

TESTIMONY OF Jan Nesor, PhD  
ON S.B. 297 “Define antisemitism; expand offense of ethnic intimidation  
Ohio Senate Judiciary Committee  
December 8, 2024

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Ohio Senate Judiciary Committee:

I am writing to oppose SB297, which would establish in Ohio law the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism, including its “contemporary examples.” The inclusion of these examples is the key difference between SB 297 and Gov. DeWine’s executive order, which adopted the IHRA definition in 2022 without mentioning the examples.

The IHRA definition of antisemitism was originally developed in 2005 by a working group of the European Monitoring Centre on Racism and Xenophobia – that group, however, rejected the definition and removed it from its webpage. The IHRA adopted the definition and the 11 examples in 2016. The definition itself has been criticized on a number of grounds<sup>1</sup>, but the greater problem is that seven of the ‘contemporary examples’ define criticisms of the state of Israel or the political ideology of Zionism – even demonstrably true statements about the actions of Israel -- as evidence of antisemitism.<sup>2</sup> As pointed out by Neve Gordon, a Jewish professor of international law and human rights, even the main author of the IHRA definition

Kenneth Stern, now admits the definition is not fit for purpose in university settings, claiming that ‘rightwing Jewish groups took the ‘working definition’ ... and decided to weaponize it ... complain[ing] about speakers, assigned texts and protests they said violated the definition’<sup>3</sup> (Stern 2019). He even added that it is often used to ‘protect pro-Israel students from hearing unpleasant things too’<sup>4</sup> (Stern 2017).<sup>5</sup>

Indeed, over 370 scholars of antisemitism, Jewish history, the Holocaust, and related areas of study have criticized the IHRA definition and offered an alternative definition as part of the “Jerusalem Declaration on Antisemitism.”<sup>6</sup> A similar group of 128 scholars argued against the adoption of the IHRA by the UN, stating that it is “vague and incoherent” and noting that:

The divisive and polarizing effect of the IHRA WDA flows from eleven “contemporary examples of antisemitism” attached to it, seven of which relate to Israel. Ample evidence

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<sup>1</sup> Deckers, J., Coulter, J. What Is Wrong with the International Holocaust Remembrance Alliance’s Definition of Antisemitism?. *Res Publica* 28, 733–752 (2022). <https://doi.org/10.1007/s11158-022-09553-4>

<sup>2</sup> Riemer, N. (2023). Deadly word games: universities and defining antisemitism.

<https://overland.org.au/2023/02/deadly-word-games-universities-and-defining-antisemitism/>

<sup>3</sup> Stern, Kenneth. 2019. “I Drafted the Definition of Antisemitism. Right Wing Jews Are Weaponizing It.” *The Guardian*, December 13. <https://www.theguardian.com/commentisfree/2019/dec/13/antisemitism-executive-order-trump-chilling-effect>.

<sup>4</sup> Stern, Kenneth. 2017. Written Testimony of Kenneth S. Stern, Executive Director, Justus & Karin Rosenberg Foundation, Before the United States House of Representatives Committee on The Judiciary, November 7, 2017 Hearing on Examining Anti-Semitism on College Campuses. <https://docs.house.gov/meetings/JU/JU00/20171107/106610/HHRG-115-JU00-Wstate-SternK-20171107.pdf>.

<sup>5</sup> Neve Gordon (2024) Antisemitism and Zionism: The Internal Operations of the IHRA Definition, *Middle East Critique*, 33:3, 345-360. <https://doi.org/10.1080/19436149.2024.2330821>

<sup>6</sup> <https://jerusalemdeclaration.org/>

shows that these examples are being weaponized to discredit and silence legitimate criticism of Israel's policies as antisemitism.<sup>7</sup>

A number of Jewish groups in North America similarly oppose the IHRA definition, including The Progressive Israel Network,<sup>8</sup> a coalition of progressive, pro-Israel organizations, Bend the Arc, the leading national progressive Jewish voice, and Jewish Voice for Peace. As Jewish Voice for Peace, an organization of over 400,000 members,<sup>9</sup> has argued:

