the United States?

A. At the time, definitely not.

Q. Okay. And when you say "at the time" that would be not, can you elaborate?

A. Well retrospectively, I mean now I'm worried that these letters might be used against me.

Q. Okay.

MR. BIALE: And you can take that down, Mr. Kumar.

(Off screen.)

Q. So we talked a little bit yesterday about how, um, I think the year after you arrived at Brown University you became the Director of the Center for Middle East Studies, correct?
A. Correct.
Q. Approximately when was that?
A. Um, approximately in July of 2020.
Q. Okay. And, um, I think we talked a little bit yesterday about how your role there and the, um, activities of the Center changed after October 7th, 2023. Can you just very briefly remind us?
A. Well, um, it -- in addition to all that I was doing before, um -- so, first of all, some of the content changed, so there was more emphasis on Israel/Palestine and to the events we organized, but an additional responsibility that I took upon was pastoral care of students who were distressed by the situation and didn't feel they had any other space to go to for organizing, more social-type of events.
Q. And, um, following the attacks of October 7th and the Israeli military campaign in Gaza, were there protests by students on the campus of Brown University?
A. Yes, there were several protests.
Q. Can you just tell us a little bit about what form those protests took?

A. I mean it took different forms. I mean the first one that I remember was, um, I think in November. It was a group of students, um, that were part of Jews For A Cease Fire who engaged in a peaceful, um, sit-in in University Hall, and they were, um, singing and praying. But that specific protest ended in their arrest, I mean first by campus security, and then campus security handed them over to private police. That was one. And later on there were other protest marches. And there was encampment as well.

Q. Okay. And you spoke about a demonstration in November, um, I think you said it was by a Jewish organization on campus?

A. Yeah, Jews For A Cease Fire.

Q. Okay. Did you, um, attend that protest?

A. No, I did not attend the protest, but I was there. I had watched on Instagram. They had sent out like your sort of documentation of the time that they were inside University Hall. But I then went on campus to watch the way that the students were let out of the building one by one and handed over to the Providence police.

Q. And based on what you saw on Instagram and then, um, in your personal observations of what it sounds like was the end of the protest, did you see any conduct or hear any slogans that you interpreted to be antisemitic?

A. No, the opposite. It was actually a very, um, proud moment for myself to see that the police got involved. But in terms of the whole atmosphere, there were actually people -- students and faculty singing songs in Hebrew and in Arabic as the students were let out, and it felt like a very peaceful and community-based event. It was very moving, although it was also very sad.

MR. BIALE: Mr. Kumar, can you pull up Exhibit 92. And, your Honor, this is in evidence by stipulation of the parties.

THE COURT: And to save time, that's my protocol.

MR. BIALE: So I won't say that.

THE COURT: It's got a number. I trust the lawyers, it's in evidence, it will be part of the record. I'll review it.

MR. BIALE: Thank you, your Honor.

Q. Professor Al-Ali, um, can you take a look at Exhibit 92 on your screen.

A. Yes.

Q. What is this document?

A. This was a letter that was published in the student paper, but it was actually a letter that, um, many of us drafted and signed, and I had personally handed to the President of Brown, um, asking or protesting the

involvement of Providence police, and asking the President to reconsider, um, criminal procedures against the students. We felt that they had acted very peacefully. And following me handing in the letter, the President agreed to have a meeting with faculty, which I facilitated.

Q. Okay. And just to be clear, and you may have said this. You said you handed this letter to the President of Brown University. Did you also sign the letter?

A. Yes, I signed the letter as well.

Q. Okay. Around this time, so it looks like this letter was sent, um, November 9th or rather sent by hand-delivery November 9th, 2023, um, around this time did you sign onto any other letters that you recall?

A. To be honest I don't, um, really remember. I just know that, um, the only other thing that I know, at some point I signed, was on a cease fire request for the President of Brown to make a public statement asking for a cease fire.

Q. Okay, so let me show you something, um, that may refresh your recollection.

MR. BIALE: Mr. Kumar, if you can pull up Exhibit L. And folks, this is Bates Number AAUP 697 to 704.

(On screen.)

Q. And take a look at that document, please.

A. (Reads.)
Q. Have you taken a look at that?
A. Yes.
Q. Do you recognize this document?
A. Yes.
Q. What do you recognize this to be?
A. I recognize this to be a letter drafted by faculty, um, addressing the President, um, of Brown University, Christina Paxson, and asking her to make a statement asking for a cease fire -- a cease fire in the context of the war, Israel and Gaza.
Q. And is this the letter that you were just referencing in your testimony?
A. Yes. Yes, that's letter.
MR. BIALE: And, your Honor --
Q. And what's the date of the letter?
A. It's the 7th of November, 2023.
MR. BIALE: Your Honor, we offer Exhibit L.
THE COURT: I take it not for the truth?
MR. BIALE: Correct.
THE COURT: Any objection?
MR. KANELLIS: No objection, your Honor.
THE COURT: L will be admitted, Exhibit 224, with that limitation.
(Exhibit 224, marked.)

MR. BIALE: Okay. Thank you. You can take that down, Mr. Kumar.

(Off screen.)

Q. Now you mentioned, Professor, that you facilitated a meeting between the faculty of Brown University and the President?

A. Correct.

Q. Did you facilitate any other meetings, um, that in any way related to the pro-Palestinian protests?

A. Um, well, yes, I facilitated, um -- I mean what I remember for sure is that I facilitated a meeting between the President and some students following one of the more pastoral care-mentored lunches and, um, sort of with students saying that they feel alienated, ignored, um, and there was lots of stress and grief. And so I approached the President and she agreed to meet with a group of 20 students. And so I told the students, "Well you should self-select and then have a meeting with the President."

Q. And approximately when did that meeting occur?

A. So that was pretty early on, I would say, um, the end of October or November of 2023.

Q. So around the same time as --

A. Around the same time, yes.

Q. Okay. And did you attend that meeting?

A. I attended the meeting, yes.
Q. So, um, Professor Al-Ali, we have look at some letters you signed and heard about some meetings that you attended.
Since the arrests of Mr. Khalil and Ms. Ozturk, have you signed onto any letters having anything to do with the situation in Israel and Palestine?
A. No, I have not.
Q. Why not?
A. Because now I'm scared to do so. Now I'm worried that what I signed before would be used -- and it was, I mean there are -- some of the letters that I signed before are now quoted, um, by several organizations, like Camera, and distorted to portray me as antisemitic and pro-Hamas.
Q. And I think you mentioned this yesterday, what are those reports by Camera that you're referring to?
A. Aside from Camera having a list of names of faculty and then links to letters that they signed or articles that they wrote, there are also two reports that specifically focus on Brown and the Center for Middle East studies, um, in which several of my colleagues are mentioned, and I'm obviously the Director, or the former Director of the Center for Middle East studies, um, is also mentioned. And, I have to say, very outrageous

allegations about me and my work and my politics.
Q. And you mentioned facilitating these meetings between, um, the Brown administration, on the one hand, and the faculty and students on the other.
Since the arrests of Mr. Khalil and Ms. Ozturk, have you, um, facilitated any such meetings that related in any way to issues around Israel or Palestine?
A. I have not.
Q. Why not?
A. For two reasons. One, I mean I am not the Director of the Center for Middle East studies anymore. But nevertheless, I mean I'm still going to other events at the University. But the -- but the reason is that I'm scared, just the same reason why I'm not signing letters.
Q. So if an opportunity like that arose for you to be sort of a mediator/facilitator around these issues now, would you accept that opportunity?
A. I mean it's very hard for me to say yes or no. But if it was with the University, possibility. But I would still be worried that there would be people reporting this outside.
Q. And what about anything that had a public component?
A. Yeah, I mean right now I'm trying to stay away from anything public that is linked to Palestine and Israel.

