



Defining Antisemitism and Why It Matters Virtual Symposium

Tuesday, April 26, 2022

12:00 p.m. – 3:30 p.m.

Presented by The Center for Jewish Law & Judaic Studies at
DePaul University College of Law

Thank you for registering to attend the DePaul College of Law's Center for Jewish Law & Judaic Studies (JLJS) virtual symposium. We look forward to welcoming you to our critical program on "Defining Antisemitism and Why It Matters."

Please allow me to introduce you to our Center. JLJS addresses disparate interdisciplinary issues, including human rights concerns, which resonate with the Jewish community but dramatically affect the entire world. However, JLJS is especially focused on the critical need to combat the resurgent scourge of antisemitism. Using its particular expertise in both law and education, it provides important programming designed to promote innovative ways of employing legal tools to address this plague. JLJS was the first—and may be the only—law school program in the Midwest that focuses not only on the history of antisemitism but on stemming its raging tide.

JLJS is funded solely through private contributions. If you agree with our mission, we ask that you consider making a [CHARITABLE CONTRIBUTION TO JLJS HERE](#).

JLJS would like to attract similarly-minded students to matriculate to the DePaul College of Law to work with JLJS. This type of student is best suited to reach and influence other students, and even a small cadre – can have an enormous impact. To try to accomplish this objective, we have created a special JLJS Scholarship Fund. You may make a [CHARITABLE CONTRIBUTION DIRECTLY TO THAT FUND HERE](#).

Finally, JLJS expresses thanks to a number of organizations and individuals.

The many wonderful organizations that have joined to co-sponsor this event represent a broad swathe of the Jewish community. The unity they have shown by coming together is an inspirational demonstration of strength and commitment.

As always, JLJS thanks the DePaul College of Law—its host—and its Boards of Advisors for their generous and continued support.

In addition, JLJS especially underscores its thanks to a few additional special people. First, Cheryl Winkowski and her team at co-sponsoring entity, Hinshaw & Culbertson LLP: They have spent many hours behind the scenes in making this program a reality – and they continue to help today, as we are using Hinshaw & Culbertson's ZOOM platform.

Finally – as we say in Hebrew, Acharon, Acharon Chaviv– "last and most important," JLJS thanks the co-chairs of the JLJS Advisory Board – Marc Bassewitz and David Levitt – whom you will hear from during the program – have taken invested countless hours in organizing and preparing for this event.

Their dedication to JLJS and to the Jewish community is truly impressive.



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AGENDA

<p>12:00 pm – 12:05 pm</p>	<p>Welcome & Introductions <i>Speaker: Steven H. Resnicoff, Professor and Faculty Director, DePaul College of Law, Center for Jewish Law & Judaic Studies (JLJS)</i></p>
<p>12:05 pm – 1:15 pm</p>	<p>Definitions of Antisemitism <i>Speaker: David H. Levitt, Partner, Hinshaw & Culbertson LLP and Chair, JLJS Advisory Board</i></p> <p>Session Materials:</p> <ul style="list-style-type: none"> • Levitt, D. H. (2021, April 10). Dueling Definitions of Antisemitism: IHRA's Critics and Rebuttable Presumptions. <i>The Times of Israel</i>. <p>Does IHRA Impinge on First Amendment Rights or Free Speech <i>Speaker: Carly F. Gammill, Director, Center for Combating Antisemitism, Stand With Us</i></p> <p>Session Materials:</p> <ul style="list-style-type: none"> • Houston Cmty. Coll. Sys. v. Wilson (2021) (AJC amicus brief) • Executive Order 13899 of Dec 11, 2019 • Florida House of Representatives Stat. Ch. 2019-59
<p>1:15 pm – 2:30 pm</p>	<p>Why It Matters: Appropriate Uses of the Definition of Antisemitism <i>Moderator: Marc D. Bassewitz, General Counsel, William Harris Investors and Vivaldi Capital Management and Co-Chair, JLJS Advisory Board</i></p> <p><i>Panelists: Rabbi Andrew Baker, AJC Director of International Jewish Affairs Rabbi Dr. Mark Goldfeder, Esq., Director, National Jewish Advocacy Center Kenneth L. Marcus, Founder and Chairman of The Louis D. Brandeis Center</i></p> <p>Session Materials:</p> <ul style="list-style-type: none"> • The Clery Act • Clery Act 2020 Appendix
<p>2:30 pm – 3:00 pm</p>	<p>Breakout Sessions A chance for attendees to participate in sessions and provide feedback and input while exploring the importance of defining antisemitism.</p>
<p>3:00 pm – 3:25 pm</p>	<p>Keynote Address: The Importance of Defining Antisemitism <i>Speaker: Bret L. Stephens, The New York Times</i></p>
<p>3:25 pm – 3:30 pm</p>	<p>Closing Remarks <i>Speaker: Steven H. Resnicoff, Professor and Faculty Director, DePaul College of Law, Center for Jewish Law & Judaic Studies</i></p>



