



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, discusses the international “gold standard” definition, and provides guidance on what further steps are needed to utilize this definition.

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

In 2020, 55% of all “religious bias” hate crimes reported to the FBI were “anti-Jewish” even though Jews represent only about 2% of the U.S. population.¹ A 2021 survey of U.S. Jews by the American Jewish Committee found that 1 in 5 Jews refrained from publicly wearing, carrying, or displaying items that might enable others to identify them as Jewish. 1 in 6 avoided certain places, events, or situations out of concern for their safety or comfort as Jews.² On college campuses, a survey by the Brandeis Center of openly Jewish students found that half felt the need to hide their Jewish identity, almost 2/3 had felt unsafe as a Jew on campus or in virtual campus settings, and 1 in 10 feared that they themselves would be physically attacked.³

If anti-Semitism is to be addressed, it must be understood. A uniform definition of anti-Semitism is required to comprehend the phenomenon and recognize anti-Semitism when it occurs. Valid monitoring, informed analysis, and effective policy-making all start with a uniform definition.

A uniform definition of anti-Semitism serves several important public policy objectives:

- Aiding prevention and intervention programs by increasing consistency;
- Improving data collection by means of more uniform standards across jurisdictions;

- Promoting clarity of policy;
- Increasing predictability of enforcement; and
- Facilitating future research and policymaking.

Use of a uniform definition of anti-Semitism is also critical to distinguishing legitimate criticism of the State of Israel from rhetoric that rises to the level of anti-Semitism. A proper balance must capture ancient tropes and modern euphemisms while allowing for free expression, debate, and sensitivity in individual cases.⁴

Scholars have drafted numerous definitions of “anti-Semitism” since Wilhelm Marr first popularized “Antisemitismus” in his 1879 pamphlet “The Way to Victory of Germanism over Judaism.”⁵ This multitude of definitions has exploded in recent decades as academics, journalists, authors, and activists have all weighed in. At the same time, rising anti-Semitism has prompted international efforts to coalesce around a single international working definition. That definition was expressed in 2005 by the European Union Monitoring Centre on Racism and Xenophobia and adopted, in slightly altered form, in 2010 by the U.S. State Department. In 2016, the International Holocaust Remembrance Alliance (IHRA), an intergovernmental organization established to strengthen Holocaust education, research, and remembrance, issued the definition in slightly modified form. Today, the IHRA Working Definition of Anti-Semitism has become the leading definition worldwide. The IHRA Definition includes examples that provide operative guidance in assessing anti-Semitism.

Is there a legally binding definition of anti-Semitism in the United States?

Yes.



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

The Louis D. Brandeis Center for Human Rights Under Law

Executive Order 13899 was issued in 2019 and remains in effect today. It makes the IHRA Definition a legally binding part of federal anti-discrimination law, in that federal agencies are required to consider the IHRA Definition in determining whether recipients of federal funds (such as institutions of higher education) are in violation of federal law.

In enforcing Title VI, and identifying evidence of discrimination based on race, color, or national origin, all executive departments and agencies... shall consider [the IHRA definition of anti-Semitism and] the “Contemporary Examples of Anti-Semitism” identified by the IHRA, to the extent that any examples might be useful as evidence of discriminatory intent.⁶

Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits discrimination based on race, color, or national origin in “any program or activity receiving Federal financial assistance.”⁷ Title VI does not list religion, but a “long-standing principle” of federal law recognizes that Jews and other religious groups which have and/or are perceived to have a shared ethnic and national origin do not lose protection based on that shared origin merely because they also have a shared religion.⁸ Indeed, the protections of Title VI have been used repeatedly to stop discrimination against Muslims, Sikhs, Jews, and others when that discrimination is based on shared ancestry and ethnicity.

Executive Order 13899 reaffirms that “[i]t shall be the policy of the executive branch to enforce Title VI against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.”⁹ It further mandated that “agencies shall not diminish or infringe upon any right protected under Federal law or under the First Amendment. As with all other

Title VI complaints, the inquiry into whether a particular act constitutes discrimination prohibited by Title VI will require a detailed analysis of the allegations.”¹⁰ The Department of Education’s Office for Civil Rights provides further guidance on Executive Order 13899 through its portal containing current policy guidance.¹¹

In U.S. foreign policy, the Department of State “uses [the IHRA] working definition and has encouraged other governments and international organizations to use it as well.”¹²

At least seven U.S. states have also adopted the IHRA Definition of Anti-Semitism, and other states are considering doing so.¹³ Such state laws adopting the IHRA Definition of Anti-Semitism may provide additional requirements on a state-by-state basis.