Q. And just to --
A. Well I'm here now, so --
Q. Yeah, I'm going to ask you about that in a moment.
A. Yes.
Q. You know we've talked about various ways that, um, you, um, have changed your behavior based on fear you've experienced from learning about the ideological deportation policy.

If that policy were ruled unlawful, would you do anything differently?
A. Well, I, um -- it would not be like from one day to the next, because I think I would want to see that the change in law would translate into implementation. Um, but that would certainly allow me to pursue my research and be able to attend meetings and conferences and travel again. But, yeah, I mean I would first want to see what is actually happening in practice.
Q. Okay. And if that were to happen, would you, for example, attend Mesa's annual meeting this year?
A. Yeah. Yes.
Q. And you just mentioned that you're testifying here. Tell us why you're testifying here?
A. Well, um, I'm testifying -- I think I started out by saying that one of the things that shaped me in terms of my upbringing in Germany is the awareness that

silence means complicity, and I feel like if I wouldn't participate here, I am complicit on several accounts.

One is that I do feel that I want to speak out on Palestinian, what's happening in Gaza, and Palestinian more broadly. And secondly, I also worry about what's happening in this country, and I -- that's, you know, a big reason. And I mean I want to believe still in the force and the importance of the legal system. So if a judge of this country says there shouldn't be retaliation against witnesses, I want to believe that there is no retaliation against witnesses.

Q. Okay.

MR. BIALE: No further questions.

THE COURT: Mr. Kanellis, you wish to examine this witness?

MR. KANELLIS: Yes, your Honor.

THE COURT: You may.

MR. KANELLIS: Thank you.

William Kanellis for the Justice Department.

CROSS-EXAMINATION BY MR. KANELLIS:

Q. Good morning, Professor, how are you?

A. Good morning. Okay.

Q. I'd like to ask you a few questions about the responses you've given here.

A. Sure.
Q. You did grow up in Germany?
A. Correct.
Q. And in your childhood did you live anywhere other than Germany or did you live primarily in Germany?
A. I lived primarily in Germany, but traveled to Iraq to visit my family.
Q. Did you have any time to live in Iraq full-time?
A. I never lived in Iraq full-time.
Q. Okay. I'd like to talk about your reference to an organization called Camera.
A. Yes.
Q. You just referenced that. And then there was a second organization that you referenced that I did not catch the name of.

Do you remember the other organization that was critical of you for supposedly being antisemitic?
A. I mean I haven't checked all of them, to be honest, so I'm aware of Camera. I don't remember --
Q. Well perhaps I misspoke.

Now Camera, is that a -- you indicated yesterday it was run by a particular individual, is that right?
A. No, I don't think it's run by a particular individual, um, and I -- but there was one specific individual by the name of David Litman who was the main

writer and researcher and that person, um, has lost his position. I don't know why. But it's a broad organization.

Q. Is Camera associated with the United States government?

A. No.

Q. Do you believe that Camera is working in any respect with the United States government?

A. Um, I don't know.

Q. Do you -- well do you have a belief, one way or another, of whether it is?

MR. BIALE: Objection.

THE COURT: No, she was asked about that. He may ask what --

THE WITNESS: Okay, yes.

THE COURT: Say what you think.

THE WITNESS: Yes.

A. No, I don't believe that Camera is working for the U.S. government, but I am not sure that, um, the U.S. government is not looking at Camera reports.

Q. Okay. You don't know, one way or the other, whether the U.S. government is looking at Camera reports?

A. Um, well I think that based on -- well, okay, I don't know, let's put it this way. I don't know.

Q. You indicated that after these acts of October 7th,

the Center for Middle East studies took on additional responsibilities, correct?
A. Yes.
Q. Now one of those responsibilities you referenced is "pastoral care"?
A. Yes.
Q. Would you elaborate on what that means?
A. So usually as an academic and dealing with students, it's about academic mentoring or advising, um, but following the 7th of October, there was sort of a sense of distress and grief and upset and there was a feeling that, um, that there was no specific space dedicated to Muslim students or students of Middle East origin. And so it meant like providing a space where people could gather, talk, um, and also hear what the words were so that I could transmit that immediately to the administration.
Q. How did that, if it did, affect the Center for Middle East Studies, that additional pastoral care you described?
A. I mean only that it increased my work load. But otherwise it did not affect us.
Q. And that additional pastoral care began in October or November of 2023?
A. Yes, I mean additional. I mean that's always an

element of pastoral care that faculty engages in. But it was on a very different scale following the attacks of the 7th of October and then the war in Gaza.

Q. And did that pastoral care, was that administered by AAUP in any respect?

A. No.

Q. And was that pastoral care administered by Mesa in any respect?

A. No.

Q. You are not the Director of -- I'm going to call it CMES?

A. That's fine, yes.

Q. We're talking about that. That's the program that -- you were the Director of that, did I get that right?

A. Yes.

Q. Okay. And I believe you said you were the Director for about 4 years, correct?

A. Correct.

Q. You have, um -- since the beginning of this year, you have participated in public conferences, haven't you?

A. You mean since January of 2025, this year was a calendar year?

Q. Yes, ma'am.

A. Um, I have to think very carefully. Um, I -- I don't think I attended any conferences. I gave some talks in Switzerland. But I can't, 100 percent -- but I don't recall attending conferences.
Q. Did you give a talk at Washington University this year?
A. I gave a talk in the fall, I think. Oh, in February I gave a talk. Yes, that's true.
Q. At Washington University?
A. Yes.
Q. And then you gave a talk in Switzerland. And when was that?
A. So that was in March.
Q. In March of this year?
A. Yes.
Q. Okay. And then you've also given -- you've been a featured speaker or made presentations in other public events this year too, haven't you?
A. Yeah, well I had a book lunch. So I was co-editing a book and there was a book lunch in Berlin in January, and then, um, there was a book lunch in Providence at Brown University as well.
Q. And that book was related to gender studies, is that generally what it was about?
A. Yeah, the book, um, looked comparatively at the

