

# Adopting the IHRA Definition of “Antisemitism”: A Brief Overview of What this Means and Entails

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“If they come for me in the morning, they will come for you in the night.”

— Angela Davis

In the last few years, there have been concentrated efforts in Europe and North America to make institutions adopt International Holocaust Remembrance Alliance’s *working definition* of “antisemitism”<sup>1</sup>. Though the calls have been *only* to adopt the “definition” (*just* the definition), the “definition” serves as synecdoche for the guidance document that accompanies it even when there’s a lack of formal position(s) on the guidance document in these states. It has deservedly created an outcry. This beckons us to look closely into the issue. This paper is an attempt to take a brief but hopefully, a succinct overview of the debate surrounding it and lasting implications of attempts to adopt it.

## The IHRA Definition:

The International Holocaust Remembrance Alliance which describes itself as “the only intergovernmental organization” mandated to focus *solely* on Holocaust-related issues “so with evidence that the scourge of antisemitism is once again on the rise, we resolved to take a leading role in combating it.” Its website states that in order to meet its professed aim it adopted

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<sup>1</sup> I use the word “antisemitism” (in double quotes) to refer to what is understood to be its meaning as per the IHRA document. When used without quotes, I use the term in the sense as it is understood by the civil society, international law and other monitoring bodies. There’s no single definition of the term to which this cluster of the group agrees upon. But for purpose of clarity, one can say that it is understood *to be a kind of racial hatred and religious bigotry against the Jews for being Jews.*

a [non-legally binding working definition of antisemitism](#) in 2016. It is of use to us to quote the definition in its entirety here:

**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.**

It says at the very outset (equating in its simplistic logic a religion to a nationality or more importantly a nationality to a religion) that targeting “the state of Israel, as a Jewish collectivity” is a manifestation of antisemitism. But goes on to qualify “...that criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.” It seeks to clarify itself by illustrating eleven examples of what can be read as manifestations of antisemitism, and that as we go further in discussion undoes the very qualification it established in its introductory paragraph. Let’s take a look:

1. Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
2. 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.
3. 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.
4. 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).
5. Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
6. 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.
7. 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.
8. Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
9. Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
10. Drawing comparisons of contemporary Israeli policy to that of the Nazis.
11. Holding Jews collectively responsible for actions of the state of Israel.

The IHRA definition along with the eleven examples of manifestations of “antisemitism” is referred to as the IHRA document. Of the eleven examples given as manifestations of “antisemitism”, six of them are concerned exclusively with the State of Israel. Due to its inordinate focus on Israel, the IHRA document itself is more controversial than the definition. To unpack the long term-effects of adoption of this document we need to focus on two key areas under which this document can be studied. First, it being a kind of a *speech code*. This invites us to see its effects on *the right to freedom of speech*, a founding principle of democracy. Therefore we need to see its effect on the same since its adoption. Secondly, its specific targeting of a group for protection violates the *rule of law* (founded on the premise of law’s commitment to equality for all), the first thing enshrined in all liberal democracies. By making a specific group *more equal than the others*, it ensures certain *preference* and an unmistakable impunity to the State of Israel. Let’s take a look on both the accounts.

1. **An Attack on the *Right to Freedom of Speech*:** The IHRA document has been criticized most on this aspect, yet the criticisms have not been intellectually vigorous enough to truly take a stock of the danger it represents. Let’s enter the debate by taking into account the nature of its adoption (i.e., its procedure followed) in the European states and the US. It has been generally promoted / adopted by the executive branch of the State. In the U.K., by the executive orders of the Conservative Government and in the USA, by an executive order by the Trump administration. In both the countries, it has not been ratified by the legislatures. It can be said that any form of democratic deliberation which forms the hallmark of consensus-building on any issue in a democracy was completely absent. It is therefore not surprising that many scholars and civil rights and liberties activists are hopeful that it will be struck down when challenged in a court of law.

Rebecca Ruth Gould in what was called the first scholarly treatment of IHRA Definition of “antisemitism” “Legal Forms and Legal Legitimacy: The IHRA Definition of Antisemitism as a Case Study in Censored Speech”, described how since its adoption by the IHRA and easy compliance to it by the governments in the European states, it has functioned as a *quasi-law*. This is essential to understand as to how something which has not been legally ratified in these states has managed to censor speech so overwhelmingly.

Gould defines, a quasi-law as “a document, definition, code, or policy that a government-backed regulatory body has adopted to guide its deliberations and policies.” (4) It mimics dimensions of a law per se (i.e., normative law) but lacks democratic legitimacy for it never went through the process to gain it. One may wonder as to how then it managed to function in a democratic state with so little opposition. The answer to this riddle lies in the exact of nature of this law and the sites of its functioning. It is at least at the face value, morally laden. The IHRA document itself draws on the social consensus of the liberal states that seeks to delegitimize or to erase discrimination. Secondly, it functions or operates in the *quasi-public* bodies like the universities, associations and agencies which are neither open to drawing public mandate on issues (as public bodies should) nor seen as simple functionaries of the governments. Had it been either of the two, the IHRA document would have seen more précised and concentrated opposition than it has seen yet. This is not the space to recount numerous events (that sought to critically engage with the practices of Israel), which have been cancelled in the Universities, but suffice it to say that the list is long.

It is extra-ordinary how the definition (notwithstanding the greater vagueness of the guidance document) assumes total homology between words and the realities they describe. It appears to be impossibly naïve and unassuming about the complexities of human speech and myriad forms in which it manifests like parody, irony and satire. It seeks to reduce racism to rhetoric, and rhetoric to reality, without understanding the real damage that racism inflicts and the insidious ways in which it works in a society. The intended audience of this paper is activists who have worked for Palestinian rights, and so might see the IHRA document (not erroneously) as one in a series of acts that aims to give impunity to Israel. It is that but it is not *just that*. This document and the fact that something as imprecise as this could even get an audience let alone such ready acceptance, must alert us to the fact that something very fundamental has changed in our perception about the state and polity itself.

