

This submission and the documents enclosed refer specifically to fighting Anti-Semitism via the adoption of the IHRA definitions.

Currently Anti-Semitism in Ireland is limited in the main to both verbal and on-line rhetoric. As a consequence of this, incidents do not get reported. However, Jews in Ireland are fully aware of the latent anti-semitism and often elect to keep their Religion and culture hidden from work colleagues. We also have many incidences of Anti-Semitic abuse on college Campus where Jewish students hide from confrontation.

Most anti-Semitic incidents in Ireland manifest as a consequence of the Israeli-Palestinian conflict and anti Israel sentiment and increase noticeably whenever those events in the Middle East are prominent in the public eye. Old Anti-Semitic tropes also keep getting recycled and are an increasing cause for concern and alarm.

We must not let the current situation evolve due to lack of a defined definition of what constitutes anti-Semitic hate Speech and Crimes.

European Commission: -

From 2010 to 2014 Katharina von Schnurbein was an adviser to EU Commission President José Manuel Barroso for dialogue with religions and world views and coordinator of the European Commission to combat anti-Semitism. In December 2015 - November 2019 she was the Anti-Semitism Commissioner of the European Commission.

When she was appointed, Schnurbein was commissioned to work closely with Jewish communities and organizations across Europe and to address the anti-Semitism challenges directly to the first Vice President of the European Commission, Frans Timmermans , and the Commissioner for Justice and Consumer Protection, Věra Jourová policy proposals, make policy proposals and implement them.

A few days after her appointment as coordinator, von Schnurbein spoke at a symposium on the threat to Jewish life in Europe. It called for all forms of anti-Semitism to be taken equally seriously: racial prejudice, anti-Semitic conspiracy myths, Israel-related anti-Semitism and anti-Zionism as well as Holocaust denial or non-harmonization. **The International Holocaust Remembrance Alliance (IHRA) definition of anti-Semitism adopted in May 2016 names all of these forms.**

Von Schnurbein pointed out that "although denial or trivialisation of the Holocaust is prohibited in the EU, only 13 Member States out of 28 have so far correctly implemented the directive".

In May 2016, the European Commission adopted a code of conduct with the major social media platforms to delete illegal content on the Internet within 24 hours.

On June 1, 2017, the European Parliament adopted a resolution against anti-Semitism with a three-quarter majority .

On 6 December 2018, EU Member States unanimously adopted a statement by the Council to combat anti-Semitism and to develop a common approach to security for Jewish communities and institutions in Europe .

In mid-June 2019, for the first time, a European Commission anti-Semitism working group was set up to assist EU Member States by the end of 2020 to develop national anti-Semitism strategies that could be implemented locally.

The working group consists of one representative of the Jewish community and two of the government side from each country. The first session dealt with security, which is of central importance for both the Jewish representatives and the Member States. The second meeting in December was on education.

- “The threshold for anti-Semitic and other hate speech has become much lower. On the net, where you are more anonymous, the floodgates are open. ”In May 2016, the EU Commission reached agreement with leading IT companies such as Twitter , YouTube , Facebook and Microsoft on a code of conduct in which they undertake to investigate reported hate messages within 24 hours and, where appropriate, to take down from the Net. There is already considerable progress in implementation, according to Schnurbein.
- During the conference “An End to Antisemitism!” In Vienna, Katharina von Schnurbein appealed to the EU countries to provide financial aid to protect Jewish institutions. It should not be that secular as well as religious Jews have to hide in Europe. "Europe without Jews is no longer Europe." Anti-Semitism is an indicator that a society is developing for the worse. "It starts with the Jews and it doesn't end with them." The Commissioner asked all EU countries to separately raise anti-Semitic crimes. According to the European Union Agency for Fundamental Rights , this is not yet the case in eleven EU countries. **However, the more detailed the data collection on anti-Semitic incidents, the more specifically law enforcement can be tackled.**

The Commission responded to a new survey by the EU Fundamental Rights Agency which finds that 9 out of 10 European Jews feel Antisemitism has increased over the past five years.

The results of the EU Fundamental Rights Agency's latest survey on Antisemitism are particularly worrying; 85% of European Jews consider Antisemitism to be the biggest social or political problem in their home country. Other figures show that Antisemitism is pervasive and is having an impact on the daily lives of European Jews throughout the EU: -

- 89% of Jews think Antisemitism is most problematic on the internet and on social media;
- 28% of respondents have been harassed at least once in the past year;
- 79% of Jews who experienced antisemitic harassment in the past five years did not report this to the police or another organisation;
- 34% avoid visiting Jewish events or sites because they do not feel safe;
- 38% have considered emigrating because they did not feel safe as Jews in Europe;
- 70% consider that efforts by Member States to combat anti-Semitism are not effective.

First Vice- President Frans Timmermans said: “I'm deeply concerned about the growth of antisemitism as concluded by the report of the Fundamental Rights Agency. It is essential that we combat this scourge forcefully and collectively. The Jewish community must feel safe and at home in Europe. If we cannot achieve this, Europe ceases to be Europe.”

All of the above points to a concern at the highest level within Europe.
I am enclosing the following documents:-

1. IHRA Working definition of Anti-Semitism
2. The IHRA definition of antisemitism: criticisms and responses

The French Parliament recently adopted the IHRA Working Definition joining other European countries.
President Macron stated that anti-Zionism is the new face of anti-Semitism.

In the last few days more countries have adopted the definition as have many law enforcement agencies and Universities worldwide.

THE WORKING DEFINITION OF ANTI-SEMITISM

What Does It Mean, Why Is It Important,
and What Should We Do With It?

Nearly two decades ago, beginning in 2001 and 2002, we witnessed a surge in anti-Semitic incidents in Western Europe, with attacks on Jewish targets including schools and synagogues. Governments were slow to recognize them, let alone respond to them. They were frequently dismissed as reactions to the Middle East conflict, as though anger toward Israel somehow explained harassing Jewish worshipers or threatening Jewish schoolchildren. Traditional forms of anti-Semitism such as claims of Jewish control of the economy or the media, world conspiracies such as those described in the *Protocols of the Elders of Zion*, and medieval charges of blood libel may have been better understood. But, as the OSCE Berlin Declaration stated in 2004, anti-Semitism had taken on “new forms and manifestations.”

In response, the European Monitoring Centre on Racism and Xenophobia (EUMC) conducted its first study of anti-Semitism in the European Union in 2004. In direct interviews with Jewish community leaders, it found a high degree of anxiety and concern. But its national monitors discovered that the available data was quite limited, and most of them did not even have a definition of anti-Semitism to guide their analysis. American Jewish Committee (AJC) and other experts in the Jewish community stepped in. Working closely with the leadership of the EUMC, they drafted a comprehensive definition of anti-Semitism, including clear examples of the various forms it could take. This included traditional tropes, the growing problem of Holocaust denial, and the new forms that related to Israel, such as demonizing the Jewish State or holding local Jewish communities responsible for its actions. It was issued in early 2005, by the EUMC as a “working definition” to help government and civil society monitors as well as law enforcement in their work. It was quickly employed by the U.S. State Department to frame its international reports on anti-Semitism and was incorporated into training materials for police cadets in the United Kingdom.

THE IHRA WORKING DEFINITION

In 2009, the EUMC was replaced by the EU Agency for Fundamental Rights (FRA) with a broader and different mandate. FRA later determined that it would not provide a definition of any form of prejudice or intolerance, including anti-Semitism, which instead should be left to the individual victim group to describe. Elements of the Working Definition helped shape FRA's important surveys of Jewish experiences and perceptions of anti-Semitism, but it now lacked an official home.

The International Holocaust Remembrance Alliance (IHRA), an organization of 31 nations at the time, including most of Europe as well as Israel and the United States, stepped in. With its focus on Holocaust education, it had already addressed the problem of Holocaust denial, and it was determined to find the tools to fight anti-Semitism. In 2016, under the leadership of Romania, IHRA formally adopted *The Working Definition of Antisemitism*, a slightly-edited version of the original EUMC document. Thus, we speak today of the IHRA Working Definition.

