

December 9, 2024

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

RE: Testimony in OPPOSITION to S.B. 297

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

I condemn the recent attacks on Israeli and Palestinian civilians and mourn such harrowing loss of life. At the same time, in my grief I am horrified to see the fight against antisemitism weaponized as a pretext for war crimes¹ with stated genocidal intent.²

With respect to the proposed legislation, I have reviewed and researched S.B. 297, which would add the International Holocaust Remembrance Alliance’s “working definition of antisemitism”³ to the Ohio Revised Code. It is my evidence-based conclusion that using the IHRA definition of antisemitism in state investigations of employment discrimination, accommodation discrimination and criminal investigations would unconstitutionally infringe on free speech by lumping together Jewish identity or religious beliefs with the political movement known as Zionism. It would elevate a mere investigative tool into a weapon to censor debate and dissent and in some circumstances, to destroy people’s learning careers and employment chances. This weaponization of the IHRA “working definition” of antisemitism is a desperate attempt to ban public dialogue about the war crimes being committed by Israel in Gaza.

When does political speech about Israel or Zionism cross the line into antisemitism and when should it be protected?

I cite the Jerusalem Declaration on Antisemitism (JDA)⁴ authored by international scholars in antisemitism and related fields, as the authoritative source defining and illustrating what in fact is antisemitism, in its preamble, definition, and set of 15 guidelines. It is notable that the JDA is endorsed by a diverse range of distinguished scholars and heads of institutes in Europe, the United States, Canada and Israel.

In the JDA’s response to the Working Definition of Antisemitism adopted by the International Holocaust Remembrance Alliance (IHRA) in 2016, the JDA states that “The IHRA Definition” (including its “examples”) is neither clear nor coherent – that whatever the intentions of its proponents, it blurs the difference between antisemitic speech and legitimate criticism of Israel and Zionism. The JDA notes that this blurring causes confusion, while delegitimizing the

¹ <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>

² <https://jewishcurrents.org/a-textbook-case-of-genocide>

³ <https://holocaustremembrance.com/resources/working-definition-antisemitism>

⁴ <https://jerusalemdeclaration.org/>

voices of Palestinians and others, including Jews, who hold views that are sharply critical of Israel and Zionism. None of this helps combat antisemitism according to the JDA.

JDA Set of Guidelines on Antisemitism

A. General

1. It is racist to essentialize (treat a character trait as inherent) or to make sweeping negative generalizations about a given population. What is true of racism in general is true of antisemitism in particular.
2. What is particular in classic antisemitism is the idea that Jews are linked to the forces of evil. This stands at the core of many anti-Jewish fantasies, such as the idea of a Jewish conspiracy in which “the Jews” possess hidden power that they use to promote their own collective agenda at the expense of other people. This linkage between Jews and evil continues in the present: in the fantasy that “the Jews” control governments with a “hidden hand,” that they own the banks, control the media, act as “a state within a state,” and are responsible for spreading disease (such as Covid-19). All these features can be instrumentalized by different (and even antagonistic) political causes.
3. Antisemitism can be manifested in words, visual images, and deeds. Examples of antisemitic words include utterances that all Jews are wealthy, inherently stingy, or unpatriotic. In antisemitic caricatures, Jews are often depicted as grotesque, with big noses and associated with wealth. Examples of antisemitic deeds are: assaulting someone because she or he is Jewish, attacking a synagogue, daubing swastikas on Jewish graves, or refusing to hire or promote people because they are Jewish.
4. Antisemitism can be direct or indirect, explicit or coded. For example, “The Rothschilds control the world” is a coded statement about the alleged power of “the Jews” over banks and international finance. Similarly, portraying Israel as the ultimate evil or grossly exaggerating its actual influence can be a coded way of racializing and stigmatizing Jews. In many cases, identifying coded speech is a matter of context and judgement, taking account of these guidelines.
5. Denying or minimizing the Holocaust by claiming that the deliberate Nazi genocide of the Jews did not take place, or that there were no extermination camps or gas chambers, or that the number of victims was a fraction of the actual total, is antisemitic.

B. Israel and Palestine: examples that, on the face of it, are antisemitic

6. Applying the symbols, images and negative stereotypes of classical antisemitism (see guidelines 2 and 3) to the State of Israel.
7. Holding Jews collectively responsible for Israel’s conduct or treating Jews, simply because they are Jewish, as agents of Israel.
8. Requiring people, because they are Jewish, publicly to condemn Israel or Zionism (for example, at a political meeting).
9. Assuming that non-Israeli Jews, simply because they are Jews, are necessarily more loyal to Israel than to their own countries.
10. Denying the right of Jews in the State of Israel to exist and flourish, collectively and individually, as Jews, in accordance with the principle of equality.

C. Israel and Palestine: examples that, on the face of it, are not antisemitic

- (whether or not one approves of the view or action)
- 11. Supporting the Palestinian demand for justice and the full grant of their political, national, civil and human rights, as encapsulated in international law.
- 12. Criticizing or opposing Zionism as a form of nationalism, or arguing for a variety of constitutional arrangements for Jews and Palestinians in the area between the Jordan River and the Mediterranean. It is not antisemitic to support arrangements that accord full equality to all inhabitants “between the river and the sea,” whether in two states, a binational state, unitary democratic state, federal state, or in whatever form.
- 13. Evidence-based criticism of Israel as a state. This includes its institutions and founding principles. It also includes its policies and practices, domestic and abroad, such as the conduct of Israel in the West Bank and Gaza, the role Israel plays in the region, or any other way in which, as a state, it influences events in the world. It is not antisemitic to point out systematic racial discrimination. In general, the same norms of debate that apply to other states and to other conflicts over national self-determination apply in the case of Israel and Palestine. Thus, even if contentious, it is not antisemitic, in and of itself, to compare Israel with other historical cases, including settler-colonialism or apartheid.
- 14. Boycott, divestment and sanctions are commonplace, non-violent forms of political protest against states. In the Israeli case they are not, in and of themselves, antisemitic.
- 15. Political speech does not have to be measured, proportional, tempered, or reasonable to be protected under Article 19 of the Universal Declaration of Human Rights or Article 10 of the European Convention on Human Rights and other human rights instruments. Criticism that some may see as excessive or contentious, or as reflecting a “double standard,” is not, in and of itself, antisemitic. In general, the line between antisemitic and non-antisemitic speech is different from the line between unreasonable and reasonable speech.

The danger of codifying the IHRA “working definition” of antisemitism

If S.B. 297 were law today, my testimony above would be “antisemitic” under its definition, and I could be disciplined or even expelled from an Ohio university, could lose my job, and would be publicly vilified. There is no doubt in my mind that the IHRA definition will silence people who fear public retribution while exercising their constitutionally guaranteed right to free speech. S.B. 297 would be used as a weapon to intentionally and arbitrarily silence critics of Israel. And this insidious gagging of free speech will be used to justify Israel’s ongoing military bombardment of Gaza and to silence criticism from the international community about Israel’s war crimes and crimes against humanity being perpetrated in Gaza and across Palestine. S.B. 297 is illegal on its face and is nothing but a political weapon intended to defame, punish and ultimately silence people who support Palestine.

If you make this bill a law, you will be passing a law that is patently illegal and nothing but a political weapon, in direct violation of your oath of office to uphold the U.S. and Ohio Constitutions.

Please repudiate S.B. 297. Thank you.

Susan Kuehn
2200 Scottwood Ave. Unit 101
Toledo, OH 43620
smkuehn@earthlink.net
(415) 225-5916