The [IHRA] definition falsely claims that all Jewish people, anywhere, hold unanimous opinions about the Israeli government and Zionism. Such a presumption is blatantly untrue, and in and of itself treads dangerously close to propagating antisemitic tropes. . . . The core of any bigotry lies in assigning one belief or one stereotype to an entire people.<sup>10</sup>

Instead of a tool for combating anti-Semitism, SB297 and the IHRA definition are tools for suppressing speech and legitimate debate by creating a climate of fear and targeting those who question the policies of the Israeli government. As one commentator puts it, it is “increasingly difficult to criticize Israel without fear of lawsuits, accusations of anti-Semitism, demands for political balance in staging of events, blacklisting of participants, or other forms of personal or institutional harassment.”<sup>11</sup>

These are not abstract possibilities: IHRA-grounded attacks on speech have been ongoing since its creation.<sup>12</sup> The IHRA puts the burden on pro-Palestinian individuals and organizations “to prove that they are not anti-Semites”<sup>13</sup> The aims are to deflect attention from Israel's illegal actions and violations of Palestinian's human and civil rights and create a legal platform from which to attack pro-Palestinian organizations.

The proposed legislation contains the line “The definition of ‘antisemitism’ in this section shall not be construed to diminish or infringe on any right protected by the first amendment to the United States Constitution or the Ohio Constitution,” but this is disingenuous. Legislation similar to SB297 can and has been used to attack free speech through lawsuits and sanctions in other states. That such attacks are likely to be found unconstitutional by Courts misses the point: The Students for Justice in Palestine chapter at Fordham University, for example, took 4 years to win its case when the university tried to block its establishment. As one commentator notes: “This is often the real goal of lawfare operations: entangling organizers in legal and legislative battles is a tried and tested method which eats up activists’ time, energy, and money.”<sup>14</sup>

To be clear, antisemitism must absolutely be combatted, but that is **not** what SB297 is about. SB297 is about suppressing speech and legitimate criticism of the policies and practices of a foreign country. What kinds of criticisms?

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<sup>7</sup> <https://media.euobserver.com/9e86df02ddf67c6046d190b65e4380df.pdf>

<sup>8</sup> <https://www.progressiveisraelnetwork.org/progressive-israel-network-groups-oppose-codification-of-ihra-working-definition-of-antisemitism-citing-strong-potential-for-misuse/>

<sup>9</sup> <https://www.cnn.com/2023/10/23/us/jewish-palestinian-protest-israel-gaza/index.html>

<sup>10</sup> <https://www.jewishvoiceforpeace.org/2021/02/08/ihra/>

<sup>11</sup> Ian Lustick, *Paradigm Lost: From Two-State Solution to One-State Reality*. University of Pennsylvania Press, 2019, p.67.

<sup>12</sup> See the events noted in <https://palestinelegal.org/distorted-definition>

<sup>13</sup> Goldberg, A., and Segal, R. (2019, 11 August). Distorting the Definition of Antisemitism to Shield Israel from All Criticism +972 Magazine <https://lobelog.com/distorting-the-definition-of-antisemitism-to-shield-israel-from-all-criticism/>

<sup>14</sup> Holmes, C. (2020, 10 June). The Campaign to ‘Kill’ the BDS Movement Against Israel Extends Far and Wide. <https://jacobinmag.com/2020/06/boycott-divestment-sanctions-movement-israel-palestine>

Groups as varied as the Amnesty International, Human Rights Watch, the South African Human Sciences Research Council, and the Economic and Social Commission for Western Asia have determined that Israel is an apartheid state<sup>15</sup>

The University Network for Human Rights, Amnesty International, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, the Government of South Africa in its application to the International Court of Justice, and others, have determined that Israel is committing genocide in Gaza<sup>16</sup>