importance of anti-gender discourses and policies in far right movements in Europe and the Middle East.
Q. Okay. And did that include that influence on, um -- in combat or war situations in the Middle East?
A. Um, no.
Q. Okay. Your conference in Switzerland, what was the subject of that conference?
A. So it wasn't a conference, it was me giving papers. Actually I gave one paper that was based on the book, and then I facilitated -- I gave a short paper and I facilitated a workshop for graduate students where I held a discussion for other people's papers.
Q. And prior to this conference, you were aware this conference was being advertised or promoted publicly, correct?
A. No, the workshop was not promoted publicly.
Q. You're not aware that there was a -- there's materials on the internet relating to this conference in Switzerland?
A. There was a workshop that was provided for students. I'm pretty sure it was not advertised. I'm not aware of it. And then there was a talk that I gave, a public lecture.
Q. And where was that public lecture given?
A. The public lecture was in Brown or -- well I think

in Brown probably.
Q. Okay. And there's two public lectures or there was just one?
A. It was one, one public lecture.
Q. I see. And what was the date of that lecture?
A. I don't know. I don't remember. It was in March. It was during my -- it must have been mid March, sort of.
Q. Yesterday you mentioned that upon the election of the new administration in November, you had a reaction that was, um, I'll characterize it as "somewhat anxious." Is that a fair characterization of your reaction after the new administration was --
A. I don't remember speaking about that. I spoke about, um, statements of President Trump, while he wasn't President, and I think even before election, and after he was elected. So I think I mentioned that.
Q. Okay. Well let me ask you. After -- and these are statements that Candidate Trump made about immigration, is that fair to say?
A. Yes, Candidate Trump and President Trump both.
Q. Okay. And he made those statements prior to his election?
A. Prior and following his election.
Q. Okay. And that -- and his election was in November

of 2020?
A. Yes.
Q. Okay. And did those statements cause you anxiety?
A. Yes.
Q. How?
A. How?
Q. Yes.
A. Well I mean it caused anxiety. You mean why? I don't understand what you mean by "How"?
Q. Well you're indicating that it caused you anxiety. Can you elaborate on that statement. How did it cause you anxiety?
A. Well I, um, my level of worry and, um, sense of concern increased in relation to the possibility that there might be, um, a crackdown or some form of oppression against those of us who engaged in pro-Palestinian speech. And a fear that once President Trump or -- I mean once the new government would be in place, yeah, that would be put into action. And that pro-Palestinian speech might be equated with support for Hamas.
THE COURT: When -- I'll characterize Candidate Trump's speech as, broad brush --
THE WITNESS: Uh-huh.
THE COURT: -- I'll characterize it as

antiimmigrant.

Now when first did you feel that a concern for Palestinians was -- the focus of that animus, during the time he was a candidate or after he was President and inaugurated? If you can tell me.

THE WITNESS: Yeah, I really can't remember whether I already felt it while he was a candidate, but I certainly felt it after he became President, there were statements. I might have felt it before. There was this sort of sense of this more general anxiety, but I don't know how much it was specific at the time. It certainly became more specific following the inauguration and some of the statements.

THE COURT: Go ahead from there.

MR. KANELLIS: Thank you, your Honor.

Q. Now, with respect to the statements, was your concern amplified in any way by your connection to the Center for Middle East Studies?

A. Yes.

Q. Why is that?

A. Because it's a public role. I'm not just an academic working tangentially on Israel/Palestine. I was for 4 years directing a center that's probably known in the U.S. and internationally, and that center had been under attack. And there were false allegations

made against not just me, but faculty in the Center. So certainly the fact that I was the director was very significant to this.

Q. Did you make any statements, in your capacity as a member of AAUP, relating to the issue of Palestine?

A. No.

Q. And the same question with respect to Mesa. Did you make any statements relating to Palestinian in your capacity as a member of Mesa?

A. I mean not directly, but everything I do I -- I mean I'm a member of Mesa, so I don't know how to distinguish. But I didn't like go on record, "Mesa Member Al-Ali."

THE COURT: I think that's what he was saying.

A. No, I didn't do that.

Q. You indicated that you, feared being deported, is that a general characterization of the concerns you had after the Trump administration came into power?

A. Yes, I feared being deported. But more than fearing being deported is the fear that I'm silent as an academic, as a person, that I can't speak my mind, that I can't do my research, that I can't engage with my students in a free way. That in some ways is the worst fear that I have.

Q. Okay. And one of the things that I think you

indicated yesterday was that you, um, did not follow through on an article that you had written that contained a nuanced criticism of Hamas, is that correct?
A. Correct.
Q. And about what time were you thinking about doing this article?
A. Well I started thinking in January. I mean it had been on by mind for a while, to be honest, since last summer, I mean the summer of 2024. But, um, more concretely I started thinking and started reading about it in the beginning of this calendar year.
Q. Okay. Did you write anything with respect to that article?
A. No, I didn't write anything. I just -- yeah. That's okay.
Q. I interrupted you?
A. No, I didn't write anything. I started reading and, um, you know I sort of reflected on it.
Q. You also indicated that you didn't attend protests after the Trump administration was in power because of this fear of being deported, is that a fair characterization of what you said?
A. Yes.
Q. And you said you didn't attend the No Kings protest, right?

A. Yes.
Q. Do you know, um, how -- how -- what was the No Kings protest, can you describe that briefly for the Court?
A. Yeah, it was, um, a national protest where tens of thousands of, um, Americans and immigrants went on the streets of many cities, um, fighting for democracy and, um, against -- I mean "The king" stands for the idea that there is one person who has all the power and can do whatever he wants. So it was sort of -- I saw it as a protest to save democracy and also linked to that a protest to protest the immigration policies. But this was a wider sort of appeal for democracy in this country.
Q. And you didn't attend the King's protest because you were afraid of being deported?
A. I was afraid that there would be some, I mean -- you know there could be some police altercation and I somehow, against my will, would get involved in it, and then that would lead to me being checked out and then, you know one thing after another. I mean, yes.
Q. So you indicated that tens of thousands of people attended these protests, correct?
A. Yes.
Q. And you believed that the U.S. government was going to single you out?

A. No, no, not the U.S. government, but you never know what happens. I mean sometimes peaceful protests, as we've seen for example in LA, I mean the majority of people are peaceful, but then there might be some people who are kind of, you know, not peaceful, and maybe rioting, or there are some altercations with the police, and then things go out of hand. And I was worried that in that situation I would be very vulnerable. I didn't think that I would be, out of 10,000 people, singled out. But if something were to happen, which could happen in a protest, then I think I would have felt -- I would have been more vulnerable than a U.S. citizen or someone who was not formerly the Director of the Center for Middle East Studies.

