



December 9, 2024

Chairman Nathan H. Manning
Members of Ohio Senate Judiciary
Committee
Via email to manning@ohiosenate.gov

RE: Testimony of Northwest Ohio Peace Coalition in OPPOSITION to SB 297

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

I am writing on behalf of the Northwest Ohio Peace Coalition, a Toledo-based group of some 125 advocates for peace and justice; Students for Justice in Palestine (Toledo Chapter), comprised of 40 advocates; People for Peace and Justice Sandusky County, a group of 40 advocates; and Mike Ferner of Veterans For Peace. We've reviewed and researched S.B. 297, which would add the International Holocaust Remembrance Alliance's "working definition of antisemitism"¹ to the Ohio Revised Code. Using the IHRA definition of antisemitism in state investigations of employment and accommodation discrimination and criminal prosecutions would unconstitutionally infringe on free speech by lumping together Jewish identity and religious beliefs with the political movement known as Zionism. It would elevate a mere investigative tool into a weapon to censor debate and dissent as well as to destroy people's learning careers and employment chances.

The weaponization of the IHRA working definition is a desperate and unconstitutional ban on public dialogue about the war crimes that Israel is perpetrating in Gaza.

Kenneth Stern, the American lawyer who wrote the IHRA working definition, has

1 <https://holocaustremembrance.com/resources/working-definition-antisemitism>

publicly stated many times that he did not intend for it to be used to chill speech in any way,² and even wrote a book urging that the subject of antisemitism be fully and openly debated and examined from every perspective on America's college campuses.³

The core flaw of the IHRA working definition is that it treats 100% of the opposition to political, diplomatic and/or military actions of the nation of Israel as "antisemitic." Requiring the IHRA definition to be used to decide whether to prosecute someone civilly or criminally merely creates a new pathway to punish opponents of Israel for speech that, however controversial, is 100% First Amendment-protected. Indeed, a lawsuit based on the fatally-flawed IHRA definition would not withstand analysis under the "anti-SLAPP" principles of S.B. 237, which Senators Manning and Gavarone successfully steered through the Senate to shield free speech from "strategic lawsuits against public participation" (SLAPP) lawsuits.

Let me illustrate to the Committee what you're being asked to do. I am a lawyer with 45 years of court experience. I've spent hundreds of hours reading books, magazine articles, newspaper articles, legal treatises, treaties, have attended seminars on international law, and have discussed what I've learned about the Israeli invasion of Gaza with international law experts. A small part of the information I've reviewed appears in a footnote to this letter.⁴ Based on my

2 Kenneth Stern, "I Wrote a Definition of Antisemitism. It Was Never Meant to Chill Free Speech on Campus," <https://www.bostonglobe.com/2024/02/15/opinion/kenneth-stern-antisemitism-ihra-free-speech/>

3 <http://kennethsster.com/the-conflict-over-the-conflict/>

4 13 October 2023, Raz Segal, <https://jewishcurrents.org/a-textbook-case-of-genocide...>; 15 October 2023: Public Statement: Over 800 Scholars Warn of Potential Genocide in Gaza <https://twaiir.com/public-statement-scholars-warn-of-potential-genocide-in-gaza/...>; 2 November: UN experts call to prevent genocide: <https://un.org/unispal/document/gaza-is-running-out-of-time-un-experts-warn-demanding-a-ceasefire-to-prevent-genocide/...>; 16 November: UN experts call to prevent genocide: <https://ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against...>; 16 November, William Schabas: https://ccrjustice.org/sites/default/files/attach/2023/11/Declaration%20Expert%20William%20Schabas_w.pdf...; 16 November: Holocaust and genocide scholars John Cox, Victoria Sanford, and Barry Trachtenberg declaration, https://ccrjustice.org/sites/default/files/attach/2023/11/Historians%20Declaration_w.pdf...; 29 December, South Africa submission to ICJ: <https://icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf...>; 29 May, South Africa's dossier of evidence of Israel's genocidal intent, the UN Security Council: <https://tinyurl.com/nb6ua4a5>; Martin Shaw, <https://x.com/martinshawx/status/1820389008880361676...>; UN Expert Francesca Albanese, first report on the Genocide (March 2024): <https://ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf...> UN Expert Francesca Albanese, second report on the Genocide (October 2024): <https://documents.un.org/doc/undoc/gen/n24/279/68/pdf/n2427968.pdf...>; John Quigley, "Legal Standard for Genocide Intent: An Uphill Climb for Israel in Gaza Suit", 14 March 2024, EJIL: <https://ejiltalk.org/legal-standard-for-genocide-intent-an-uphill-climb-for-israel-in-gaza-suit/...>; UK Judges' and Lawyers' Open Letter Concerning Gaza, 3 April 2024: <https://lawyersletter.uk>; Jinan Bastaki, Gaza, Forced Displacement, and Genocide", EJIL, April 2024, <https://ejiltalk.org/gaza-forced-displacement-and-genocide/...> Nimer Sultany, "A Threshold Crossed: On Genocidal Intent and the Duty to Prevent Genocide in Palestine", May 2024: <https://tandfonline.com/doi/full/10.1080/14623528.2024.2351261...>; University Network for Human Rights report, May 2024: <https://humanrightsne>

hundreds of hours of inquiry, I have arrived at the conclusion that Israel is an apartheid state, with a system of laws that clearly favors Jewish citizens and overtly treats non-Jews, particularly Palestinians, as inferior and with disdain. I also firmly believe that systematic extermination – mass murder and ethnic cleansing – is going on in Gaza, and that it legally amounts to genocide. I oppose what the nation of Israel, through its military and its illegal settlers and its government, are doing to Palestinians and others who personally oppose Israel’s mass murder policy.

