

Ohio General Assembly
Senate Judiciary Subcommittee
c/o Chairperson Nathan Manning
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RE: Senate Bill 297

My name is Andrew Karas. I live in Pepper Pike, in the greater Cleveland area. I am a constituent of Senator Cirrino. I am writing to express my profound opposition to SB 297, currently pending consideration before the Senate Judiciary subcommittee. My concerns arise in several capacities: as a person concerned for the well-being of all of my fellow Ohioans (including the Palestinian, Arab, and Muslim citizens we share this State with), a proponent of free speech in general, as well as on campuses in particular, as a public interest lawyer, and, as a Clevelander, Ohioan, and American who (for what it is worth) happens to be Jewish. My concerns include the following:

1. **The bill violates Ohio's single subject rule.** The thrust of the bill is its incorporation, by reference, of the IHRA definition of antisemitism, "for the purpose of investigations and proceedings by state agencies." Primarily, the bill requires state agencies to deploy that definition when "reviewing, investigating, or deciding whether there has been a violation of any relevant policy, law, or regulation prohibiting discriminatory acts." That is, the bill is first and foremost about channeling the behavior of *state actors* when deciding whether conduct constitutes "antisemitism."

However, the bill also attempts to regulate the conduct of private citizens, in a way that gently echoes but does not mirror the IHRA-related provisions. That is, the bill generally enhances culpability for the offenses of Riot and Aggravated Riot where those offenses are motivated by "reason of the race, color, religion, or national origin of another person or group of persons." The bill's proposed criminal code revisions are concerned with invidious discrimination as a general principle, rather than antisemitism in particular. Accordingly, the law embraces more than one subject, in contravention of Article II, Section 15 of the Ohio Constitution.

2. **Imbuing a “working definition” with formal legal consequence is bad policy.** The IHRA’s definition is, by its own terms, intended to be a “non-legally binding working definition.”¹ Accordingly, codifying it reflects a poor policy choice, beyond even its framers’ intended use: “the working definition is helpful in public discourse as well as training for media, educators and public authorities, without impeding the legal right to freedom of speech.”² Should a document that, when it was published, was expressly intended as an evolving draft be the benchmark for state actors doing their best to apply antidiscrimination policy?
3. **The IHRA definition conflates Jewishness with “Israeliness,” chilling the exercise of political speech.** The IHRA tells us, among other things, that it is antisemitic to hold the opinion that the “State of Israel is a racist endeavor.”³ Or that “applying double standards” to Israel is antisemitic.⁴ The same applies to comparisons of “contemporary Israeli policy to that of the Nazis.”⁵ Whether engaging in any of those practices is fair, in my mind, is largely beside the point: castigating (e.g.) the British as a uniquely racist nation might be unreasonable, but merely saying so constitutes core protected speech. More to the point, the IHRA definition (if enacted as state policy) confuses criticism of nation-states with invidious discrimination based on an individual’s religious or national affiliation. That is, to make Israel the subject of special treatment for what criticisms can be leveled toward a country conflates being *Israeli* with being *Jewish*. Ironically, then, the bill advances a trope that is itself antisemitic: that the place Jewish people fundamentally “belong” is in Israel, our putative “real home.”

¹ International Holocaust Remembrance Alliance, Working Definition of Antisemitism, <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

² Antidefamation League, About the IHRA Working Definition of Antisemitism, https://www.adl.org/resources/backgrounder/about-ihra-working-definition-antisemitism?gad_source=1&gclid=Cj0KCOiAx9q6BhCDARIsACwUxu7snTSgO3YhI2tk9hj8dBj9zeOxSd-e-E-EEexIDW5rrEFThkCFJ3oaAtfqEALw_wcB&gclsrc=aw.ds

³ IHRA, *supra* n.1.

⁴ *Id.*

⁵ *Id.*

The bill attempts to answer free speech concerns by requiring that the antisemitism definition be “not be construed to diminish or infringe on any right protected by the First Amendment[.]” While that might help guard the bill against facial constitutional challenges, it does not make the actual application of its provisions any simpler for real-world administrators. The practical understanding that bill is likely to engender is that (for instance) university grievance officers will regard any criticism of Israel as antisemitic. Indeed, reviewing the testimony of the Bill’s proponents, it is clear that bringing about that circumstance is largely the point. Accordingly, the bill’s enactment will inappropriately chill the exercise of speech.

To address reality: the bill is obviously responsive to the student encampments that sprung up at Universities across Ohio and the wider world over the past year to express opposition to the Israeli military’s bombardment and invasion of the Gaza Strip. The stakes of that war are high: at the time of writing, some 40,000 odd Palestinians in Gaza have been killed by the Israeli military. Does the General Assembly need to participate in litigating whether their deaths were perpetrated by a country that is fundamentally good or bad? Respectfully, that strikes me as wildly beyond this body’s purview.

I agree that combatting growing anti-Jewish hatred in our communities is important. There may indeed be important policy interventions that the General Assembly can make in that area. However, SB 297 is not that intervention: Nothing in SB 297 makes tragedies like the Tree of Life massacre any less likely. It does not keep my family or my synagogue safer. Chilling robust criticism of Israel – particularly at a time where that criticism is increasingly warranted - does not enrich campus life or make students of our institutions of higher learning any safer. Do not enact this provision.

Sincerely,

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cc: Hon. J.Cirino (cirrino@ohiosenate.gov)