Other U.S. bodies have also endorsed or implemented the IHRA Definition. The list includes 30 university student governments, dozens of civil society organizations, and a handful of municipalities.¹⁴

Is support for the IHRA Definition a partisan issue in the United States?

No.

Four successive administrations have used the IHRA Definition or a version of its substantially similar predecessor, the definition drafted by the European Monitoring Centre on Racism and Xenophobia (“EUMC”). In 2007, the Bush administration endorsed the then-recently developed EUMC definition as a response “to the lack of a common definition of anti-Semitism” and as a “starting point in the fight against anti-Semitism.”¹⁵ In 2010, the Obama administration adopted its slightly modified version of this



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

The Louis D. Brandeis Center for Human Rights Under Law

international working definition, which includes the same examples of anti-Semitic conduct present in today's IHRA definition.¹⁶ After its release in 2016, the Trump administration joined with partners around the world in transitioning to the use and promotion of the IHRA Definition.¹⁷

The Biden administration is continuing this policy. Secretary of State Blinken declared that “[t]he Biden Administration enthusiastically embraces the 2016 International Holocaust Remembrance Alliance’s Working Definition of Anti-Semitism, including its examples.”¹⁸

A June 2021 letter from the State Department to Congress sums up current U.S. policy regarding what it calls “the gold standard” definition of anti-Semitism:

[The ability] to recognize anti-Semitism in its many forms . . . [is crucial] so that we can call hate by its proper name and take effective action. . . . To those ends, like prior U.S. administrations of both political parties, the Biden Administration embraces and champions the [IHRA Definition] in its entirety, including its examples, and the Administration continues to encourage other countries as well as international bodies to do the same.¹⁹

As noted above, the Executive branch also uses the IHRA Definition and its examples when enforcing Title VI.²⁰ The Office for Civil Rights at the Department of Education (“OCR”) has maintained additional guidance, incorporating the IHRA Definition as current policy, since the Trump administration.²¹

What is the status of the IHRA Definition around the world?

The IHRA Definition of Anti-Semitism is the only

internationally agreed upon definition of anti-Semitism.

The IHRA Definition has been adopted domestically by at least 32 countries across four continents.²² It has been further endorsed by hundreds of local and regional governments including, among others, Wales, Ontario, London, Paris, and Genoa; universities like Oxford and Cambridge; companies including Volkswagen and Daimler; and organizations ranging from the Global Imams Council and Morocco’s Association Mimouna to the Argentine Football Association and English Premier League.²³

At the international level, the IHRA Definition has been adopted by the Organization of American States, a group comprised of nearly every country in North and South America.²⁴ All three bodies in the European Union legislative process have endorsed the IHRA Definition,²⁵ as has the Council of Europe, a human rights body including Turkey, Russia, the Caucasus, and nearly all European nations.²⁶

The U.N. Special Rapporteur on Freedom of Religion or Belief endorsed the IHRA Definition in a groundbreaking 2019 report on anti-Semitism and again in 2021 at the Malmö International Forum on Holocaust Remembrance and Combating Antisemitism.²⁷ U.N. Secretary-General António Guterres has commended the IHRA’s work, observing that the IHRA “definition can serve as a basis for law enforcement, as well as preventive policies.”²⁸

The IHRA Definition’s broad support is further reinforced by the fact that it is the primary consensus of the Jewish community, reflecting their lived experiences of anti-Semitism.



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

The Louis D. Brandeis Center for Human Rights Under Law

What is the IHRA Working Definition of Anti-Semitism?

The IHRA Working Definition, adopted in 2016, states that:

“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.”

Critically, the definition includes examples that provide the operative guidance needed to apply the definition:

“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:

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.”

It further identifies circumstances in which anti-Semitism is legally relevant:

“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 –



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

The Louis D. Brandeis Center for Human Rights Under Law

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.”²⁹

Where did the IHRA Definition come from?