CO-SPONSORS

AJC	Hinshaw & Culbertson LLP	Quarles & Brady LLP
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Chicago Loop Synagogue	Latham & Watkins LLP	Stand with Us
Decalogue Society of Lawyers	The Louis D. Brandeis Center	Thompson Coburn LLP

Background on Defining Antisemitism and Why It Matters

Compiled by Prof. Steven H. Resnicoff, DePaul University College of Law

I. Defining Antisemitism

Part I of the program will address the principal definitions offered for defining antisemitism, their pros and cons and, specifically, an examination of any free speech issues that they raise. These issues will also likely be addressed in the breakout sessions and the keynote address.

a. What major definitions have been proposed?

i. [The International Holocaust Remembrance Alliance \(IHRA\) Working Definition](#)

Who wrote the IHRA definition? This is subject to controversy. See examples below:

- * Example #1: [The Brandeis Center](#)
- * Example #2: [Engage Blog](#)
- * Example #3: [The Times of Israel Blog](#)

ii. [The Jerusalem Declaration](#)

View the [Wikipedia discussion](#) and the process that led to the declaration

iii. [The Nexus Document](#)

b. Adoptions of the Proposed Definitions

The IHRA definition

- i. The IHRA definition has been adopted by many countries throughout the world, by many international organizations, by many individual states within the U.S.A., by the U.S. State Department for purposes of monitoring antisemitism, by the federal government of the U.S.A.—through an Executive Order of the President—for purposes of investigating claims of antisemitic discrimination, by many cities throughout the U.S.A. and the world, by numerous colleges and universities, and by many other organizations.

As of March 2022, at least 865 entities (including 37 countries) have adopted the IHRA definition. [See The Jerusalem Post article](#)

1. Links that provide more detailed information on adoptions of the IHRA definition include the following:
 - a. [IHRA](#)
 - b. [American Jewish Committee \(AJC\)](#)
 - c. [Elnet](#) Pictorial illustration of adoption of the IHRA definition by European countries

2. As to the position of the Biden Presidency:
A group of US lawmakers—led by Rep. Jan Schakowsky—urged the U.S. State Department to use other definitions, such as the Jerusalem Declaration and the Nexus Document. In response, however, Acting Assistant Secretary Naz Durakoğlu from the Bureau of Legislative Affairs, wrote:

"The Department agrees that it is crucial that governments and public are able to recognize anti-Semitism in its many forms, traditional and contemporary, 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 non-legally binding working definition of anti-Semitism in its entirety, including its examples, and the Administration continues to encourage other countries as well as international bodies to do the same."

See Haaretz Article, "[U.S. State Dept. Doubles Down on Embrace of IHRA Antisemitism Definition](#)"

3. [The Trump Executive Order](#)
 - a. [Questions and Answers on Executive Order 13899 \(Combating Anti-Semitism\) OCR's Enforcement of Title VI of the Civil Rights Act of 1964](#)
 - b. Discussions regarding the Executive Order:
 - i. [CNN](#)
 - ii. [The Heritage Foundation](#)
 - iii. [The New Yorker](#)
 - iv. [Anti-Defamation League](#)
 - c. [U.S. State Department Working Definition, Along with Examples, of Antisemitism](#)

- ii. It does not seem that any country in the world has adopted either the Jerusalem Declaration or the Nexus Document as a way of defining antisemitism. Although a few organizations are likely to have endorsed the Jerusalem Declaration, there does not seem to be any open web site that provides a list of such organizations. Nor does there seem to be any web site listing organizations, if any, that have endorsed the Nexus Document.