ANTI-SEMITISM AS IT RELATES TO ISRAEL

The most useful—and for some the most controversial—of the examples provided in the definition are those related to the State of Israel. They are intended to explain where and how anti-Israel animus can become a form of anti-Semitism, separate and apart from criticism of Israel. These include drawing analogies to the Nazis, declaring Israel a racist—and thus illegitimate—endeavor, holding it to standards expected of no other democratic state, and holding Jews collectively responsible for its actions. These examples are reflected in the 2018 FRA survey and track what the vast majority of European Jews themselves consider anti-Semitic.¹ Some critics of Israel have unfairly claimed that the Working Definition is intended to label them as anti-Semites. In fact, its careful wording leaves a wide berth for sharp and vigorous criticism of Israel's

1. Experiences and perceptions of antisemitism/Second survey on discrimination and hate crimes against Jews in the EU." European Union Agency for Fundamental Rights. Luxembourg: Publications Office of the European Union, 2018.

government and policies. It is a “non-legally binding” definition intended to guide and educate. It is not a means to squelch debate or free speech, and those who misuse it in this way should be opposed.

EMPLOYING THE WORKING DEFINITION

The Working Definition of Anti-Semitism is being utilized by various government and non-government agencies to train police, prosecutors, and judges and to inform civil society monitors and educators.

TRAINING AND EDUCATION

- The United Kingdom College of Policing uses the Working Definition in its Hate Crime Operational Guidance for police training.
- RIAS Berlin uses the Working Definition to train judiciary officials on how to identify anti-Semitism.
- The NGO CEJI- A Jewish Contribution to an Inclusive Europe holds an annual training for EU officials on anti-Semitism using the Working Definition.
- The Mauthausen Memorial in Austria (at the site of the former concentration camp) utilizes the Working Definition in its police training.
- The Berlin state police utilize the Working Definition for police training.

DATA COLLECTION

- Several NGOs in EU member states utilize the Working Definition in recording data on anti-Semitic hate crimes, including the UK's Community Security Trust and Austria's Forum Against Anti-Semitism.
- The OSCE's Office of Democratic Institutions and Human Rights' (ODIHR) practical guide on *Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities* includes the IHRA Working Definition as a resource for its 57 participating States and recommends that governments collect sound data on anti-Semitism to develop evidence-based responses to counter it.

ENDORSEMENT OF THE WORKING DEFINITION

- In 2014, the Swiss Federal President Didier Burkhalter, as OSCE Chairperson-in-Office, said the Working Definition is, “a useful document for governments and civil society in explaining how anti-Zionism is frequently a mask for anti-Semitism, and Jewish communities are often targets for anti-Israel animus.”²
- On the occasion of International Holocaust Remembrance Day 2017, European Justice Commissioner Vera Jourová said, “We will make the IHRA definition available on our website dedicated to the fight against Antisemitism.”³
- In June 2017, the European Parliament recommended use of the Working Definition in its resolution on anti-Semitism.
- In September 2018, UN Secretary-General António Guterres said, “I wish to acknowledge the efforts of the 31 member countries of the International Holocaust Remembrance Alliance to agree on a common definition of anti-Semitism. Such a definition can serve as a basis for law enforcement, as well as preventive policies.”⁴
- In December 2018, the Council of the European Union adopted a declaration on combating anti-Semitism, which included a call on member states which have not yet done so to adopt the *IHRA Working Definition of Antisemitism*.⁵
- In January 2019, U.S. President Donald J. Trump signed the Combating European Anti-Semitism Act of 2017 into law. This act, first introduced by Rep. Nita Lowey (D-NY) in January 2017, outlines how combating anti-Semitism is in the national interest of the United States and

2. Swiss OSCE Chairmanship concluding statement. OSCE Switzerland 2014 [link removed]

3. “Speech of Commissioner Jourová at the occasion of International Holocaust Remembrance Day.” 24 January 2017. European Commission [link removed]

4. “Anti-Semitism Rising Even In Countries with No Jews at All. Secretary-General Tells Event on Power of Education to Counter Racism, Discrimination.” United Nations Secretary General Statements and Messages. [link removed]

5. 25 IHRA members are EU member states. In November 2018, IHRA membership increased to 32 countries.

encourages adoption by national and multinational government institutions of the *IHRA Working Definition of Antisemitism*.⁶

- On February 19, 2019, French President Emmanuel Macron called on France to adopt the IHRA Working Definition. “For the first time in many years, anti-Semitism is killing people again in France,” said Macron, adding that French authorities “did not know how to react effectively.”

ADOPTION OF THE WORKING DEFINITION

The following countries have adopted the *IHRA Working Definition of Antisemitism* (as of April 2019):

- Austria
- Belgium
- Bulgaria
- Czech Republic
- France
- Germany
- Hungary
- Israel
- Lithuania
- North Macedonia
- Moldova
- Romania
- Slovakia
- United Kingdom

6. H.R.672 - Combating European Anti-Semitism Act of 2017, 115th Congress (2017-2018). [link removed].

THE FULL TEXT OF THE IHRA WORKING DEFINITION:

On 26 May 2016, the IHRA Plenary decided to adopt the following non-legally binding working definition of Antisemitism:

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

To guide IHRA in its work, the following examples may serve as illustrations: Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.

- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a state of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

Criminal acts are antisemitic when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.



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AJC Mission:

To enhance the well-being of the Jewish people and Israel, and to advance human rights and democratic values in the United States and around the world.



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The IHRA definition of antisemitism: criticisms and responses

(Remarks prepared for the Tel Aviv University, Kantor Centre, Seminar on Contemporary Antisemitism, Ein-Gedi, Israel, November 26, 2019)

David Matas

The expanding acceptance of the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism, adopted by the Alliance itself May 26, 2016, has led to pushback. This presentation sets out the extent of official acceptance of the definition, criticisms of that acceptance, and proposed responses.

Acceptance

The Alliance definition not surprisingly has been widely adopted within the Alliance. There are thirty three members, one liaison and eight observers. The IHRA definition has been adopted and endorsed by the governments of 16 members and two observers:

1. United Kingdom (12 December 2016),
2. Israel (22 January 2017),
3. Austria (25 April 2017)
4. Scotland (27 April 2017),
5. Romania (25 May 2017),
6. Germany (20 September 2017),
7. Bulgaria (18 October 2017),
8. Belgium (14 December 2018),
9. Lithuania (24 January 2018),
10. Republic of North Macedonia (6 March 2018), - observer
11. Netherlands (27 November 2018),
12. Slovakia (28 November 2018),
13. Republic of Moldova (18 January 2019), - observer
14. Czech Republic (25 January 2019),
15. Hungary (18 February 2019),
16. France (20 February 2019),

- 17. Canada (27 June 2019) and
- 18. Greece (8 November, 2019).¹

The European Union Parliament (the European Parliament) in June 2017 adopted a resolution calling

"on the Member States and the Union institutions and agencies to adopt and apply the working definition of antisemitism employed by the International Holocaust Remembrance Alliance (IHRA) in order to support the judicial and law enforcement authorities in their efforts to identify and prosecute antisemitic attacks more efficiently and effectively ... " ²

The European Union Council of Ministers (the European Council) adopted a similar resolution in December 2018 calling

"on the member states that have not done so yet to endorse the non-legally binding working definition of antisemitism employed by the International Holocaust Remembrance Alliance (IHRA) as a useful guidance tool in education and training, including for law enforcement authorities in their efforts to identify and investigate antisemitic attacks more efficiently and effectively,"³

The UK, without enacting the definition in law, has significantly operationalized it.⁴ In Canada, the IHRA definition of antisemitism was adopted at the same time as a definition

¹ See

[link removed]

² See

[link removed]

³ [link removed]

⁴ [link removed]

of Islamophobia and anti-Black racism.⁵

Criticisms

The criticisms made of the definition can be grouped into these categories -

- a) contentions that the definition is being given a legal status and significance it should not have;
- b) claims that Jewish victims of discrimination are being treated better than other victims;
- c) arguments that the definition thwarts criticism of Israel;
- d) assertions that the definition is adverse to the Palestinians; and
- e) statements that the definition presents a danger to freedom of expression.