Q. You weren't intending on -- no, strike that. Have you ever rioted?

A. No, never. No, I think I made it clear -- I hope I made it clear yesterday that I'm very much, um, a peaceful person who believes in nonviolence. I've never rioted.

Q. So it was not your intention in any respect to engage in physical altercations or a riot at any of the protests that you --

A. It was not my intention, but I know that these things can happen when you -- when people are around

you, and also it could be that the police might be, um, not so friendly. You know there are examples in many different contexts in this country where we've had issues, where there were clashes. And I think that, um, I feel it's reasonable to fear that if something were to happen, that I would be more vulnerable than other people, than you, for example.

Q. You indicated you that attended a protest relating to DOGE? D-O-G-E. I don't know how you pronounce it.

A. Yeah, the one that was, um, about Elon Musk and the cuts. So, yeah, I, um -- under different circumstances I would have liked to attend it.

Q. And you didn't attend it because you feared that the government was going to identify you and pick you out of a crowd?

A. Exactly what I said before. It's not that I was worried that they would sort of look for me specifically, but I was -- I didn't know whether these were going to be peaceful protests, I don't know what was going to happen, and I was worried that if something was going to happen, I would be in a particularly vulnerable situation.

Q. Have you -- how many protests have you attended in your lifetime, could you give an estimate?

A. Um, I don't know, maybe -- I don't know, maybe 30,

40 protests.
Q. 30 or 40?
A. Yes.
Q. Have you ever been arrested at a protest?
A. No.
Q. Have you ever been detained or questioned at a protest?
A. No.
Q. And still thought that that could happen?
A. I mean most of those were not in the U.S. I mean I was -- for 25 years I was living in the UK, in London, and most -- I might have attended some protests in Germany while I was still in school. But most of the protests I attended were in the UK. But even if I had attended all these protests in the U.S., I mean it's different now precisely because of the -- what I mentioned, the threats to get rid of pro-Hamas students and faculty and, um, the detainment and deportation of pro-Palestinian students. So that's definitely a shift.
Q. You indicated that people from Camera had accused you of associating with pro-Hamas causes. Has anybody from the U.S. government ever accused you of that?
A. Not that I'm aware of. No.
Q. Okay. And with respect to this article that you indicated that you are refrained from writing. Your

opinion is that this article would have been viewed by the government as a reason to deport you?
A. To be perfectly honest, I don't trust the government to make a distinction between a critique of Israel and pro-Palestinian positions and the support for Hamas. I haven't seen evidence of that distinction.
Q. Did I hear you correctly yesterday when you indicated that this article that you were thinking of writing you intended to be somewhat critical of Hamas?
A. Yes, critical of Hamas and critical of the Israel government both. I don't believe that you have to do one or the other.
Q. Of course.
THE COURT: Forgive the interruption. I want to go back to how you answered the earlier question.
THE WITNESS: Yes.
THE COURT: Do I understand you to say that you don't understand the United States government to make a distinction between criticism of the State of Israel and its conduct in Gaza, and with respect to Palestinians, and activities that are pro-Hamas?
THE WITNESS: Yes, correct.
THE COURT: I understand that's what you think?
THE WITNESS: Yes.
Q. And your opinion, or your belief, your professed

belief, is that if you wrote an article that was critical of Hamas, that might expose you to the heightened risk of deportation?

A. Correct. But not because of my criticism of Hamas, because of my -- but also the criticism of the Israeli government. And because I'm already, um, due to my previous role as Director, and, um, it's not just Camera, I mean it's one person who has an entire blog dedicated to write about the Center of Middle East Studies and has mentioned me. So overall it's wider than just one organization.

Q. Those organizations that you indicate --

A. Yes.

Q. -- were, um, alleging that you were tied to Hamas or supportive of Hamas in any respect, those weren't government organizations, were they?

A. No.

Q. Okay. And with respect to those, um -- those criticisms, have you heard -- have you had any communication from the United States government, or its agents, regarding any of those publications -- well any of those allegations?

A. Um, I don't know whether I can speak about this, but there has been an HHS Title VI investigation of Brown and, um, some of this came up.

Q. Without going into details because --
A. Yeah, I don't think I should talk about it.
Q. -- there's concern about possibly intruding upon other litigation, um, apart from that belief, is there anything else that would lead you to believe that the government has associated -- the U.S. government has associated you with pro-Hamas activity?
A. No.
Q. Now you indicated that you had traveled overseas in 2025?
A. Yes, correct.
Q. Can you help me remember when you left to travel overseas?
A. Yeah, so, um, I traveled -- first of all, in December 2024, I traveled to, um, spend the break with my, um, family, with my daughter, and, um, I saw my mother in Germany, and my partner, and I was in the UK and then in Germany. And I came back early -- no, I also spent a week in Berlin. And I came back early, um, because Brown University asked everyone who was not a U.S. citizen to come back prior to the inauguration, um, there was a worry that there would be -- that there would be issues at the airport. So I came back. I think it was the 18th of January. I don't know exactly, but sometime, um, just a couple of days before the

inauguration, which was on the 20th, I think.

And then I, um, had -- I traveled on the 8th of March. It was my mother's birthday and my mother was not well, she's in a care home, and my father passed way and I'm the only daughter, so I went and I arrived on the 9th of March, and I arrived to the news of the arrest of Mahmoud Khalil.

And at that point, as I said yesterday, I mean I -- I was quite nervous, but I decided that I had to see my mother, and I did. And I did go on to Switzerland to give my talk and I didn't go home on the holiday. And I came back a couple of weeks after I traveled -- I mean after I left the country.

Q. Was your return to the United States in approximately April of 2020?

A. No, no, it was like two weeks later. So it must have been on the 8th or whatever was two weeks later. So it was before the end of March. I know it was before the arrest of Rumeysa Ozturk, because I remember after I arrived a few days later, I heard about the arrest and then I saw the pictures. So, um --

Q. So you've traveled to the United States twice since the Trump administration -- strike that.

You've traveled outside the United States twice since the Trump administration was voted in, correct?

A. Correct.
Q. Now when you -- and your concern that you've articulated with respect to your fears about being deported --
A. Yes.
Q. -- those are concerns you had, um, since even prior to Trump's election, correct?
A. No.
MR. BIALE: Objection. Sorry I'll drop it.
A. Not those concerns. I mean generally when I came early, it wasn't my concern, it was that the University asked everyone, all students, all faculty, who are not citizens, no matter whether they have spoken out on Palestinian or not to come back before the inauguration. So I was just following, you know, what Brown wanted. It wasn't that I was worried coming in.
It is true that in March when I returned from my travel to see my mother and give the talk -- or give a couple of talks in Switzerland, that, um, I was scared. I mean by that time, as I said, I left on the 8th and arrived on the 9th, and I think Mahmoud Khali was arrested on the 8th.
Q. And by that time your views, expressed through your work and the, um, CMES, those were well-known in your opinion?

