



The Louis D. Brandeis Center FAQs About Defining Anti-Semitism

The Louis D. Brandeis Center for Human Rights Under Law

This fact sheet offers insight on the importance of defining anti-Semitism, highlights previous efforts to define anti-Semitism, and provides guidance on what further steps are needed in order to adopt a uniform definition of anti-Semitism in the United States today.

Why do we need a uniform definition of anti-Semitism?

If anti-Semitism is to be addressed, it must be explained; and if it is to be explained, it must first be defined. Valid monitoring, informed analysis, and effective policy-making start with uniform definitions.

The use of a uniform definition serves several important public policy objectives:

- Enhancing clarity of policy and predictability of enforcement;
- Improving prevention by increasing consistency; and
- Facilitating comparison of intervention and prevention programs across jurisdictions and data collections.

The U.S. Department of Education uses formal definitions of other forms of discrimination, such as sexual harassment and disability discrimination, and has invested resources into developing a uniform definition of bullying. Uniform definitions are especially important for anti-Semitism, because so much confusion surrounds the line between anti-Semitism and legitimate criticisms of the State of Israel.

What are American universities doing to define anti-Semitism?

There has been a recent trend on campus, often led by students or trustees, to provide uniform definitions of anti-Semitism. In March 2016, the University

of California Board of Regents adopted the landmark Statement of Principles Against Intolerance, which includes a contextual statement declaring that, "Anti-Semitism and anti-Semitic forms of anti-Zionism are forms of discrimination, and will not be tolerated at the University of California." The Regents explained how historic manifestations of anti-Semitism have changed over time, and that "expressions of anti-Semitism are more coded and difficult to identify. In particular, opposition to Zionism often is expressed in ways that are not simply statements of disagreement over politics and policy, but also assertions of prejudice and intolerance toward Jewish people and culture." Student governments at several institutions (e.g., UC Berkeley, UCLA, UC Santa Barbara, Indiana University, Ryerson University, and Capital University) have recently adopted resolutions condemning anti-Semitism and adopting the U.S. State Department Definition of Anti-Semitism (see below).

What is the U.S. Department of State's Definition of Anti-Semitism?

The U.S. Department of State's definition of anti-Semitism is the single most authoritative definition of anti-Semitism in the United States. It shapes the State Department's approach to efforts to monitor and combat global anti-Semitism. The State Department has explained that, "it is especially important to define anti-Semitism clearly to more effectively combat it." (See U.S. Department of State, Special Envoy to Monitor & Combat Anti-Semitism Ira Forman, "Combating Global Anti-Semitism in 2016," Berlin, Germany, March 2016.)

For this reason, the State Department found it necessary to "encourage European governments to adopt a working definition of anti-Semitism, ideally, one which would include a section on how anti-



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Semitism relates to Israel, to improve the safety and well-being of Jewish communities in Europe.”

Unfortunately, the federal government does not always practice what it preaches. Specifically, other federal agencies do not apply the State Department’s definition, nor do they have a definition of their own. In other words, our own administrative agencies have not done the basic work that our State Department has lectured European governments to do.

What distinguishes the State Department definition is its examples, especially the examples relative to Israel. The definition includes several illustrative examples of anti-Semitism in public life, the media, schools, the workplace, and in the religious sphere and brings an appropriately broad variety of anti-Semitic acts and words under the concept of “anti-Semitism.”

Notably, the State Department’s definition closely mirrors the International Working Definition of Anti-Semitism, also known as the “EUMC Working Definition,” and the International Holocaust Remembrance Alliance’s (IHRA) Working Definition of Antisemitism. These definitions are all partly based on the “3D Test of Anti-Semitism” developed by Natan Sharansky. The “3D Test” distinguishes legitimate criticism of Israel from actions that **D**elegitimize, **D**emonize, or apply **D**ouble standards against the Jewish State. The State Department definition emphasizes, in what has become a nearly universally adopted caveat, that “criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic.”

The U.S. Department of State’s Definition of Anti-Semitism, including its examples, provide in full, as follows:

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

Contemporary Examples of Anti-Semitism:

1. Calling for, aiding, or justifying the killing or harming of Jews (often 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 a collective—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, the state of Israel, or even for acts committed by non-Jews.
4. Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
5. Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interest of their own nations.

What is Anti-Semitism Relative to Israel?