In what follows, I respond to criticisms found in articles printed in The Guardian⁶, Haaretz⁷ Le Monde⁸ and the Canadian Hill Times⁹ as well as those in a press release from the NGO

⁵ [link removed]

⁶ Ash Sarkar "The IHRA definition of antisemitism is a threat to free expression" The Guardian, 23 Feb 2019 [link removed]

Damien Gayle, "UK council refused to host Palestinian event over antisemitism fears" The Guardian 3 Aug 2019 [link removed]

⁷ [link removed]

⁸ "Appel de 127 intellectuels juifs aux députés français: Ne soutenez pas la proposition de résolution assimilant l'antisionisme à l'antisemitisme", Le Monde, December 2nd, 2019 [link removed]

Independent Jewish Voices¹⁰, and a report by the German Rosa Luxemburg Stiftung.¹¹ These criticisms are sufficiently wide ranging to get a sense of the concerns which have been raised.

All of the criticisms I set out below can be found in these sources. I have not cited the source, criticism by criticism, because the point of the effort is to address the criticisms and not the critics.

A. The nature of the definition

Criticism

1) The definition is legally binding, but should not be.

Response

International law does not require member states of the Alliance to adopt the definition. The International Holocaust Remembrance Alliance is based on a declaration. A declaration is not a treaty.

Declarations are not considered legally binding instruments at international law. It would be legally impossible to hold any member of the Alliance in violation of international law

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[link removed]

10

[link removed]

¹¹ Peter Ullrich, *Expert Opinion on the "Working Definition of Antisemitism" of the International Holocaust Remembrance Alliance*, September 2019
h[link removed]

for failure to comply with the declaration which founded the Alliance or any of its subsequent resolutions.

Lest there be any doubt, the Alliance resolution of May 2016 which adopted the IHRA definition stated that it was not legally binding. It is striking to see critics railing against the definition on the basis that it is binding but should not be when the very resolution which adopted the definition is explicit in asserting that it is not binding. The fact that this criticism is made despite its obvious invalidity is an indicator of the irrational hostility the definition generates.

Criticism

2) The definition is not legally binding and can be ignored.

Before we get into the substance of this particular criticism, it is worth noting that it is the opposite of the previous criticism. When critics condemn the definition for contradictory reasons, one has to conclude that these contradictory reasons can not be the real reason critics do not like definition. Contradictory reasons for criticism mask something else.

The merits of even contradictory criticisms deserve attention, if for no other reason than to dispel the smokescreen behind which the real reasons for hostility lie. Why the definition generates so much hostility has to be addressed, but so does all the bafflegab which the hostility generates, so that the innocent do not get misled.

To return to the substance of the criticism that the definition is not legally binding and can be ignored, that criticism says what the definition is not, but not what it is. Countries which join the organization commit to adhere to the Stockholm Declaration on Holocaust Education, Remembrance and Research of January 28, 2000.¹² The resolution which

¹² [link removed]

adopted the definition stated that the definition was adopted to guide the Alliance in its work.

The definition was meant to be a framework for the work of the organization as a whole. The Alliance and its members would be working at cross purposes if the Alliance functioned on the basis of one definition and member states functioned on the basis of another. Different definitions would lead to confusion and uncertainty.

It is not as if the definition was adopted by some external body. The definition was adopted by the member states of the Alliance. It makes little sense for the member states of the Alliance to adopt one definition for the Alliance and then turn around and adopt another definition or no definition for themselves.

How the definition is to be used by each member country of the Alliance is the choice of each individual country. The Alliance as a whole has taken no position about how the definition should be used by member states of the Alliance.

However, for member states of the Alliance to adopt a different definition or no definition would be problematic, not just practically, but in principle. It would mean disrespecting the commitment already undertaken to adhere to the Stockholm declaration.

Criticism

3) The definition was never meant to be a formal government policy tool.

Response

The IHRA Stockholm declaration states in part:

"With humanity still scarred by ... antisemitism and xenophobia the international community shares a solemn responsibility to fight those evils".

The commitment to adhere to the declaration is a commitment to adhere to this component of the declaration. The adoption of the definition of antisemitism for the Alliance is an operationalization of this component of the declaration, an operationalization, because of the commitment to adhere to the declaration, to which member states must be understood also to have committed to adhere.

It is not clear what is the basis for this criticism, that the IHRA definition of antisemitism was never meant to be a formal government policy tool. There is no official statement of IHRA to that effect. This criticism appears drawn out of thin air and is contrary to an informed reading of the Stockholm declaration and the observed behaviour of IHRA members.

Criticism

4) The definition does not draw on existing scholarship on antisemitism.

Response

This criticism suffers from category confusion. The definition is not an academic article with footnotes. It is an operational instrument. Policy instruments appear different in form from academic articles.

There is plenty of statistical research on antisemitism and what drives it. This research indicates that the primary propulsors for discrimination against Jews, for attacks against Jews, are the very phenomena described in the definition. See for instance the annual audit of antisemitism of the League for Human Rights of B'nai Brith Canada. The examples in the definition are a distillation of the lived experience of the victims of antisemitic behaviour.

Criticism

5) The definition comes with a fraught history and has created controversy in the U.K. around Jeremy Corbyn's Labour Party. UK Labour MP Naz Shah apologized for comments suggesting Israel should be re-located to the United States, and former London mayor Ken Livingstone was stripped of his party membership for saying the problem of antisemitism had been over-stated.

Response

It would be preferable if opposition to antisemitism were uncontroversial. However, the fact that it has become controversial within the Labour Party in the UK is not a reason in principle for opposing antisemitism. It is, on the contrary, a reason for opposing those elements in the Labour Party in the UK who are antisemitic.

Is this criticism intended to argue that UK Labour MP Naz Shah should not have apologized for comments suggesting Israel should be re-located to the United States and that Ken Livingstone should not have been stripped of his Party membership? Is the criticism arguing that the fact of the apology or membership stripping showed that the definition was at fault?

Regrettably, politicians all too often make racist or sexist or homophobic or other forms of improper remarks and later apologise for them or lose party membership because of them. It is not reasonable to use this phenomenon as a basis for criticising the combat against racism or sexism or homophobia and so on.

Of course, regrettably, politicians all too often make racist or sexist or homophobic or other forms of improper remarks and later apologise for them or lose party membership because of them. It is not reasonable to use this phenomenon as a basis for criticising the combat against racism or sexism or homophobia and so on.

In the international arena, the political misuse of human rights standards is commonplace. One example with which this audience will be all too familiar is Israel.

Israel is accused of a wide variety of international human rights violation by advocates whose political agenda is the destruction of the State of Israel as the expression of the right to self-determination of the Jewish people. Accusations of human rights violations without evidence and even contrary to the evidence are made with the intent of delegitimization of the Jewish state and the effect of demonization not only of the state but also Jews worldwide as actual or presumed supporters of this supposedly demon state.

An example of the opposite extreme is China. China is guilty of a wide range of serious human right violations which have been established beyond any reasonable doubt. Yet, for political reasons, these violations in the international arena are ignored, evidence is improperly characterized as allegations, China is defended and its critics are impugned.

It is easy enough to see this politicisation internationally because of the extremes of politics internationally. Nonetheless, the same phenomenon exists domestically, even in democracies, where the spectrum of disagreement is considerably smaller.

In the domestic democratic political arena, when it comes to criticising a political opponent, critics make politically convenient claims that an opposing party has a not so hidden agenda of sexism, racism, homophobia and so on. When it comes to defending the political party of choice, the defenders ignore the inconvenient sexist, racism, homophobia and so on of their colleagues.