A. What do you mean by "well-known."
Q. You indicated you were the Director of the CMES prior to that point in time?
A. Yes.
Q. And then the allegations about, um, you supporting Hamas had manifested publicly prior to that trip to Switzerland?
A. I mean I don't know what you mean by "manifested publicly." I have never been at the forefront, the first avante-garde in terms of pro-Palestinian speech or activism, okay? So I didn't think that I would be like one of the first people. But I also saw that things are moving in a certain direction and eventually it would be my turn, given my role and what is out there. And so if someone was going to do some research, as I was answering, or if my name were mentioned, then, yes. But I didn't think it would be like first-row.
Q. Where did you fly into after your trip to Switzerland, what airport in the United States?
A. I always fly into Boston.
Q. To Boston, Logan?
A. Uh-huh.
Q. And when you arrived at Boston, Logan, were you detained by ICE?
A. No.

Q. Were you, um -- were you questioned by anybody at CBP regarding your prior scholarship?
A. No.
Q. Were you questioned in any way about your prior work or the issue of Palestine?
A. No.
Q. Now you're aware that sometimes people who come into the United States are pulled aside for additional questioning, you're aware of that, correct?
A. Yes.
Q. And were you -- sometimes they call that "secondary." Do you understand that term?
A. Yes.
Q. Were you called into "secondary" for questioning?
A. No.
Q. You weren't. In fact at no point in time, upon your return from your Switzerland trip, were you ever, by any representative of the United States, questioned about the prior work or your, um, the allegations regarding your connection to Palestine, isn't that right?
A. Yeah, that's right. But as I said, I'm not frontline. So me being able to enter in March doesn't mean that I would be able to enter in November or December. I mean I -- yeah.
Q. You believe that eventually the government would

come for you?
A. Well I hope not. I mean that's why I'm here.
Q. Okay. And that belief was -- I believe you indicated yesterday, informed in part by your upbringing, is that a fair characterization?
A. Which belief?
Q. The belief that you were a potential target for deportation?
A. No, it has nothing to do with my upbringing in Germany.
Q. Okay. Yesterday, and perhaps I misheard.
Yesterday you indicated that you were sensitive to issues regarding immigration because you grew up in Germany. Did I misremember that?
A. Yes. Yes, that is, um -- what I was trying to say is that, um, I, growing up in Germany, I became sensitive to ideas around silence and complicity, because of the history of Nazi Germany and the holocaust, and you know the majority of -- well many many many Germans, the majority of Germans, just stayed silent or pretended that they didn't know, or they didn't speak up, and in my mind that is complicity and contributed to the holocaust. So that's what I said in terms of it shaped my, um, you know my awareness.
Q. Okay. And you did not grow up in the 1940s in

Germany, did you?
A. No, I did not grow up in the 1940s. (Laughs.) But I grew up in the '60s and '70s and '80s where, um, education, beyond history classes, was very much focused on making sure that that history is never going to happen again. And at the same time I -- as I was enjoying the privilege of living in a democratic country that was trying to come to terms with its past, I also saw how my relatives in Iraq were living under the Bathe regime, the dictatorship, how my relatives were scared to even speak on the phone. My, um, one of my uncles was executed by Saddam Hussein. So I saw what a dictatorship should be like. I feel that I have to use my privilege, as someone who is educated and grew up in Germany, to fight for democracy, freedom of speech, academic freedom, that's where my background comes in.
Q. Your -- your family's experience in Iraq, that you just described, did that in any way inform your concern that you might be deported from the United States?
A. Um, no.
(Pause.)
MR. KANELLIS: We tender the witness.
THE COURT: Anything else?
MR. BIALE: No redirect.
THE COURT: You may step down. Thank you.

Call your next witness.

MR. BIALE: The plaintiffs call Mike Mathis.

THE COURT: He may be called.

(MICHAEL J. MATHIS, sworn.)

THE CLERK: State your full name, spelling your last name, please.

THE WITNESS: Mr. Michael J. Mathis. My last name M-A-T-H-I-S.

MR. WANG: Good morning, your Honor. I'm Xiangnong Wang for the plaintiffs.

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MICHAEL J. MATHIS

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DIRECT EXAMINATION BY MR. WANG:

Q. Mr. Mathis, good morning, thank you for joining us today.

Where do you live, Mr. Mathis?

A. I live in --

THE COURT: Just the city and town.

A. Somerville, Massachusetts.

Q. And how long have you lived there?

A. I moved in June 2019.

Q. And do you have a security system installed at your

home in Somerville?
A. Yes, I do.
Q. And who installed the system?
A. It's a mixture between the previous owner of my unit and me.
Q. Okay. And when did you install the system that you had had a part in installing?
A. I installed it roughly, um, in 2020.
Q. Could you please briefly describe the security Camera system?
A. Yes. There are two security cameras facing the rear of the house. Two security cameras facing the front of the house. And two in the interior.
Q. And is one of the cameras facing the front of the house, does that show the street or sidewalk in front of your house?
A. Yes, it does.
Q. And is that one of the cameras that you yourself installed?
A. Yes, it is.
Q. Does your security system record continuously or does it record by motion?
A. It does both, I have a continuous stream and a motion stream.
Q. And does your system add a date and timestamp to the

videos that it records?
A. Yes, it does.
Q. Do you have footage from your security camera system from March 25th, 2025 at around 5:00 p.m.?
A. Yes, I do.
Q. And why do you remember that date and time specifically?
A. Because there was a large police presence outside my house after that time. I went to look at the security cameras. I saw something notable. So I saved it off.
Q. And have you reviewed this footage again?
A. Yes, I have.
Q. Can you describe what the video footage you're talking about shows?
A. Yes. I see two cars parked in front of my house and a group of masked people getting out of the car, approaching a young woman, and moving her into the car, and later driving away.
Q. And to your knowledge was your system functioning properly at the time?
A. Yes, I believe it was.
Q. Did you take any steps to preserve this video that you're talking about today?
A. Yes, I saved it off to the side.
Q. And why did you do that?