Examples of the ways in which anti-Semitism manifests itself with regard to the state of Israel, taking into account the overall context could include:



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DEMONIZE ISRAEL:

- Using the symbols and images associated with classic anti-Semitism to characterize Israel or Israelis
- Drawing comparisons of contemporary Israeli policy to that of the Nazis
- Blaming Israel for all inter-religious or political tensions

DOUBLE STANDARD FOR ISRAEL:

- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation
- Multilateral organizations focusing on Israel only for peace or human rights investigations

DELEGITIMIZE ISRAEL:

Denying the Jewish people their right to self-determination, and denying Israel the right to exist

However, criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic.

Does the State Department Definition apply to American campus anti-Semitism?

Yes, the State Department's definition of anti-Semitism can be applied to university campuses as well as to any other institution. Moreover, the Ottawa Protocols of the Inter-parliamentary Coalition for Combating Antisemitism specifically urged universities to use "the EUMC Working Definition . . . as a basis for education, training and orientation..." and to "define antisemitism clearly, provide specific examples, and enforce conduct codes firmly" so as to "combat antisemitism with the same seriousness with which they confront other forms of hate."

The federal government applies the State Department definition only in foreign affairs, because the State Department does not have jurisdiction over domestic matters. In general, domestic federal agencies have no comparable tools for understand

ing anti-Semitism. For this reason, if an incident occurs on a university campus in Paris or Berlin, the U.S. government can determine whether or not it should be characterized as anti-Semitic. But if the same incident happens in New York or Los Angeles, the federal government is ill-equipped to address it.

This is unfortunate, because American campus anti-Semitism is, as the U.S. Commission on Civil Rights has observed, a "serious problem" requiring closer attention. In 2015, the Brandeis Center and Trinity College published a joint study finding that 54% of over 1,100 self-identified Jewish students on 55 campuses nationwide reported having experienced or witnessed anti-Semitism on their campus in only a six-month period during the 2013-2014 academic year. Recently, a Brandeis University study of over 1,000 Jewish college students found that nearly 3/4 of respondents had been exposed during the past year to anti-Semitic statements.

What is the status of the International Working Definition of Anti-Semitism?

The International Working Definition is widely respected worldwide, as we explain below.

EUMC Working Definition

Serious international efforts to combat anti-Semitism gained momentum in 2005, when the European Union Monitoring Centre (EUMC) on Racism and Xenophobia adopted a working definition of anti-Semitism in response to the growing prevalence of anti-Semitism in Europe. The definition was composed in close collaboration with the Organization for Security and Cooperation in Europe's Office of Democratic Institutions and Human Rights, and a number of international experts on anti-Semitism. Although the website of EUMC's successor, the Fundamental Rights Agency, removed the working definition from its website, numerous other institutions and international governments have subsequently adopted the working definition. and international



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IHRA Working Definition

In May 2016, the International Holocaust Remembrance Alliance (IHRA), a 31-member state intergovernmental body, with ten observer countries and seven international partner organizations, whose purpose is to place political and social leaders' support behind the need for Holocaust education, adopted a working definition of anti-Semitism. In doing so, the IHRA included examples of criticism of Israel that might be regarded as anti-Semitic, such as: "Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust"; "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"; and "Drawing comparisons of contemporary Israeli policy to that of the Nazis," among other things. Then-IHRA Chair Ambassador Mihnea Constantinescu stated: "All IHRA Member Countries share concern that incidents of antisemitism are steadily rising and agree that IHRA's Member Countries and indeed IHRA's experts need political tools with which to fight this scourge By adopting this working definition, the IHRA is setting an example of responsible conduct for other international fora and hopes to inspire them also to take action on a legally binding working definition."

Since the IHRA's adoption, several countries and government agencies have followed suit. In December 2016, due to an increase in the number of anti-Semitic incidents in the country, British Prime Minister Theresa May announced that Britain would adopt the working definition. In April 2017, the Austrian Government adopted the IHRA working definition after a prominent NGO reported a record number of anti-Semitic incidents in Austria during 2016, noting that the adoption should send a national and inter-

national signal by aiding in the identification and combatting of antisemitism. Also in April 2017, the European Commission added the working definition to its official website, referring to it as a "useful tool for civil society, law enforcement authorities and education facilities to effectively recognize and fight all forms of antisemitism." In May 2017, the Romanian government officially pledged to apply the IHRA working definition, and in June 2017, the European Parliament approved a resolution calling on European Union (EU) member states and EU institutions to adopt and apply the IHRA working definition. The text of the resolution urges EU member states to protect their Jewish citizens and Jewish institutions from hate crime and hate speech; support law enforcement efforts to identify and prosecute anti-Semitic attacks; appoint national coordinators on combating anti-Semitism; among other things.