There is this dynamic at play now with the UK Labour Party under Jeremy Corbyn. To an outside independent observer, its antisemitism is hard to ignore. All too many in the Labour Party have either taken part in engineering it or embracing. There are, as well,

all too many others who just pretend it is not there, a politically convenient willful blindness.

How does one deal with this phenomenon? Obviously changing the definition of antisemitism to excuse any political party which has been manipulated by antisemites to adopt its agenda is not the answer. But what is?

The international arena, which has had to grapple with politicisation of human rights a lot longer and in much more extreme forms, gives some answers. One answer is the use of outside independent experts. The international theme and treaty based remedial mechanisms are run not by governments but by persons chosen for their expertise in the subject matters of the mechanisms.

Although admittedly there is sometimes political interference in the appointment of experts, these experts nonetheless not only provide, in general, unbiased judgment in individual situations. They also provide a body of precedents which enhance our understanding of what exactly constitutes a violation of the human rights standards the international community has endorsed.

Another answer is the UN Human Rights Council Universal Periodic Review. The Universal Periodic Review does engage governments, but in a manner in which at least procedurally all states under scrutiny are treated in the same manner.

In a democratic country, where the very foundation of democracy is respect for human rights, one would hope that voters would vote against any party which flouts human rights standards. However, it is doing too little to rely only on the hope that voters will be less political than the parties vying for power. More needs to be done.

A definition of any particular human rights violation, widely endorsed by governments and experts alike, of which the IHRA definition is as good an example as any, helps. Because

of this definition, we, who have no political interest in either the success or failure of the British Labour Party independently of its antisemitism, do not have to wonder whether the Labour Party has become antisemitic. We can come to that conclusion with ease.

The problem then is not the presence of the IHRA definition but rather the absence, in a domestic context, of remedies like the independent experts appointed in the international arena for theme and treaty based mechanisms and the Universal Periodic Review one also finds in the international arena. Depoliticising the human rights debate in a democratic country is a tall order. To get into detail about the forms that this depoliticisation can take would lead this particular presentation too far afield.

In the UK, the Equality and Human Rights Commission has launched an investigation into the Labour Party which may be useful. However, its terms of reference focus more on Labour Party procedure than substance.¹³

Definitions help. Knowing what is a duck is essential to a determination whether any particular fowl is a duck. When a fowl looks like a duck, waddles like a duck, and quacks like a duck, we can say with confidence that it is a duck, because we know what a duck is.

One can say the same about antisemitism. We can make a determination whether a particular act or platform or resolution or speech is antisemitic only if we know what antisemitism is.

Britain, of course, is in a bad state, when its leading opposition party is antisemitic. But it would be in a worse state if there were uncertainty and confusion outside Labour Party apologist circles about what antisemitism is. The IHRA definition of antisemitism has

provided a sorely needed clarity to the British political debate.

Criticism

6) Antisemitism should be defined by antisemites, not by those combating antisemitism

Response

This criticism is a fantasy, since antisemites do not today self-identify and tout definitions of antisemitism. That used to be the case, before and during World War II. However, the Holocaust discredited self-proclaimed antisemitism. Today seeking definitions of antisemitism from antisemites gets us nowhere.

This criticism makes sense only if one thinks of the IHRA definition of antisemitism as an artificial construct. The combat against antisemitism has to have an identified target. This criticism suggests that the IHRA definition has got the target wrong.

How does one identify the target in the absence of a definition from antisemites? The answer would seem straightforward. Look to who is attacking Jews for no other reason than that they are Jewish and listen to what they are saying. That is what the annual audit of antisemitism of the League for Human Rights of B'nai Brith Canada previously mentioned does.

The suggestion that IHRA is missing the target would require examining the discourse of those attacking Jews as Jews, pointing out that elements of what IHRA decries are not found in this discourse and noting that elements of IHRA ignores are found in this discourse. Yet, none of the criticism of the IHRA definition does that. This is a criticism in a vacuum.

B. Equality

Criticisms

- 7) Governments have not adopted working definitions for any other religious or racial minority.
- 8) The Jewish people are being afforded safeguards that no other religious or racial group has.
- 9) The implementation of the definition creates a hierarchy of racism, in which one minority group is deemed worthy of protection and others are not.

Response

It goes beyond the ambit of the International Holocaust Remembrance Alliance to suggest working definitions for any other religious or racial minority. Nonetheless, this is an effort which should be encouraged.

Stereotyping and incitement to hatred come through discourse. The discourse varies with the victim group targeted. Moreover, why discourse amounts to incitement to hatred would not be obvious to those who do not follow closely the victimization of the particular religious or racial minority. The discourse often includes geographical or historical references which those unfamiliar with the relevant history or geography may not appreciate.

Take the example of Holocaust denial. Unless one knew the about the Holocaust, it would be difficult or impossible to appreciate the linkage of Holocaust denial to antisemitism.

The Holocaust is a generally know historical fact. However, not all forms of incitement to hatred make reference to generally known historical facts.

Take another example, the genocide in Rwanda. Leon Mugesera was ordered deported from Canada for advocating hatred and genocide against Tutsis. Part of his discourse on which the deportation decision was based was this.

Mugesera referred, in a widely disseminated speech, to a conversation he had with a Rwandan Patriotic Front sympathizer. He said:

"I continued by explaining to him that his home was in Ethiopia but that we would find a shortcut, that is the Nyabarongo river."

What that does that mean? In order to appreciate that this statement is incitement to hatred and advocacy of genocide there are a few things that a reader or listener would have to know, which are not obvious just from reading the statement.

In 1959, the Tutsi monarchy was overthrown by a Hutu led elite. In 1990 the Tutsi led Rwandan Patriotic Front launched an invasion of Rwanda from Uganda. The ruling party in Rwanda, the MRND, (Mouvement republicain national pour la democratie et le developpement), of which Mugesera was part, viewed the Tutsi families who remained in Rwanda as potential recruits for the Rwandan Patriotic Front. The MRND propagated a racist, anti-Tutsi ideology, referring to Tutsis as foreigners, who had immigrated generations ago from Ethiopia.

The Nyabarongo river flows from Rwanda to Ethiopia. It is not navigable all the way from Rwanda to Ethiopia. There had been a massacre of Tutsis in 1959 when those killed had been thrown into this river. Mugesera was calling on Hutus to kill Tutsis and dump them into this river.

The fact that governments have not adopted a working definition for any other religious or racial minority is not properly a criticism of the International Holocaust Remembrance Alliance definition of antisemitism. Any effort to combat working definitions to combat

incitement against religious or racial minorities has to start somewhere. There is no dishonour in being first.

One mistakes the nature of the International Holocaust Remembrance Alliance itself if one thinks that it is just about the Holocaust or the Jews. On the contrary, a major focus of the Alliance, particularly as all the perpetrators and victims are disappearing, is building a legacy of prevention and remedy from the Holocaust on which other victim groups can draw.

The International Holocaust Remembrance Alliance definition of antisemitism is not properly criticised because it defines only incitement to hatred against Jews and not against any other religious or racial minority. It should be seen for what it is, both an aid in combating antisemitism and an example to others.

To stand against the corrosive effects of incitement to hatred on society it is essential to combat incitement to hatred against all racial and religious minorities. Because of the particularities of the discourse of hatred directed against each religious and racial minority, it is important to have working definitions relevant to each victim group.

The International Holocaust Remembrance Alliance definition of antisemitism, ideally, should be a precedent, a mobilizer, an inspiration. Attacking the definition has the opposite effect, undermining the effort to combat the particularities of incitement to hatred from which every victim religious and racial minority suffers.

Criticism

10) Adoption of the definition is corrosive to the politics of solidarity, mutual aid, and the shared struggle against racism in all its forms.