A. Oftentimes the secured camera footage will lapse and it will be deleted and I thought that this was notable so I should save it off to the side.
Q. Did you share this video that you're talking about with anyone else?
A. Yes, I shared it with, um, various news outlets, I shared it with my Congresswoman's office, Anna Preston, and I shared it with the plaintiffs here.
THE COURT: I didn't catch the last bit?
MR. WANG: "And the plaintiffs here."
THE COURT: Oh, yes.
Q. Just to confirm that last part, you did share it with counsel in this case?
A. Yes.
Q. That's great.
I'm now going to show you what's been premarked as Exhibit B, and that's Bates stamps AUP 01823-1.
A. (Looks.)
Q. Do you recognize what this is?
A. Yes, I do.
Q. And what do you recognize it to be?
A. This is the front of my house.
Q. Yes, there you go.
A. (On screen.)
Q. And how do you recognize this to be the front of

your house?
A. That's my driveway and it's the corner of Electric Ave. and Mason Street.
MR. WANG: So with the Court's permission, I'd like to play a couple of minutes of this video.
THE COURT: Well he's authenticated it, it seems to me, and you want to offer it?
MR. WANG: Yes, I would like to offer Exhibit B.
THE COURT: Any objection?
MR. KANELLIS: No, your Honor, but I don't see any need to play it --
THE COURT: I don't see any need -- again in the interests of time.
Unless, um --
MR. WANG: No further questions.
THE COURT: Very well.
So B is admitted in evidence as Exhibit 225, in evidence.
Any questions for this witness, Mr. Kanellis?
(Exhibit 225, marked.)
MR. KANELLIS: Just one question, your Honor.

CROSS-EXAMINATION BY MR. KANELLIS:
Q. Did you personally observe the conduct outside your home separate and apart from what's on the video?

A. I did not see what was on the video, but I saw the police presence soon after, and that's when I went outside.
Q. Okay. Did you -- did you see it and hear it or did you hear it -- I'm sorry, see it?
A. Are we talking about what's on the video?
Q. No, the police presence outside.
A. Yes, I saw it out my window.
Q. You saw it out your window. Did you hear -- was there any sound associated with what you --
A. There was a police officer on my front steps talking to my upstairs neighbor and I heard that.
Q. Okay. Did you hear the specific conversation at all?
A. No, I didn't.
Q. Okay. Other than the police officer speaking to a neighbor on your front steps, did you hear anything else?
A. No, I did not.
MR. KANELLIS: No more questions, your Honor.
THE COURT: Nothing further for this witness?
MR. WANG: Nothing further.
THE COURT: Thank you. You may step down.
225 is in evidence.
Call your next witness.

MR. BIALE: Your Honor, the plaintiffs call Bernhard Nickel.

THE COURT: He may be called.

(Witness takes stand.)

(BERNHARD NICKEL, sworn.)

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: It's Bernhard Nickel, and the last name is spelled N-I-C-K-E-L.

MR. BIALE: May I proceed, your Honor?

THE COURT: You may.

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BERHARD NICKEL

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DIRECT EXAMINATION BY MR. BIALE:

Q. Good morning, Professor Nickel.

A. Good morning.

Q. So where do you work?

A. At Harvard University.

Q. And what's your position at Harvard University?

A. I'm a Professor of Philosophy.

Q. And is that your title?

A. Yes.

Q. Have you recently held any other titles or positions at Harvard?
A. Yes, I've been Chair of the Philosophy Department for the last 3 years. My term ended at the end of June.
Q. Um, so where were you born?
A. In Germany.
Q. And, um, of what country are you a citizen?
A. Germany.
Q. How long have you lived in the United States?
A. About 30 years now.
Q. And what's your immigration status here?
A. I have a green card.
Q. Approximately when did you get your green card?
A. About 20 years ago.
Q. Now, are you familiar with a, um, the following term, the "Ideological Deportation Policy"?
A. Yes, I am.
Q. What do you understand that term to mean?
A. Well it's a deportation policy insofar as it's a policy in either removing or getting people to remove themselves from the United States, um, noncitizens, that is, and it's ideological insofar as it seems to be targeted specifically at people who have a certain ideological profile, specifically people who have spoken up or are politically engaged in pro-Palestinian causes.

Q. Do you believe that the Ideological Deportation Policy, as you have just described it, is a policy of the current Presidential administration?
A. Yes.
Q. In broad strokes, um, Professor Nickel, how has the Ideological Deportation Policy affected you personally?
A. Well I've stopped going to protests, I've stopped signing on to public letters, and I've cancelled international travel.
Q. Okay. I'm going to ask you about the specifics of some of those, but let me go back, if you don't mind, to, um, when you moved from Germany to the United States. What prompted that move?
A. So I came to the United States to attend college, I went to college at Cornell, in Ithica, New York, in Upstate New York, and, um, it had been a dream of mine to come to the U.S. for a very long time. I felt an affinity for the United States for almost as long as I can remember. I grew up in Germany. I was born in '75. I'm of the generation that, um, felt deeply grateful for what America did during World War II. And more specifically in my case, I grew up next to an American Air Force hospital, and so I was exposed to American pop culture a lot, watched American TV, listened to American radio, played basketball with the American service

members and the kids who went to high school there. And America was always deeply attractive to me, it held the promise of being a place where history isn't quite destiny, where you can be very different things than perhaps your own history or your country's history would have set you up to be. And that was deeply attractive to me at the time.

Q. And when you came to Cornell University, did you, um -- did America live up to your expectations?

A. Yes. (Laughs.)

Q. Okay. What did you plan to study at Cornell?

A. I came in planning to be an Economy major.

Q. Okay. That's economics?

A. Yes, Economics.

Q. Did you end up majoring in economics?

A. I did not.

Q. Why not? What happened?

A. I took a course in economics. (Laughter.) But more seriously, one of the things I was very attractive of coming to school in America, as opposed to staying in Germany, is at the American college level one gets a very broad education, one doesn't just sign up for a single major and basically start a MMA program. And, um, so I was exposed to many different areas of study, including history and philosophy. And not only did

economics not attract me, other fields did.
Q. And did you end up majoring in one of those fields?
A. Not officially, officially I was at Cornell, I was called a "cult scholar," which was designing your own major, but I ended up focusing most of my studies in philosophy.
Q. And after you graduated from Cornell University, what did you do immediately after college?
A. I took a gap year and I lived in Southern California, um, in San Diego, volunteering for Habitat For Humanity.
Q. And I take it you built houses for Habitat For Humanity during that year?
A. That's right.
Q. And then after that gap year, what did you do?
A. I matriculated at MIT, at the Massachusetts Institute of Technology, in their PhD program in Philosophy.
Q. Okay. And, um, did you complete the PhD program in philosophy at MIT?
A. I did.
Q. And did you write a dissertation?
A. I did.
Q. And after you, um, completed your PhD, what did you do next?

A. First, um, I worked as an Adjunct Professor at Tufts University for a year. I did that because a couple of weeks before I had to finish my PhD, my daughter was born, and it made sense to me, and given where my wife was career-wise, for me to take a year, basically a gap year, and be a stay-at-home dad.
Q. And then after your position as an Adjunct at Tufts, did you obtain a full-time position at a university?
A. I did, I obtained a tenure-track position at Harvard.
Q. Okay. And what year was that?
A. 2006.
Q. Okay. And you've been at Harvard ever since then?
A. That is correct.
Q. And I take it you were able to get tenure?
A. I did.
Q. Tell us, Professor Nickel, about your scholarly, um, writing?
A. So my areas of specialization are in the philosophy of language and linguistics, and very broadly speaking I'm very interested in the way that, using the tools of linguistics and understanding language, to illuminate much broader concerns about human nature, about communications, how we're going to make sense of the world, and my case study was the focus of my work. It

concerns what I called the "language of stereotypes," generalizations about the natural and social world that you might call the "Rule of Thumb," like ravens are black, tigers have stripes, lions have manes, Germans don't have a sense of humor. (Laughter.) And those generalizations aren't purely statistical generalizations, it doesn't seem, for one thing they mean very different things. Most ravens are black, but it's certainly not true that most lions have manes.