London Declaration on Combating Antisemitism

Over 100 parliamentarians and NGO representatives from 35 different countries adopted the "London Declaration on Combating Antisemitism" in 2009, which asserted the need for global cooperation in the fight against anti-Semitism and calls on governments to implement the International Working Definition. It specifically calls on education authorities to "ensure that freedom of speech is upheld within the law and to protect students and staff from ... a hostile environment in whatever form it takes..."

Ottawa Protocol on Combating Antisemitism

Moreover, in 2010, the Inter-parliamentary Coalition for Combating Antisemitism (ICCA) issued an international declaration, the "Ottawa Protocol on Combating Antisemitism," which was unanimously adopted by representatives of over fifty countries' parliaments, including the U.S. Congress, expressed alarm that "since the London Conference in February 2009, there continues to be a dramatic increase in recorded antisemitic hate crimes and attacks targeting Jewish persons and property, and Jewish religious, educational and communal institutions."



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As such, the Protocol reaffirmed the EUMC Working Definition and called on “our governments to international commitments on combating antisemitism.”

OSCE Recognition of Working Definition

The Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly formally recognized the International Working Definition in its educational and police training materials and programs. Additionally, OSCE’s Office for Democratic Institutions and Human Rights recommends the Working Definition as a valuable hate crime data collection tool for law enforcement agencies and educators. The U.S. Commission on Security & Cooperation in Europe (Helsinki Commission) which ensures compliance with OSCE commitments, reported to Congress: “We should widely promote, within the OSCE, the [International] comprehensive working definition of anti-Semitism. This document is tremendously useful in identifying current manifestations of anti-Semitism to those who might not otherwise recognize them. It should be disseminated as widely as possible among public officials, educators, and journalists, among others.” Further progress was made this past Spring 2017, when the Office for Democratic Institutions and Human Rights (ODIHR), a division of OSCE, included the IHRA definition into its important new guide, “Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities.”

U.S. Anti-Semitism Awareness Legislation

Federal and State efforts have been made to define anti-Semitism through Anti-Semitism Awareness Legislation. In December 2016, the bipartisan Anti-Semitism Awareness Act unanimously passed the Senate, but the legislative period ended before the House could act on companion legislation. This bill acknowledged the “Dear Colleague Letter” that LDB’s President Kenneth L. Marcus issued in 2004, which extended the protections of Title VI to include incidents involving “race or national origin harassment commingled with aspects of religious

discrimination against Arab Muslim, Sikh, and Jewish students,” and directs the Department of Education to use the **State Department’s definition of anti-Semitism** as part of the Department’s assessment of whether the alleged practice was motivated by anti-Semitic intent. The bill states that “awareness of this definition of anti-Semitism will increase understanding of the parameters of contemporary anti-Jewish conduct and will assist the Department of Education in determining whether an investigation of anti-Semitism under Title VI is warranted.”

Similar bills have also been introduced by state legislatures in Tennessee, Virginia and South Carolina. The South Carolina Subcommittee on General Laws voted unanimously in support of the measure.

Does this have implications for freedom of speech?

This definition raises no issues for freedom of speech if used in the manner recommended by the Ottawa Protocol. That is to say, its employment for education, training and orientation purposes creates no legal problem, and there are no implications under the First Amendment. Governmental officials or university administrators who propose to apply the definition in an enforcement or regulatory context should consult with counsel on constitutional limitations as they would for any such standards the First Amendment. Governmental officials or university administrators who propose to apply the definition in an enforcement or regulatory context should consult with counsel on constitutional limitations as they would for any such standards.

What further steps are needed in the United States?

To build on recent progress, domestic federal agencies, universities, and other agencies and institutions should adopt a version of the International Working Definition of Anti-Semitism, such as the State Department’s definition, through “Anti-



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Semitism Awareness Legislation” or the like. Such adoption would enable the government to speak in one voice whether it is addressing foreign or domestic matters. This would advance governmental efforts to combat anti-Semitism. And because anti-Semitism is a problem particularly evident in higher education, universities and student governments should utilize the definition as well.

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About the Brandeis Center

The Louis D. Brandeis Center, Inc., (LDB) is an independent, nonprofit organization established to advance the civil and human rights of the Jewish people and promote justice for all. The Brandeis Center conducts research, education, and advocacy to combat the resurgence of anti-Semitism on college and university campuses. It is not affiliated with the Massachusetts University, the Kentucky law school, or any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice.

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