Response

This criticism is engaged in the very effort it decries. Solidarity should mean solidarity of other groups with the effort to combat antisemitism. It is perverse both to advocate solidarity and to criticise the effort to combat antisemitism.

As well, the reference to the shared struggle against racism in all its forms fails to appreciate the particularities of the struggle against racism, its individual components. Racism is not a bigotry where one size fits all. Depending on the victim group, the form of bigotry shifts. This is particularly true for stereotyping and incitement to hatred. But it is true not only for that.

Take, for example, the problem of police carding - the stopping, questioning and documenting of individuals who are not suspected of any offence. The information collected is stored in databases for potential further use. In Canada, those carded are disproportionately black and aboriginal.

Some minorities suffer from carding, and others do not. Should we refrain from objection to carding, because objecting would be corrosive to the politics of solidarity, mutual aid, and the shared struggle against racism in all its forms? I would suggest not.

There must be a shared struggle against racism not just in its shared forms but, as the objection itself states, in all its forms. Yet, the forms vary from victim group to victim group. Limiting a shared struggle against racism to only its shared forms means limiting the struggle against racism unnecessarily. Those who believe in a shared struggle against racism in all its forms but oppose the IHRA definition of antisemitism are shooting themselves in the feet.

Criticism

11) Equality in fighting racism does not just mean adopting other definitions for other

victim groups. Antisemitism is different from other forms of racism in the sense that it is not structural. One cannot define structural discrimination out of existence. Definitional gestures would do little to fight institutional racism.

Response

This objection melds together incitement to discrimination and acts of discrimination. Yet, the two are distinct.

The International Holocaust Remembrance Alliance definition of antisemitism does not just refer to the forms that incitement against the Jews take. It also refers to acts of discrimination. The definition refers to both "Rhetorical and physical manifestations of antisemitism" and has examples for the physical manifestations as well as the rhetorical.

The notion that one can define antisemitism or any form of bigotry out of existence is naive. If only. The adoption of the IHRA definition, and, as noted, it has been widely adopted, has not, in itself, led to the elimination of antisemitism anywhere.

It seems a matter of common sense that in fighting any form of bigotry, one should know against what the combat is directed. The notion that there is something wrong with definitions favours muddiness over clarity.

It is quite true that one has to more than define to combat acts of discrimination - structural or otherwise. The adoption of a definition, in itself, does not do that much. A definition serves the purpose of recognition. The value of the definition depends on the use to which it is put.

The notion that Jews do not suffer from structural discrimination shows a lack of awareness of antisemitism in action. The BDS movement (boycotts, divestments and sanctions) is an active effort to institutionalize structural discrimination against a subset of

Jews - Jewish Israelis.

This criticism is inconsistent with the previous ones. Either all forms of bigotry are the same. Or some are different. Earlier criticism complained that Jews were being treated differently and better in the combat against what is essentially the same struggle against racist and religious discrimination. This objection states that there is a difference between bigotry against Jews and bigotry against other minorities, in order to make the point that the type of effort used to combat antisemitism - a definitional effort - is not much use to other victim groups.

Objectively, there are both differences and similarities in the struggle to combat discrimination against various minorities. As elaborated above, there are differences in discourse. There also difference in structural problems. The fact that, for example, carding is prevalent against blacks and aboriginals but not against Jews is not an argument against defining antisemitism. It is an argument rather for a definition of discrimination against blacks and aboriginals which would include carding.

Incitement to hatred can not be defined out of existence. But sometimes structural discrimination can be defined out of existence.

For instance, the suggestion that a definition of discrimination against blacks and aboriginals which would include carding would do little to combat carding can not be taken seriously. If governments, the governments now responsible for carding, adopted a definition of discrimination against blacks and aboriginals which included carding, structural carding discrimination would end.

Criticism

12) Compared to the way anti-Black racism or Islamophobia is defined, the IHRA definition doesn't treat antisemitism as a form of racism.

Response

This criticism is contrary to a previous one, that inequality is at play because antisemitism is defined and other forms of bigotry are not. The reason for this difference is that the first criticism comes from the UK and the second criticism comes from Canada. In Canada, as previously noted, the IHRA definition of antisemitism was adopted at the same time as a definition of Islamophobia and anti-Black racism.

The contrary criticisms are nonetheless instructive. It seems that neither defining antisemitism alone nor defining antisemitism in conjunction with definitions of prejudice against other victim groups satisfies the critics of the definition.

The suggestion that antisemitism is not being treated as a form of racism is, at the very least for Canada, inaccurate. If the Government of Canada did not consider antisemitism as a form of racism, the Government would not have included antisemitism in its anti-racism strategy.

Criticism

13) Political parties and governments which are racist have adopted the IHRA definition of antisemitism.

Response

This is partly an *ad hominem* argument, criticizing a principle because you do not like, and maybe have good reason not to like, some of the people or parties or governments who embrace it. I would not defend everything every party or government who adopts the IHRA definition says or does. However, that reservation is not a reservation about the definition.

Racism has no objective reality. It is, by its very nature, irrational. For some racists, Jews and the Jewish state are on the right side of the racist divide. The fact some racists endorse the IHRA definition should not be a criticism of the definition. It should be rather another form of criticism of racism - its arbitrariness in dividing a single humanity into artificially constructed component parts.

Are some parties and governments who adopt the IHRA definition hypocrites, opposing racism against Jews and not others? Probably so. But if we are to judge the value of a principle only by the quality of the parties or governments who embrace it, we would end up with few, if any, principles available to adopt.

It is, of course, legitimate, even necessary to criticise hypocrisy. But asking hypocrites to abandon the few decent principles they may adopt is a poor way of doing that.

Should hypocrites get a free ride because they manage to get some things right? Surely not. Yet what they get right does not turn out to be wrong merely because hypocrites do not act consistently with the right principles they endorse.

It is a scatter gun approach to criticize every principle which hypocrites embrace. Far more useful is to focus on what they get wrong.

Criticism

14) The existence of IHRA and its definition of antisemitism gives undue importance to the Holocaust, turning it unnecessarily into a powerful worldwide concern.

Response

This criticism, in isolation, seems deranged. What drives it is the link to other criticisms -

that the combat against antisemitism is instrumentalized by racist parties and governments to serve their agendas and that the IHRA definition has been used to squelch Palestinian self-determination. These other criticisms are addressed elsewhere.

However, it is worth noting this particular criticism, wild as it is. When a clock chimes thirteen, that does not put into question only the thirteenth chime. It puts also into question all the previous twelve chimes.

If other criticisms of the IHRA definition leads to this criticism, we should not be questioning just this criticism. The linkage puts into question the other criticisms which lead to this criticism.

Criticism

15) The IHRA definition has not been successful. Antisemitism has revived and increased.

Response

This of course is the opposite of the previous criticism, another example of condemnation of the definition for contradictory reasons. But the merits, all the same, need to be addressed.

Antisemitism is the world's oldest, most pervasive, most vicious hatred. It is unrealistic to expect a hatred which has killed so many people in so many places over such a long time to disappear.

When we are combating antisemitism, the mark of success is not its disappearance, which we can not reasonably expect, or even its decrease, which is certainly beyond the control of an alliance like IHRA, but only its mitigation. The best we can say in support of IHRA is

that, without it, antisemitism would have been even worse. Setting a threshold any higher than that is unrealistic.

C. Israel Criticism

16) The definition examples allow perceptions of Jews which fall short of expressions of racial hostility to be stigmatised as antisemitic. This is particularly so about how people talk about the State of Israel.

Response

This criticism is not crystal clear, but it appears that a point, if not the point being made is that criticism of Israel is not, in itself, antisemitic. The answer is that it can be. Where Israel is demonized and Jews world-wide are characterized as actual or presumed supporters of this demon state, then we are faced with antisemitism.

From this perspective, some criticisms of Israel are antisemitic and some are not. The IHRA definition of antisemitism draws a line between which criticisms of Israel are antisemitic and which are not. It is unpersuasive to object to this exercise by arguing no such line should be drawn.