c. Articles Comparing the Various Definitions

- i. David Levitt, "[Dueling Definitions: IHRA's and Rebuttable Presumptions](#)"
- ii. Israel Academic Monitor Editorial Note, "[New Definitions of Antisemitism Sprout Like Mushrooms](#)"
- iii. Dina Porat, "[The IHRA working definition of antisemitism: criticism, implementation, and importance](#)"
- iv. Cary Nelson, "[Accommodating the New Antisemitism: A Critique of the Jerusalem Declaration](#)"
- v. Additional articles favoring the IHRA definition:
 1. Lesley Klaff and Derek Spitz, "[Why the 2010 Equality Act does not make the IHRA definition of antisemitism redundant](#)"
 2. Bernard Harrison and Lesley Klaff, "[In Defense of the IHRA Definition](#)"
 3. Blake Flayton, "[The Battle Over Jewish Students and the IHRA Definition of Antisemitism](#)"
 4. Lea Speyer, "[What Nexus gets wrong and IHRA gets right with anti-Semitism](#)"

d. Articles Opposing the IHRA Definition

- i. Brian Klug, "[The Jerusalem Declaration on Antisemitism: Why the Oldest Hatred Needs a New Definition](#)"
- ii. Aleida Assman, Alon Confino and David Feldman, "[A New Antisemitism Definition to Ease IHRA Confusion](#)"

e. Letters and Statements Opposing Adoption of the IHRA Definition

- i. Join Letter of 56 Scholars to Facebook: "[Don't Adopt the IHRA Definition of Antisemitism](#)"
- ii. Letter Signed by Academics Opposing Canadian Adoption of the IHRA Definition
[Open Letter: End Annexation and the Canada-Israel Free Trade Agreement](#)

f. Free Speech Issues and the IHRA Definition

- i. Marc Goldfeder, "[Defining Antisemitism](#)," 52 Seton Hall Law Review 119 (2021)
- ii. Michael B. Atkins & Miriam F. Elman, "[BDS as a Threat to Academic Freedom and Campus Free Speech in the U.S.](#)," 29 Mich. St. Int'l. L. Rev. 213 (2021)

g. Recommended

Frederick P. Schaffer, "Title VI, Anti-Semitism, and the Problem of Compliance," 46 J.C. & U.L 71 (2021-2022)



II. Why the Definition Is Important

Part II of the program will address the practical importance of defining antisemitism by examining specific ways in which the definition can be used to combat antisemitism. These issues will likely be addressed as well in the breakout sessions.

- a. **The definition will be important in various ways including, without limitation:**
 - i. For the purpose of monitoring antisemitism on campus just as the US State Department monitors antisemitism internationally;
 - ii. For the purpose of formulating prophylactic measures to ameliorate the incidence of antisemitism;
 - iii. For purpose of reporting: The Clery Act, for example, requires colleges and universities receiving federal funding to report hate-crimes. A definition of antisemitism will facilitate the uniform and correct reporting.
 - iv. For purpose of educating:
 1. Law enforcement officers and investigators;
 2. Judges;
 3. college administrators, including DEI personnel; and
 4. students
- b. **Written Materials:**
 - i. American Jewish Committee, [“The Working Definition of Anti-Semitism: What Does It Mean, Why Is It Important, And What Should We Do With It?”](#)
 - ii. European Union, [Handbook for the Practical Use of the IHRA Working Definition of Antisemitism](#)
 - iii. American Jewish Committee, [“Tough Questions of the IHRA Working Definition of Antisemitism”](#)
 - iv. Anti-Defamation League, [“About the IHRA Working Definition of Antisemitism”](#)
 - v. AAUP and FIRE Oppose IHRA Definition, [“AAUP Sides with FIRE, Opposes Legislation Which Adopts Overly Broad Antisemitism Definition as Threat to Academic Freedom and Freedom of Speech”](#)
 - vi. The Clery Act:
 1. [Statute](#)
 2. [2020 Clery Act Appendix for FSA Handbook](#)
- c. **Miscellaneous Articles:**
 - i. South Florida SunSentinel, [“Using the Label ‘Antisemitism’ to Stifle Free Speech”](#)
 - ii. The Jerusalem Post, [“Shutting Down Jew-Hatred Not an Issue of Free Speech, Wolfson Says”](#)
 - iii. The Jewish Chronicle, [“Lipstadt Lawyer Challenges IHRA Critic to Debate”](#)