If S.B. 297 were law right now, the statement I just made to you of my studied, firmly-held, evidence-based conclusions would automatically be classifiable as “antisemitic” under the IHRA definition. It means nothing that there is a disclaimer in S.B. 297 disavowing the intention to shackle free speech; passing a law that simultaneously labels informed opinion – or *any* opinion -- as “antisemitic” clearly does that. You can’t stop me from holding and expressing my beliefs about what Israel is perpetrating in Gaza with flimsy censorship, but then, no one can fire

[work.org/publications/genocide-in-gaza...](https://www.nybooks.com/articles/2024/06/06/is-israel-committing-genocide-aryeh-neier/?srsltid=AfmBOopOf1xbf1Ucx3Bvo11nN7VEEL-J7IA6jCNd9mhgWGeSUcLgQ9Y7...); Aryeh Neier, NYRB, 6 June 2024:<https://nybooks.com/articles/2024/06/06/is-israel-committing-genocide-aryeh-neier/?srsltid=AfmBOopOf1xbf1Ucx3Bvo11nN7VEEL-J7IA6jCNd9mhgWGeSUcLgQ9Y7...>; UN Commission of Inquiry, 10 June: Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023:<https://ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-4.pdf...>; Oxfam, Water War Crimes report, July 2024: <https://oxfam.org/en/press-releases/israel-using-water-weapon-war-gaza-supply-plummets-94-creating-deadly-health...>; Omer Bartov, 13 August 2024: <https://theguardian.com/world/article/2024/aug/13/israel-gaza-historian-omer-bartov...>; Haaretz, “The Numbers Show: Gaza War Is One of the Bloodiest in the 21st Century”, 14 August 2024: <https://haaretz.com/middle-east-news/palestinians/2024-08-14/ty-article-magazine/premium/the-death-toll-in-gaza-is-bad-even-compared-to-the-wars-in-ukraine-iraq-and-myanmar/00000191-50c6-d6a2-a7dd-d1decf340000...>; Maryam Jamshidi, On Genocidal Intent, August 2024:<https://opiniojuris.org/2024/08/02/reflecting-on-genocidal-intent-in-the-icj-case/...> Forensic Architecture: cartographic analysis of the genocide in support of South Africa’s case in the ICJ: [https://forensic-architecture.org/investigation/a-cartography-of-genocide.....](https://forensic-architecture.org/investigation/a-cartography-of-genocide...); AOAV analysis that shows vast majority of killed in Gaza are civilians: <https://aoav.org.uk/2024/casualties-in-gaza-israels-claims-of-50-combatant-deaths-dont-add-up-at-least-74-of-the-dead-are-civilians/...>; 10 October 2024: UN Commission of Inquiry: Israel’s destruction of the health system in Gaza <https://ohchr.org/en/press-releases/2024/10/un-commission-finds-war-crimes-and-crimes-against-humanity-israeli-attacks...>; 8 November 2024: UN Commission of Inquiry: 70 percent of verified victims (October - 30 April) were children and women: <https://ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024...>; 12 November 2024: 8 aid organizations of the systematic violation ICJ orders on humanitarian assistance, thereby establishing genocidal intent: <https://oxfam.org/en/press-releases/joint-release-israel-receives-failing-grade-us-demands-gaza...>; 14 November 2024: UN Special Committee Report <https://ohchr.org/en/press-releases/2024/11/un-special-committee-finds-israels-warfare-methods-gaza-consistent-genocide...>; North Gaza: 9 October 2024: 18 Aid organizations warn of dramatic escalation of humanitarian catastrophe in northern Gaza: <https://oxfam.org.uk/media/press-releases/aid-organisations-warn-of-dramatic-escalation-of-humanitarian-catastrophe-following-further-mass-forced-displacement-of-civilians-in-northern-gaza/...>; 15 October 2024, 38 organizations: “Northern Gaza is being wiped off the map”: <https://oxfam.org/en/press-releases/urgent-joint-statement-northern-gaza-being-erased-global-leaders-must-act-now-end...>; 1 November 2024: statement by 15 UN and humanitarian organizations: <http://bit.ly/40pLGqx>; ‘You Feel Like You Are Subhuman:’ Israel’s Genocide Against Palestinians in Gaza, Amnesty International, 4 December 2024, <file:///C:/Users/tjlod/Downloads/MDE1586682024ENGLISH.pdf>

me from my job or kick me out of school or publicly try to humiliate me for having them. If this bill becomes law, you will illegally silence many people from sharing their views and their truth. Those are the stakes for holding the “wrong” opinion under S.B. 297. That is why you must reject this proposal. The IHRA definition will silence people who justifiably fear retribution for criticizing Israel.

The disclaimer clause in S.B. 297 (proposed Section 4112.01(B)) reveals that the intention is to silence critics of Israel. It says, “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.” Thus the authors of S.B. 297 admit that much criticism of Israel is not antisemitic, yet they insist on manipulating the Ohio General Assembly to give them a weapon to defame and punish supporters of Palestine.

Members of the Judiciary Committee, you will violate your oath to uphold the U.S. and Ohio Constitutions if you pass a law that you know is illegal and is nothing but an ideological weapon, This shameful attempt to make speech illegal will needlessly punish workers, students, labor unions, religious organizations, and everyone who believes that peaceful dialogue must be the way we make change.

Please repudiate S.B. 297. Thank you.

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