Criticism

17) The definition shields Israel from effective measures of accountability in accordance with international law.

Response

Again, exactly what the references are intended by this criticism are not explicit. It may

well be that this criticism has nothing specific in mind. Israel has been charged with violations of virtually every international law.

The mere fact that the phrase "international law" has been used does not immunize the discourse from the charge of antisemitism. Claims of breaches of international law can be a form of demonization.

Calling a person criminal without evidence is a form of defamation. Calling a people criminal without evidence is group defamation.

Criticism

18) The application of the definition works alongside external pressure from organisations and individuals aligned with the aims of the Israeli state.

Response

Again we have another cryptic criticism. What are the aims of the Israeli state? Governments have aims, but states not so much. States are legal entities which have varying aims depending on who forms the government.

This is a criticism not so much of the definition as a criticism of the application of the definition. Moreover, the criticism of the application is not how it is applied, the usual criticism when an application is to be criticised, but who its friends are.

The suggestion is that the definition is bad because it has bad supporters. Even putting aside the question whether the supporters are good or bad, this is a poor criticism of anyone or anything, that he/ she/ it has questionable friends. Here we have a classical *ad hominem* fallacy.

The criticism refers to external pressure, but external pressure for what? The definition would work alongside pressure to combat antisemitism. But what is wrong with that?

Criticism

19) The notion that only victims of a particular form of racism can define the terms of that racism is inherently undemocratic when the definition is so entwined with what one may or may not say about Israel.

Response

The IHRA definition of antisemitism did not come from victims of antisemitism. It came from IHRA itself. It existed in earlier form in the European Union Monitoring Centre (EUMC).¹⁴

Neither IHRA nor the EUMC are Jewish community organizations, and certainly not a subset of them, those members of the Jewish community victims of antisemitism. Nor did these organizations just adopt a definition proposed by the Jewish community in general or victims of antisemitism in particular. Each entity made its own decision. As well, there are members of the Jewish community, albeit a minority, who do not endorse the definition.

The member states of IHRA who adopted the definition are all democratic. Indeed, a

¹⁴ Dina Porat "There's Nothing Shocking About a Tool for Sussing Out anti-Semitism" Haaretz, August 23, 2019

[link removed]

state has to be democratic to be allowed to join IHRA. Adopting the IHRA definition was as democratic as anything else the adopting states have done.

The suggestion that there is something particularly wrong with the definition because the examples make reference to Israel beclouds the nature of bigotry. Bigotry generally and antisemitism in particular are shape shifting monsters. Yesterday antisemites fabricated matzo recipes (claiming that Jews killed Christian children to use their blood for the making of matzo). Now they fabricate fantastical claims of Israeli violations of international law. In order to combat bigotry, its contemporary forms must be combatted. Focusing only on historical forms misses the mark.

Criticism

20) The definition is based on criteria set by the Israeli government and those who support it

Response

Historically this is false. The Government of Israel did not have a leading role in the formulation of the definition or its subsequent adoption by individual states.¹⁵

This criticism reeks of the world Jewish conspiracy fantasy, itself a form of antisemitism. As well, the criticism fails to distinguish between the Government of Israel and the State of Israel. Governments come and go. States remain. The definition is directed against criticism of the existence of the State of Israel, and not against criticism of any particular political party or government in Israel.

¹⁵ Yehuda Bauer "Daniel Blatman's anti-Semitic Attack" Haartez, Aug 01, 2019

[link removed]

Criticism

21) The IHRA definition examples conflate criticisms of Israel and/ or Zionism with antisemitism.

Response

Anti-Zionism, opposition to the right to self-determination of the Jewish people, is a form of antisemitism. To say that all people of the world have a right to self-determination except the Jewish people is discrimination. It is rightly criticized.

When it comes to criticism of the behaviour of the Government of Israel, the definition does not stand against criticism of any particular form of behaviour. Rather the definition says that, if you are going to criticise the behaviour of the Government of Israel, do not use antisemitic rhetoric in doing so.

Standing against the use of bigoted invective in the criticism of behaviour is not the same as standing against criticism of behaviour. This criticism is mistaken for melding the two.

Criticism

22) The reason the IHRA definition of antisemitism is incorporated into government strategy is that there is an Israel lobby that thinks that the IHRA examples can assist them in their work of trying to label criticism of Israel as antisemitism.

Response

This criticism also has echoes of the world Jewish conspiracy antisemitic trope. Jews are a tiny minority of every country other than Israel which has adopted the IHRA definition.

The suggestion that the adoption of this definition has something to do with Jewish back room manipulation of governments is a denial of the very anti-racist stance the criticism purports to adopt.

Moreover, the notion that the Jewish community outside of Israel or even inside of Israel uniformly supports the behaviour Government of Israel is belied by reality. The Government of Israel exists in a democratic environment, with an active opposition, a free media and an independent judiciary. One has only to read the daily Israeli news or the statements of the opposition parties to find that there is no unanimity of support within the Jewish community insider or outside Israel in supporting the behaviour of the Government of Israel.

The fact that the word "Israel" is mentioned in an antisemitic harangue should not immunize the harangue from criticism. Antisemitic invective without the use of the word "Israel" remains antisemitic invective when the word "Israel" is inserted.

Criticism

23) There is a difference between the risks Jews faced in the 1930s and the risk Jews face today. The IHRA definition fails to appreciate that difference.

Response

Incitement discrimination, hatred, terrorism and war should be combatted at the earliest possible opportunity, nipped at the bud. Waiting until a genocidal momentum arrives is waiting far too long. By the 1930s in Nazi Germany, any effort to combat antisemitism was a lost cause.

Moreover, the threat the Jewish state faces is far from trivial. Eliminationist discourse, advocating elimination of the Jewish state, is rife among a wide range of terrorist entities.

A dismissal of the threat the Jewish state faces when it suffers almost daily rocket attacks from terrorists is out of touch with reality. This eliminationist discourse is endorsed by state organs in Iran, who have been developing a nuclear capacity to boot, debatably stalled, and who call for the elimination of Israel whether a lasting peace agreement is reached with the Palestinians or not.

Criticism

24) The IHRA definition equates anti-Zionism with antisemitism. Yet, anti-Zionism is not antisemitism.

Response

The IHRA definition does not use the word "anti-Zionism". It does give as one of its examples, indeed the first, "targeting of the state of Israel, conceived as a Jewish collectivity".

Saying that Israel has done something wrong by saying that the Jews have done something wrong is a form of antisemitism. It is this form of antisemitism to which the first example is addressed.

Anti-Zionism itself needs an agreed upon definition. Often those defending and attacking Zionism are assuming different definitions of the concept, with the result that the issue is not squarely joined.

If one thinks of Zionism as the expression of the right to self-determination of the Jewish people, it is impossible to argue in principle that the right to self-determination of peoples applies to all people except the Jews. Arguing that the right to self-determination of peoples applies to all people except the Jews is a form of antisemitism.

However, sometimes those who advocate against Zionism are not arguing that, but only that Israel should be a secular, non-discriminatory state in which non-Jewish minorities would have the same rights as the Jewish majority. That view may be a misrepresentation of Zionism; but, if one puts to one side its characterization of Zionism, it is not antisemitic.

There are four states which are called Islamic Republics - Iran, Afghanistan, Pakistan and Mauritania. There are 57 jurisdictions which self-identify as Islamic by being members of the Organization of The Islamic Cooperation states. One of those is the Palestinian Authority. There are twenty eight states which have the Christian cross in their flags. When 28 states self-identify with Christian symbolism, when four states include Islam in their name, when 56 states and the Palestinian Authority self-identify as Islamic, to criticise alone the one state which self-identifies as Jewish for that self-identification is a double standard, is a form of antisemitism.

D. Palestinians

Criticism

25) The IHRA definition attempts to erase Palestinian history.