But more importantly, if I think about the kinds of generalizations about national groups, about racial groups, ethnic groups, genders, very often those come in clusters. So along with the nonhumorous aspect of being German, there's the idea of being detail-oriented, which is why you get precision German engineering. There's an idea of being good at planning, but perhaps not very creative, and perhaps also aggressive, which is perhaps part of the explanation as to why Germany started a couple of world wars in the previous century. Not that these explanations are any good, but the idea that seems reliable is that there's something like a nature that explains various other features, and I'm interested in understanding what those claims really amount to.

Q. So if you'll permit me, and this may be dumbing it down way too much, but essentially you study the

structure of language and you look at how that informs us about broader issues, including issues of history and politics, is that fair?

A. Yes.

Q. Okay. What courses have you taught at Harvard?

A. So I've taught a broad range of courses. Almost immediately after coming to Harvard I took over one of the main introductory courses, which is a course named "First-year students, to introduce them to the field." I've taught just about every year that I've been on staff, except for those years I was on sabbatical. I've also taught survey courses in my own area of specialization, the philosophy of language. I've recently started teaching an introductory logic course. And then I've taught smaller seminars on far more specialized topics.

Q. Do any of your courses or, for that matter, any of your scholarly writings touch on issues related to the Israeli/Palestinian conflict?

A. No.

Q. Separate and apart from your work as a scholar and your work as a teacher, have you be politically active since you came to the United States?

A. To some extent, yes.

Q. Tell us about what you've done?

A. Well in the more distant past, I've gone to some protests, especially as America started to wrestle much more with its history as it concerns race and also structural issues around gender, and so I took my daughter to some Pink Hat protests. I also went to some Black Lives matter protests in Boston. And more recently, I was more politically active signing on to public letters having to do with political issues, and also, um, going to some more protests.

Q. And so you mentioned public letters that you've signed more recently. Did any of those letters have to do with the Israeli/Palestinian conflict?

A. Yes.

Q. Okay. Before we get more deeply into that, let me just ask you, are you a member of any organizations?

A. Yes.

Q. What organization?

A. I'm a member of the AAUP, and the Harvard Chapter. I'm also a member of the American Philosophical Association.

Q. And when did you join AAUP?

A. Right around the time that the Harvard Chapter was founded, so I believe it's been about a year now.

Q. Okay. So the Harvard Chapter of AAUP is relatively new?

A. Yes.
Q. And you joined, fair to say, right around the time it started?
A. About then, yes.
Q. Why did you decide to join the AAUP Harvard Chapter?
A. Um, over the past couple of years, you know over the past 2 years, 2 1/2 years, questions of faculty governance have become very important at Harvard. Harvard is one of the very few schools that doesn't have a faculty Senate. And the AAUP, as an Association of University Professors, is one way for faculty to organize in order to make their voices heard in a more concerted way.
Q. Okay. I want to get now into some of the letters that you talked about that you signed.
MR. BIALE: Mr. Kumar, can you pull up Exhibit 83 in evidence.
(On screen.)
Q. And, Professor Nickel, could you take a look at the, um, first page of that document.
A. (Looks.) Yeah.
Q. Okay. And what's the date of the letter?
A. July 1, 2019.
Q. Okay. And it looks like, um, it has some authors at the top. But in addition to those individuals, did you

also sign this letter?
A. I did.
Q. Okay. Tell us generally what this letter is about?
A. It is about a strategy of historiography concerning the holocaust. And, um --
Q. I'm sorry?
A. Is it possible to scroll to another page?
Q. Yes.
MR. BIALE: Mr. Kumar, if you could go down.
(Scrolls.)
THE COURT: Let us know where we should stop.
THE WITNESS: Yes, that's good. Thank you.
(On screen.)
A. So there's -- okay. So the policy that's under discussion is "Unequivocally Rejecting Efforts to Create Analogies Between the Holocaust and Other Events, Whether Historical or Contemporary," and the letter demands that this, um, not be followed -- or asks that this not be followed.
Q. And why did you sign a letter advocating, um, that a policy of not making analogies between the holocaust and other events be followed?
A. So in Germany there certainly was a very strong historiographical tradition that, um, treated World War II, and the Nazi regime, the Third Reich, and the

holocaust, as sue generis, a "thing unto itself," something that cannot be understood, perhaps with the ordinary tools of historiography. And I certainly understand why that might seem appropriate insofar as, um, the horror of the holocaust are almost incomprehensible. At the same time I think this also led to not thinking about the times before and after the Third Reich, the things that led up to it, and its effects.

And so for somebody like me, who grew up in Germany in the '70s and '80s, it is often very difficult to understand the longer-term effects of World War II, of the Nazi seizure, of power and its maintenance of power, because I knew that there were the Nuremberg trials, the very top echelon of the Nazi hierarchy was eliminated. Of course Hitler didn't make it to the trials. But so much of the underlying structure was still there. And I think it's important that we understand, or at least that it's a possible avenue of understanding, that we think of, even something as horrific as the holocaust, as something that was brought about by people in all walks of life.

In fact, right around the time that I came to Cornell in the mid '90s, um, an American historian, Daniel Jonna Goldhagan had published a book, "Hitler's

Growing Executioners," in which he documented, quite extensively the way that ordinary Germans were part of the Nazi machinery, and he was celebrated in Germany, not because he made Germans feel good about themselves, anything but, but I think because it allowed many Germans to begin to wrestle with their past, because many of us have parents, grandparents in my case, who were members of the party.

Q. Let me just ask you. You've mentioned a term "historiography," just to make sure that we're all on the same page. Would you explain what that means?

A. Oh, the way that I use it, I just mean approaches to how to pursue historical inquiry and how to write history.

Q. And, um, you talked about sort of a broader understanding of the forces that brought about the holocaust and the lingering effects in Germany. And can you just explain to us how, um, those concerns apply to this idea of analogizing the holocaust to other events?

A. Well the holocaust, as a major event, was the effect of many people working more or less in concert, making lots of decisions, and I think it's one form of analogy to ask where does something like that -- where else does something like that happen? I think that's a form of analogy that, given the statements here, would

be, um, forbidden.

THE COURT: That would be --

THE WITNESS: Forbidden.