Under SB297, for me to protest this apartheid and genocide, or to advocate for a boycott of or divestment from the state perpetrating them, let alone mention such things to students on a school campus, would allow you to accuse me of “antisemitism” and would likely cost me my job and perhaps lead to other sanctions. And that’s the point of SB297: to intimidate and silence critics, to shift public debate away from discussions of occupation, apartheid, scholasticide, ecocide, the torture and murder of Palestinian children, doctors, and journalists, the systematic starvation of the population of Gaza, of genocide itself, and instead focus them on “what is or is not forbidden when it comes to criticism of Israel, and to what extent said criticism is antisemitic”<sup>17</sup>

Let me conclude by referring back to the recent testimony before this committee of a proponent of SB297, the Hon. Kenneth Marcus, a former official of the US Education Department during the first Trump administration. Mr. Marcus claimed in his remarks that “Anti-Israel encampments and protests have devolved into a hotbed of anti-Semitism, with demonstrators targeting Jewish individuals and communities through physical assaults, harassment, and vandalism.” He cites as his evidence this article: Kohli, Carter. “Video of Ohio State Protest Goes Viral, Prompts University Response.” *The Lantern*, April 23, 2024.<sup>18</sup> If Mr. Marcus had actually read that article, he would have learned that it says nothing about encampments, physical assaults, or vandalism. Rather, it’s about a peaceful protest calling on the university to divest from companies supporting Israel’s genocidal policies. The article quotes protestors from the group ‘Jews for Justice in Palestine’ explaining that *they* were victims of harassment by Zionist counter-protestors. I’ll quote from the article:

“Kempler [a member of the Jews for Justice in Palestine group] said the fights on social media have been ‘energy-sapping’ for student activists and the spread of misinformation has been a tactic to distract people from the situation on the ground in Gaza. Jews for Justice in Palestine is focused on enacting structural change, such as divestment, and Kemper said identity politics takes attention away from their goal. For Shai [another member of Jews for

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<sup>15</sup> <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>  
<http://hdl.handle.net/20.500.11910/4619>  
<https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>  
[https://electronicintifada.net/sites/default/files/2017-03/un\\_apartheid\\_report\\_15\\_march\\_english\\_final.pdf](https://electronicintifada.net/sites/default/files/2017-03/un_apartheid_report_15_march_english_final.pdf)

<sup>16</sup> <https://www.humanrightsnetwork.org/projects/genocide-in-gaza>  
<https://www.un.org/unispal/document/anatomy-of-a-genocide-report-of-the-special-rapporteur-on-the-situation-of-human-rights-in-the-palestinian-territory-occupied-since-1967-to-human-rights-council-advance-unedited-version-a-hrc-55/>  
<https://www.ohchr.org/en/documents/country-reports/a79384-report-special-rapporteur-situation-human-rights-palestinian>  
<https://www.icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf>  
<https://www.amnesty.org/en/documents/mde15/8668/2024/en/>

<sup>17</sup> Goldberg, A., and Segal, R. (2019, 11 August). Distorting the Definition of Antisemitism to Shield Israel from All Criticism +972 Magazine <https://lobelog.com/distorting-the-definition-of-antisemitism-to-shield-israel-from-all-criticism/>

<sup>18</sup> <https://www.thelantern.com/2024/04/video-of-ohio-state-protest-goes-viral-prompts-university-response/>

Justice] battling antisemitism and islamophobia goes hand in hand. She said not all Jewish people are Zionists and Jewish activists on campus and across the world are advocating for the people of Gaza. “As long as Zionism existed, anti-Zionist Jews have existed, and a lot of them are left out of the conversation,” Shai said.”

SB297 is designed to shut them out of that conversation completely – indeed, to close the conversation down -- and to label as ‘antisemites’ all those who criticize the policies of the Israeli government.

The State of Ohio should not be a party to this. You should reject SB297.

Sincerely,

Jan Nespor  
Citizen of Ohio