Response

This criticism is cryptic. The definition does not claim there is no Palestinian history. Palestinian history is not mentioned in the definition or examples.

If the criticism is that it should be mentioned, the question is how it should have been mentioned. What relevance does any component of Palestinian history have to do with the definition of antisemitism?

Criticism

26) The definition demonises solidarity with the Palestinian people.

Response

The definition does not refer to solidarity with the Palestinian people, saying anything about it one way or the other. It does not criticise solidarity with the Palestinian people. It says nothing adverse to solidarity with the Palestinian people.

This criticism is even more cryptic than the last one. It is hard to demonise anyone or anything through silence.

Criticism

27) Palestinian networks have not been formally consulted about the definition.

Response

If Palestinian networks had been formally consulted about the definition, what would they have said? Perhaps they would have said what has already been said in the other criticisms. Yet these other criticisms are untenable. So, the absence of formal consultation has no significance.

The implication of this criticism is that the definition of antisemitism has something to do with the Palestinian people, is a matter of concern to the Palestinian people, particularly in light of the manner in which the definition has evolved. But what is the linkage between the interests of the Palestinian people and the definition of antisemitism as now articulated? We are left to guess.

Criticism

28) The definition puts Palestinian rights as subordinate to the concerns of the Jewish people.

Response

Obviously, the definition does not say that. It does not say that the concerns of the Jewish people come before Palestinian rights.

Again we have a criticism which commits the very fault it decries, ranking the rights of peoples. In this criticism, the Jewish people have concerns. Only the Palestinian people have rights. Yet, in reality, both peoples have rights and equal rights at that.

Criticism

29) The definition marginalises Palestinian people.

Response

This criticism, as indeed all the previous ones referring to the Palestinian people, goes off on a tangent. There is no reference in the IHRA definition to any other people than the Jewish people.

Are all the other peoples in the world marginalised by not being mentioned by name in the definition? Are only the Palestinian people marginalised in the definition and no others? Why them and not say the Arab people or the Bedouin people or the Jordanian people or the German people and so on?

It stands to reason that a definition of bigotry against any one people is going to have the people against whom the bigotry is directed front and centre. By comparison, every

other people in the world will be on the margins or off the page.

A criticism of marginalisation is a criticism of the very attempt to fight bigotry victim group by victim group. Like much else in this critique, the criticism finds fault not so much with this particular effort as with the very nature of the effort, combating the particularities of bigotry.

But, as elsewhere, the reasoning is inconsistent. It is wrong, according to this critique, to focus on bigotry against Jews. It is right, in contrast, to focus on the Palestinian people. This combination - do not pay specific attention to the Jews, pay specific attention the Palestinians - is not a proper approach to combating bigotry. It is rather critical of the very effort to combat bigotry.

E. Freedom of expression

Criticism

30) The definition is a danger to the fundamental right to freedom of expression.

Response

The international human rights instruments - the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination - stand against incitement to discrimination and hatred. Human rights are indivisible. The right to freedom from incitement to hatred and discrimination has as much status as a human right as the right to freedom of expression. Both are co-equal. Both must be read together.

It false to say that combating incitement to hatred and discrimination means combating freedom of expression. The freedom of expression of the inciters may be curtailed. But the freedom of expression of the victim groups is expanded. One impact of incitement is

to shut down discourse from the victim group, whether by intimidation or active silencing.

There is no justification in expanding the freedom of expression of perpetrators at the expense of curtailing the freedom of expression of victims.

Criticism

31) The definition will have the effect of restricting political action.

Response

Again we have a general statement without any reference to specifics. What political action does the critic have in mind?

Ideally the definition would have the effect of restricting political action to mobilize hatred against the Jews. But what is wrong with that?

If the criticism has in mind some other political action that is not mobilization of hatred against the Jews, and presumably it does, then the issue is not so much what the action or objective is as how the action is conducted. The combat against antisemitism does not stand against any action or object that is not itself antisemitic. All the definition does is say, when your end is not itself antisemitic, do not use antisemitic means.

If a person wants to change this or that, if a person finds fault with a situation here or there, the desire for change is not itself problematic. All the definition says is that whatever you find wrong, do not blame the Jews.

Criticism

32) Complaints based on the definition and proceedings initiated, regardless of the outcome, can be chilling and McCarthy-like.

Response

It is true that proceedings for violation of anti-bigotry standards can, in some circumstances have a chilling effect. The answer though is not to abolish the standards as to prevent anti-bigotry procedures from being too easily triggered.

There needs to be precautions put in place so that anti-bigotry proceedings can not be used by bigots themselves to target and harass their chosen victim group. Some of those precautions could be the requirement of consent by the Attorney General before a complaint is initiated, or the award of costs against an unsuccessful complainant, or an award of costs, paid for by the state, in favour of a successful complaint target.

Criticism

33) The definition has a potential effect of imposing uniformity of thought with the prospect of censure for an opposing view.

Response

On the whole, it would be healthy if people not only did not speak hatred against groups based on identity, but also did not think hatred. However, even the most rigorous anti-hate standards do not stand against unexpressed thought.

The very suggestion that anti-hate standards would do so is a denial of the human condition. Hatred is a basic human emotion. Anti-hate standards are not what would be in any case a forlorn attempt to change human nature. Anti-hate standards stand against communication of hatred not thoughts of hatred.

The suggestion that anti-hate standards would lead to censure of an opposing view raises

the question, what opposing view? If the opposing view is incitement to hatred, yes, there should be censure.

The suggestion that, in addressing any problem, there are only two solutions, one of which involves incitement to hatred, signals a collapse of the rhetorical imagination. There can be an active debate on any real issue without resorting to hateful rhetoric.

Criticism

34) A person who thinks that it is legitimate to pursue, through democratic means, a multi-ethnic and multi-religious Palestine should not face reprimand, suspension or exclusion.

Response

Here, at last, is something specific. The answer to all the previous questions about the concerns of the critic may lie here.

Israel right now is multi-ethnic, multi-religious and democratic. Moreover, it sits on territory which historically formed part of British mandate Palestine. If the goal is a multi-ethnic, multi-religious democratic Palestine, that goal is realized right now in Israel, at least for part of former British mandate Palestine.

There are parts of former British mandate Palestine which do not form part of Israel - Gaza and the West Bank. Gaza right now is neither multi-religious nor multi-ethnic nor democratic. When Israel left Gaza, Israel had to evacuate the Jews for their own safety.

Why was this? Why would the Jews have not been safe in Gaza without the protection of Israeli troops? The answer is the unending drumbeat of hatred against Jews in Gaza. One has only to look at the website of Hamas, particularly in its original form, to see that

this is so.

The West Bank is not democratic but is multi-religious and multi-ethnic. The reason for this is shared Palestinian Israeli control of the West Bank. The official position of the Palestinian Authority is that Jewish Israeli residents of the West Bank, invidiously called occupiers and settlers, should not be there. If Israel, in current circumstances, were to abandon its share of control of the West Bank the Gaza experience would be repeated. The West Bank too would cease to be multi-religious and multi-ethnic.

Critics of the IHRA definition of antisemitism may wish to pursue the goal of a West Bank and Gaza that is democratic, multi-ethnic, as multi-religious, as Israel itself is. If so, nothing in the IHRA definition of an antisemitism stops that effort. However, the overall tenor of the critique suggests a different goal.

The goal to which the criticism appears to be referring is an end to the existence of a Jewish state as the expression of the right to self-determination of the Jewish people, to be replaced by a larger state including West Bank and Gaza where Jews would be, as they have been globally in the diaspora since the Roman expulsion, in a minority position.

For that goal not to be antisemitic, nor a violation of any of the IHRA definition examples, both the principles of democracy and the right to self-determination have to be respected. If Jews themselves did not want a Jewish state, as indeed many did not before the Holocaust, if Jews themselves preferred living in a minority situation in an Arab state, then the IHRA definition says nothing against advocating that hypothetical Jewish community position.