The document draws its sanction from the long-drawn liberal consensus around hate speech and the need for its regulation. This regulation can either be through the state or quasi-public bodies. To understand this better let us remind ourselves that the proponents of the IHRA documents have used few strands of the Critical Race Theory that sought censorship to create positive legislations against hate speech. Universities,

which unlike any other institution have a statutory duty to create space for freedom of speech and expression, were the first to fall to this kind of censorship. This is because certain consensus on regulating speech already existed in these circles, and thereby in societies at large. I do not have space to critically engage with this strand in a wholesome manner, but I do wish to warn the readers to not to take the episode in isolation. There's a shockingly naïve belief and growing consensus in the post WWII societies, that a positive legislation surrounding perceived "racist" speech can combat racial hatred. What kind of a state that would be where such censorships can exist? There's a difference between freedom of speech and other civil liberties in a democracy. It is something more fundamental and basic for any state claiming to be a democracy, for it is the first sphere available for access for the marginalized and often the only civil liberty. Gould rightly says, that "while other values are necessary to a stable and prosperous society, non-viewpoint-punitive expression within public discourse on this view is a sine qua non for democratic governance" (28).

2. **A Violation of the Rule of Law:** The IHRA document when criticized on substantive grounds is found to be in violation of the rule of law. It singles out one group for a protection that is not accorded to others. This is a group for which nationality, political ideology and religion conflate with one another. This might have been up till now the most concentrated effort to make Zionism and Judaism identical. According to the example seven of the guidance document, "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" is deemed to be "antisemitic". It is a State of which many members of the Jewish community itself are highly critical of. It is strange that a group's right to self-determination can be endorsed so uncritically without taking into account that it is exercised at the expense of the Right to Return of another group, a right ensured to the refugees in the International Law. The International Law itself by extension, if one follows the IHRA logic, would be "antisemitic". In a decolonized world, a world which no longer sees itself as a white man's playground, rational humans will critically look at a state whose nationality can be claimed as a birthright despite being born outside it while those who were born there or whose family members have a living memory of having lived in it are either being driven off or prevented from returning.

It is then no surprise that a group of 122 [Palestinian and Arab intellectuals](#), academics and journalists entered the debate surrounding antisemitism with an open letter condemning the IHRA document. The letter must be read alongside the IHRA document to understand what is at the stake when Israel-advocacy groups mindlessly seek to conflate “antisemitism” with the opposition to the practices of the State of Israel. The signatories ask that the fight against antisemitism must be “deployed within the frame of international law and human rights.” This is an important difference between the IHRA document and the letter. The letter, while acknowledging the threat of antisemitism as real and dangerous, calls it to be “a part and parcel of the fight against all forms of racism and xenophobia, including Islamophobia, and anti-Arab and anti-Palestinian racism”. The letter reaffirms a basic tenet of laws of modern states i.e., equality for all.

A simple glance at the document would prove that it is not a work of serious scholarship. It has enabled special interest groups namely that which are over-determined by Israel advocacy to act as proxies for the state, and grants them inordinate amount of coercive power. In any society marked by historical inequalities someone can always appropriate other group’s suffering for rhetorical ends. By invoking long history of the Jewish persecution by clever rhetorical determiners, the IHRA document and Zionism is equal to Judaism argument seek to epistemologically conflate protection of a settler colonial and racist enterprise to justice for a historically long-persecuted group. It ensures an *epistemological trap* for any Israel-critical speech. In order to escape accusations of antisemitism, it will be incumbent on it to give long prefaces acknowledging the Jewish suffering. But as the Jeremy Corbyn case proves that even that will not be enough. For small organizations that have been working to document Israel’s oppressive practices, a charge of “antisemitism” would be catastrophic. Even if it is not criminally charged of the same, it might lose in the battle of perceptions in a society that has long given up on critical thinking and differentiation.

It is interesting to see that the link between a group’s suffering and its appropriation for rhetorical ends might in reality have little or no empirical claim. The important thing is it should be able to invoke appearance of such identification. It is interesting to see how the Republican Party in the USA whose members have on numerous occasions delivered speeches of brazen hatred against the Jewish community has not been subjected to a tenth of the scrutiny that Congresswoman Ilhan Omar has been. Its

unaffiliated functionaries like Proud Boys are unapologetically antisemitic but the party gets characterized in the Israeli media as steadfast friends of the Jews. In reality, what such an identification of “antisemitism” with Zionism does is that it pays little or no heed to the real dangers of antisemitism.

Most critics see the IHRA document and its mindless promotion as an escalation in the long history of discrediting Palestinian struggle by Israel-advocacy groups. It is, undoubtedly a response (and a panicked one!) to the growing acceptance of the Boycott, Divestment and Sanctions Movement in the civil society. The letter by the Palestinian and Arab intellectuals pointedly draws attention to this. It reaffirms the BDS movement as “fundamentally a legitimate non-violent means of struggle for Palestinian rights.” The path is going to be increasingly difficult for civil-rights and civil-liberties groups and Israel-critical or pro-Palestine groups in the times to come.

In closing, let us remind ourselves that in the struggle for a just and humane world, what is most difficult usually is the most needed.

## Works Cited

Gould, Rebecca Ruth, "Legal Form and Legal Legitimacy: The IHRA Definition of Antisemitism as a Case Study in Censored Speech" . *Law Cultures and the Humanities*. Aug. 2018, doi:[10.1177/1743872118780660](https://doi.org/10.1177/1743872118780660).