In 2005, the EUMC released its “Working Definition of Antisemitism” including Contemporary Examples of Antisemitism.³⁰ The EUMC definition was the result of two years of collaborative work by large numbers of scholars and major institutions in coordination with government.³¹ This definition was extensively adopted, including by the United States.

In 2013, the successor organization to the EUMC took down all its definitions of prejudice and intolerance so as to allow individual victim groups to provide their own definitions.³² In response, the IHRA took on the task of making minor updates to the EUMC definition and then formally adopting the definition as its own.

The IHRA Definition incorporates the classic “3 Ds” test developed by Natan Sharansky to determine when criticism of Israel crosses the line into anti-Semitism. Sharansky’s test recognizes that while any country may be subject to criticism, purported criticism of Israel is likely to be anti-Semitic if it *Delegitimizes* Israel by denying its “fundamental right to exist,” applies a *Double standard* that singles out Israel for conduct which is accepted or praised when carried out by other countries, or while excusing countries alleged to have committed significant human rights abuses, or *Demonizes* Israel, for instance by paralleling traditional anti-Semitic caricatures and blood libels or blowing criticism “out of all sensible proportion.”³³

In adopting the EUMC definition, the United States

classified some of the EUMC’s Contemporary Examples of Antisemitism (now the IHRA examples numbered 7, 8, 9, and 10 above) into the appropriate categories in Sharansky’s 3 Ds as follows:³⁴

Delegitimization:

- 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.

Double Standard:

- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.

Demonization:

- 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.

Those wishing to apply the IHRA Definition and examples to incidents with a connection to Israel thus have an additional built in tool supported by years of scholarship and experience.

Does the IHRA Definition have implications for freedom of speech and association?

Use of the IHRA Definition supports free speech by helping to protect individuals from discriminatory conduct that suppresses their freedoms of speech and association.

Victims of discrimination often self-censor, avoid contexts where discrimination occurs, and refrain from participating in organizations they would otherwise join. Victims of anti-Semitism have even



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

The Louis D. Brandeis Center for Human Rights Under Law

resigned from organizations and leadership roles when the accompanying public exposure drew discriminatory targeting.

In one case, a student government vice-president resigned after relentless anti-Semitic harassment. The student was the target of a discriminatory campaign pushing for her resignation because of Jewish identity, which included support for the Jewish state.³⁵

In approaching any individual incident, the IHRA Definition requires that assessment must “tak[e] into account the overall context.” Additionally, the federal government has taken pains to ensure its implementation of the IHRA Definition “shall not diminish or infringe upon any right protected under Federal law or under the First Amendment.”³⁶

Some critics of the IHRA definition have incorrectly suggested that it silences critics of Israel. In fact, the IHRA Definition states explicitly that “criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.” The IHRA Definition is merely a definition; it explains what “anti-Semitism” means. It does not, in and of itself, prohibit or punish any speech. Rather, it identifies hateful activity that others may choose to address in various ways depending on context. Like any civil rights tool, it must be used in a manner that is consistent with other applicable legal principles. The Biden administration made this very point recently, reiterating its support for freedom of speech and expression but declaring it would not “let anti-Semitic speech and other forms of hate speech go unchallenged.”³⁷ Similarly, the definition helps identify conduct which was carried out with anti-Semitic intent.

What further steps are needed in the United States?

To build on recent progress, states, municipalities, and civil society groups should adopt the IHRA Definition of Anti-Semitism. Such adoption would enable standardized research, promote effective policymaking, facilitate training, and allow for more accurate assessment of suspected anti-Semitism. In particular, American educational institutions should utilize the definition because their actions will be assessed under it. They should choose to affirmatively adopt it, as many have, but whether they do so or not they should train faculty and applicable staff on the definition because the definition will shape OCR’s review of whether the university has fulfilled its Title VI obligations.

Contact Us

Web: www.brandeiscenter.com

Phone: 202-559-9296

E-mail: info@brandeiscenter.com

Address: 1717 Pennsylvania Ave NW, Suite 1025
Washington, D.C. 20006

Facebook: Louis D. Brandeis Center for Human Rights Under Law

Twitter: @brandeiscenter; @klmarcus

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.