However, it seems farfetched to argue that result when neither the Jewish nor Palestinian community favours it. If the Palestinian community favoured such a result, the leadership of the West Bank and Gaza would welcome Jewish Israeli neighbours in their

territories instead of campaigning internationally against these neighbours and attempting to have their presence labelled as war crimes. Anyone who wants a democratic, multi-ethnic, multi-racial Palestine should be campaigning for a democratic, multi-ethnic, multi-racial Palestine in the West Bank and Gaza and not criticizing Israel, which already realizes such an objective in its own territory, or criticizing the IHRA definition of antisemitism which says nothing against such an effort.

Criticism

35) The definition presents an unacceptable level of risk to freedom of expression regarding solidarity with the Palestinian people, in line with international law.

Response

There are indeed some elements of antisemitism within the Palestinian people as there are indeed within elements of many other people. However, it is uncharitable, indeed racist, to suggest that the Palestinian people, as a people, are antisemitic, that solidarity with the Palestinian people requires solidarity in antisemitism.

The true friend is a friend who tells the truth. Insofar as there are elements of antisemitism within the Palestinian community, those elements should be called out. There should be no attempt, even among friends, to express solidarity with such sentiments.

Criticism

36) Political expression has been suppressed by those invoking the definition.

Response

Antisemitism has been historically a form of political expression. Indeed, bigotry is often instrumentalized by power entrepreneurs as a power seeking device. It is no defence of bigotry to suggest that it is used by people to seek political power. On the contrary, that form of bigotry is particularly alarming, because it threatens the victims with the power of the state, should the bigots achieve their aim of realizing power.

Jews have historically been targets of political parties, most notably the National Socialist party of the Weimar Republic, but not only them. The notion that the IHRA definition will help prevent antisemites hiding behind the excuse of political expression should be welcomed, not condemned.

Criticism

37) The definition is vague, imprecise.

Response

This is a criticism directed towards the definition stripped of its examples. It is not a criticism of the examples. On the contrary, it shows the value of the examples. It is essential to include the examples when applying the definition in order to operationalize the definition effectively and avoid the charge of vagueness.

Criticism

38) The definition is a tool to facilitate the political persecution of a nonviolent movement that fights the occupation, the oppression of the Palestinians and the war crimes Israel perpetrates in the territories.

Response

Nonviolence is not a justification or excuse or license or shield for incitement to discrimination, violence, hatred, terrorism and war. Calling out any movement for incitement to discrimination, violence, hatred, terrorism and war is not political persecution. It is promotion of respect for human rights.

Criticism

39) Governments and parliaments should not get into the business of defining antisemitism.

Response

This criticism is tied to an absolutist free speech position. If you do not believe that the authorities should be doing anything about incitement to discrimination, hatred, terrorism or war, then there is no point in having governments define what that incitement is. However, if you believe that part of governmental and parliamentary responsibility is to combat incitement to discrimination, hatred, terrorism or war, then definitions which tell the authorities what that incitement is are important.

The problem is not just free standing incitement. The problem is also common crimes with discrimination or hatred or terror as motivation.

Many states have increased penalties for common crimes with hate or terror motivations. Whether the penalties should be applied, indeed even how the crimes should be reported, requires an understanding to be able to distinguish hate or terror motivated crimes from other crimes. Giving the authorities who enforce the laws the tools they need to make the laws work surely is the business of parliaments and governments.

Criticism

40) The definition is applied in an arbitrary fashion, in particular to abridge freedom of speech of disfavoured positions on Israel.

Response

One can equally say the opposite, that criticism of the definition is used to disguise antisemitism that is cloaked in a criticism of Israel guise. The solution to arbitrary application of the definition is to avoid use of the definition in an arbitrary fashion, rather than to abandon the definition altogether.

The definition is not inherently arbitrary. All definitions are going to have borderline problems. The existence of borderline problems is not a fair critique of the definition itself.

To determine the meaning of any particular definition, one has to approach the definition purposively. If one does that, definitional problems generally can be sorted out.

The IHRA definition is described as a working definition. Calling the definition "working" does not mean that the definition is supposed to do all the work. On the contrary, those who want to critique the decision should do some work themselves.

What the work would mean is looking at experience and not just speculating on intellectual puzzles. The experience which needs to be considered is attacks on Jews because they are Jews.

I had earlier written that seeking definitions of antisemitism from antisemites gets us nowhere. Nonetheless, what those who attack Jews because they are Jews say is worth attention. The examples in the IHRA definition are largely drawn from this sort of lived experience, the verbalisation of antisemites.

An experiential disagreement with the definition would have to say that the encapsulation of that experience the definition presents is somehow wrong. Yet, none of the criticism of the definition takes this approach.

This concern about arbitrariness, insofar as it is more than a cover for antisemitic expression, results not so much from problems with the definition as with the conflict of rights - the right to freedom of expression and the right to freedom from incitement to hatred, a matter discussed earlier. When rights clash, how that clash is resolved is going to produce answers that are not satisfactory for absolutists on either side.

This balancing of rights is not a problem with the definition of either right balanced off against the other, but rather the inevitable consequence of the need to read human rights need as a whole. This need does not give the clarity that a fundamentalist attachment to only one right would give. But the problem here is fundamentalism, not the definition of the competing right.

Criticism

41) The UK London Tower Hamlets Council decision to cancel a charity event in July 2019 in aid of Palestinian children because the website of the participating organization contained expressions which appeared to breach the IHRA definition of antisemitism showed that the definition is a threat to free speech.

Response

The event was a bike ride. However, the problem was not the bike ride which, in itself, was not problematic. Nor was the use to which the funds raised would have been put an issue. There was no concern from the Council about how the funds would have been spent.

The problem was the fact that the event was not just a bike ride; it was also a closing rally after the bike ride. It was reasonable to expect the participating organization at the rally to express the views found on its website. The website described the Israeli treatment of Palestinians as ethnic cleansing and drew parallels between Israeli policies and apartheid-era South Africa.

Part of the Tower Hamlets controversy revolved around the content of the IHRA decision, addressed earlier. However, if one puts that controversy to one side and accepts that what would have been said at the rally by the participating organization would have been unquestionably antisemitic, the decision of the Council is unexceptionable.

A city council should not be hosting an antisemitic rally, even if the rally concludes a fund raising event for children. Fund raising for children can not be used as a cover for the promotion of antisemitism.

Conclusion

When it comes to rejection of the IHRA definition of antisemitism or its examples, the problem is not the definition. It is rather the failure or refusal of some critics of the definition to recognize or accept the antisemitism in themselves.

Today only marginal figures self-identify as antisemites. Being antisemitic is disreputable. Yet, some established figures hold and expound views which fall within the IHRA definition of antisemitism.

The reaction of those who do not self-identify as antisemites but whom the definition puts into the antisemitic camp is to fault the definition rather than accept the attribution of antisemitism to themselves. However, that is a personal and political dynamic and not a conceptual one. The pushback is not the result of a problem with the definition but rather an indication of how deep seated in some quarters antisemitism is.

How much of what is written in response to the criticisms I have set out has been said by governments who adopted the IHRA definition of antisemitism? The answer, as far as I can tell, is none. The spreading official acceptance of the IHRA definition is welcome. Yet, the official responses to unofficial criticisms of the definition have to date been inadequate.

Perpetrators seek immunity. One form that search for immunity takes is the claim that there is nothing wrong with the acts they have committed, that the claim of wrongfulness is a fault in the definition of the wrong and not a fault in the perpetrators themselves.

There has been a whole raft of flimsy criticisms of the IHRA definition of antisemitism. Left unanswered, they will spread and undermine the effort to combat antisemitism.

Governments need to do a lot more to answer these criticisms than they have. The work of combatting antisemitism does not end with adopting and applying the IHRA definition. The definition itself must be defended or the work that the definition is doing and can do will be undermined.

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