THE COURT: Forbidden.

Q. And in your view that's a form of analogy that should be permitted?

A. Yes.

Q. Did you have any concerns, um, when you signed on to this letter, about how it could affect your employment in the philosophy department at Harvard?

A. No.

Q. Did you have any concerns, when you signed onto this letter, about how it could affect your immigration status in the United States?

A. No.

Q. Let me show you another document. This is Exhibit 84 in evidence.

A. (Looks.)

Q. And I'm happy to show you additional pages of it, if that would be helpful. Just let us know.

A. (Reads.) Okay.

Q. What's this document?

A. It's a Harvard faculty statement in support of Palestinian liberation.

Q. And did you sign onto this document?

A. I did.
Q. Why did you sign onto this document? I'm sorry, before we get there, can you just tell the date of this document.
A. Yes, it's dated May 20th, 2021.
Q. Okay. And now tell us why you decided to sign on to this statement and generally what the, um, what the gist of the statement was?
A. (Reads.) Would you mind scrolling down just a little bit. (Scrolls.) Thank you.
The demand, at the end of the statement, is an end to U.S. support for Israel's apartheid regime and the condemnation of state aggression.
Q. Okay. And why did you decide to align yourself with this particular statement?
A. I've become aware of, um, the conditions in Gaza and, um, I became aware that the conditions are horrifying, and it seemed important to try to support and, um, mark this fact, and express my support for people who are living under these horrifying conditions.
Q. And did you, um -- and was this letter, um, released publicly?
A. Yes.
Q. And were the signatories publicly identified?
A. Yes, I believe so.

Q. Did you have any concerns, when you signed this letter, that public identification of your name with this message could lead to, um, problems with your employer?
A. No.
Q. Did you have any concerns, when you signed this letter, that your name being associated with it could lead to problems with your immigration status?
A. No.
Q. Okay. I want to just talk to you briefly and then I guess I will show you one more letter. I want to just talk about the attack of October 7th, 2023, um, and ask you about, um -- and the subsequent Israel military campaign in Gaza. I'm going to ask about your personal reaction to those events and what the reaction was like on the Harvard campus?
THE COURT: Well that's something of a compound question. Let's break it down. First, your reaction -- but the questions are appropriate.
First, your reaction to the events of October 7th?
A. So the, um, the attack by Hamas, um, horrified me, just it -- it's just viscerally, it's almost incomprehensible the brutality of the attacks.
Q. And how about the, um, subsequent Israeli military campaign that was a response to the attack?

A. Well I was also deeply saddened and also horrified by all this blood and casualties that the campaign caused.
Q. And now -- and I appreciate the Court's objection to my question, now you can talk about the reaction on the Harvard campus to those events?
A. I think it probably makes sense to start with a statement released by several student groups shortly after the Hamas attack, holding Israel alone responsible for the events, for the attack.
MR. KANELLIS: Your Honor, I apologize for the interruption, but an objection to the extent this calls for hearsay. He's quoting a letter by --
THE COURT: He is. I'm not clear -- I have a more fundamental concern. I've allowed all this on the issue of bias, because people's motivations are at issue here. Why -- in my subsequent events really, why do we need this testimony here? How does it help us in the issues in this case?
MR. BIALE: Understood, your Honor. Let me cut to the chase.
Q. Did there come a time, Professor Nickel, that there was an encampment on Harvard's campus?
A. Yes.
Q. Okay. And what was that encampment about?

A. It was, um, an encampment that, um, asked for, um, and demanded Harvard's divestment from Israel and condemnation of the military campaign.
Q. Did you attend the encampment at any point?
A. Yes.
Q. Approximately how many times did you attend the encampment?
A. I guess around 10.
Q. And just so we can get a timeframe, do you remember around what time period this was?
A. I believe it was, um, starting about 5 or 6 weeks before the end of the spring semester of 2025, and it lasted, I believe, for about 4 -- 4 weeks or so.
Q. And just to make sure, you said 2025. Was this the spring semester -- you mean the semester that just ended or are we talking about the spring of 2024?
A. Um --
Q. In other words, was this a year ago or was this in the last couple of months?
A. Oh, no, I'm sorry, you're right. It's 2024.
Q. Thank you.
A. Yes, of course.
Q. Why did you go to the encampment approximately 10 times, as you testified?
A. For a couple of reasons. At first I went because,

um, I knew some of the students at the encampment, they had been students in my classes, um, and some of them were philosophy majors. And then later on, when the university began to start disciplinary proceedings against some of the students, I met with students there, because as part of the disciplinary process at Harvard, students that are brought before the administrative board are entitled to a faculty advisor, and I served as the faculty advisor for a couple of the students.

Q. And did you, um, other than going to visit your particular students, did you wish to express sympathy or support for any of the positions that the protesters were talking at the encampment?

A. Yes. I mean it was a -- a somewhat complicated thing, because on the one hand, to the extent that the protesters were drawing attention to the continuing, um, terrible human toll that the war took, um, I thought that was very important, and I supported that. On the other hand, my own attitudes towards thinking about the university specifically, the best thing, as a means of bringing about broader political change in the world, um, I mean I don't find that all that compelling. And so that part of it, um, I probably wasn't deeply in support of.

Q. Did you see anything at the encampment or hear about

anything that occurred there that you, um, would deem to be antisemitic?

A. Yeah, unfortunately.

Q. What was that?

A. Um, I saw a large-scale caricature of what looked to me like our then interim President Garber, um, with, I believe, the Devil's horns and a Devil's tail. And that's just a very, from now on, antisemitic trope.

Q. And I think you sort of alluded to this in your answer, but did you approve of that, um, the use of that image in the students' protest?

A. No.

Q. Okay. Now, um, when you, um, went to the encampment, did you have any concerns that your presence there would cause you problems with your employer, Harvard University?

A. No.

Q. Did you have any concerns that your presence there would, um, create problems for your immigration status?

A. No.

Q. I want to turn your attention to, um, the election in 2024.

So after President Trump was elected, did you send --

THE COURT: I interrupt only because I'm going to

take a recess at quarter to 11:00. Do you want to take it now and then pick up half an hour out?

MR. BIALE: I think that makes sense, your Honor, I have a little bit more with the witness.

THE COURT: I'm not crowding you, it's just you said "turning to another point in time," that's why I interrupted. It's your call.

MR. BIALE: I think it's a good time to take a break, your Honor.

THE COURT: We'll take the morning recess. We'll start at 10 minutes after 11:00.

We'll recess.

THE CLERK: All rise.

(Recess, 10:40 a.m.)

C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER, do hereby certify that the forgoing transcript of the record is a true and accurate transcription of my stenographic notes, before Judge William G. Young, on Tuesday, July 8, 2025, to the best of my skill and ability.

/s/ Richard H. Romanow 07-8-25
_____
RICHARD H. ROMANOW Date