Bibliography

1. <https://crime-data-explorer.fr.cloud.gov/pages/explorer/crime/hate-crime>
2. <https://www.ajc.org/news/the-state-of-antisemitism-in-america-2021-insights-and-analysis>
3. <https://brandeiscenter.com/1st-poll-of-openly-jewish-college-students-reveals-65-felt-unsafe-50-hid-jewish-identity/>
4. See <https://brandeiscenter.com/adopting-the-ihra-definition-to-combat-anti-semitism-in-government-on-campus-and-in-general/>; <https://www.jns.org/opinion/why-universities-need-a-definition-of-anti-semitism/#.VbVYMOhViko>
5. https://books.google.com/books?id=qS_jBAAAQBAJ&pg=PT38#v=onepage&q&f=false
6. <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>
7. <https://www.dol.gov/agencies/oasam/regulatory/statutes/title-vi-civil-rights-act-of-1964>
8. See <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>
9. (Supra note 6) <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>
10. Id.
11. <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/index.html>
12. <https://www.state.gov/defining-antisemitism/>
13. https://en-humanities.tau.ac.il/sites/humanities_en.tau.ac.il/files/media_server/Copy%20of%20IHRA%20adoption%2016052021.xlsx, see also (<https://en-humanities.tau.ac.il/kantor/resources>)
14. <https://www.ajc.org/us-campus-adoption-of-the-working-definition; id.>
15. <https://2001-2009.state.gov/g/drl/rls/56589.htm>
16. <https://2009-2017.state.gov/j/drl/rls/fs/2010/122352.htm>
17. <https://2017-2021.state.gov/defining-anti-semitism/index.html>
18. <https://jewishinsider.com/wp-content/uploads/2021/03/Secretary-of-State-Blinken-Letter-to-AZM.pdf>
19. <https://www.haaretz.com/us-news/.premium-u-s-state-dept-doubles-down-on-embrace-of-ihra-antisemitism-definition-1.9940759>; <https://web.archive.org/web/20211022210208/https://www.haaretz.com/us-news/.premium-u-s-state-dept-doubles-down-on-embrace-of-ihra-antisemitism-definition-1.9940759>
20. See (supra note 6) <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>
21. See (supra note 11) <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/index.html>
22. <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism/adoption-endorsement>
23. (Supra note 13) https://en-humanities.tau.ac.il/sites/humanities_en.tau.ac.il/files/media_server/Copy%20of%20IHRA%20adoption%2016052021.xlsx, see also <https://en-humanities.tau.ac.il/kantor/resources>
24. <https://www.infobae.com/america/america-latina/2020/10/30/la-oea-y-el-centro-wiesenthal-pidieron-a-los-paises-latino-americanos-adoptar-una-nueva-definicion-de-antisemitismo/>
25. <https://data.consilium.europa.eu/doc/document/ST-6406-2022-REV-1/en/pdf>; https://www.europarl.europa.eu/doceo/document/TA-8-2017-0243_EN.html?redirect; https://ec.europa.eu/commission/commissioners/2019-2024/schinas/announcements/keynote-address-vice-president-schinas-online-conference-working-together-fight-antisemitism-europe_en
26. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/-/ecri-holds-its-84th-plenary-meeting>
27. https://www.ohchr.org/Documents/Issues/Religion/A_74_47921ADV.pdf; <https://twitter.com/ahmedshaheed/status/1448366265064738818>
28. <https://www.un.org/press/en/2018/sgsm19252.doc.htm>
29. <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>
30. <https://web.archive.org/web/20151124202101/http://kantorcenter.tau.ac.il/sites/default/files/WORKING%20DEFINITION%20OF%20ANTISEMITISM.pdf>
31. Dina Porat, "Antisemitism Today and Tomorrow" (2018).
32. <https://www.ohchr.org/Documents/Issues/Religion/Submissions/JBI-Annex1.pdf>
33. <https://www.jcpa.org/phas/phas-sharansky-f04.htm> ; <https://www.newsweek.com/antisemitism-bds-natan-sharansky-3dtest-1461305>
34. (Supra note 15) <https://2009-2017.state.gov/j/drl/rls/fs/2010/122352.htm>
35. See <https://brandeiscenter.com/wp-content/uploads/2020/08/Letter-to-President-Folt-and-VP-Crisp.pdf>
36. See (supra note 6) <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>
37. (Supra note 19) <https://www.haaretz.com/us-news/.premium-u-s-state-dept-doubles-down-on-embrace-of-ihra-antisemitism-definition-1.9940759>