

A COMPREHENSIVE GUIDE FOR POLICY MAKERS, LEGAL
PROFESSIONALS AND ELECTED OFFICIALS, IDENTIFYING AND
RESPONDING TO ONE OF THE MOST ACUTE THREATS TO JEWISH LIFE

RECOGNIZING ANTI-ZIONIST ANTISEMITISM



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About the report

The International Legal Forum (ILF), is an Israel-based legal network of over 3,000 lawyers and activists in 30 different countries, committed to the fight against antisemitism, terror and the delegitimization of Israel in the international legal arena.

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“I do not come to this rostrum to defend the moral and historical values of the Jewish people. They do not need to be defended. They speak for themselves... The re-establishment of Jewish independence in Israel, after centuries of struggle to overcome foreign conquest and exile, is a vindication of the fundamental concepts of the equality of nations and of self-determination. To question the Jewish people’s right to national existence and freedom is not only to deny to the Jewish people the right accorded to every other people on this globe, but it is also to deny the central precepts of the United Nations.” - Chaim Herzog¹

¹ Chaim Herzog, Israel’s Ambassador to the United Nations, 1975, Speaking before the United Nations General Assembly, following adoption of the UN’s ‘Zionism is Racism’ resolution:
<https://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook2/Pages/129%20Statement%20in%20the%20General%20Assembly%20by%20Ambassado.aspx>

A. Executive Summary

This report is meant to serve as a comprehensive guide for policymakers, public authorities and civil society on the nature, characteristics and manifestations of anti-Zionist or anti-Israel antisemitism.

Although this report was many months in the drafting, it has undertaken a new sense of urgency in wake of the unprecedented explosion in global antisemitism and violence against Jews, following the May 2021 conflict between Israel and Hamas.

On May 16th, on the eve of the Jewish festival of Shavuot, a convoy of cars flying Palestinian flags drove through Jewish neighbourhoods in North London screaming “f*** the Jews, rape their daughters.”² At another rally in London, protesters could be heard chanting³ “we want the Zionists, we want their blood”, while a Rabbi was physically assaulted outside his home in Chigwell, requiring hospitalization⁴.

According to the Community Security Trust, which monitors antisemitism in the UK, there was a staggering 500% increase in antisemitic incidents since hostilities between Hamas and Israel began.⁵

Meantime, in Germany, hundreds of anti-Israel protesters surrounded a synagogue in Gelsenkirchen, chanting “sh***y Jews,”⁶ while elsewhere protesters burned Israeli flags in front of synagogues.⁷ In other European cities, gangs of Islamists have been chanting “O Jews, the armies of Muhammad will return,”⁸ a slogan that has today become a rallying cry by Islamists for violence against Jews.

² <https://www.timesofisrael.com/london-to-up-police-presence-in-jewish-areas-after-video-of-antisemitic-convoy/>

³ <https://twitter.com/leekern13/status/1396584397025923073>

⁴ <https://edition.cnn.com/2021/05/17/world/british-rabbi-street-attack-scli-intl-gbr/index.html>

⁵ <https://cst.org.uk/news/blog/2021/05/19/cst-stands-against-anti-jewish-hate>

⁶ <https://www.jta.org/quick-reads/german-police-block-200-protesters-chanting-antisemitic-slur-from-reaching-synagogue>

⁷ <https://www.antisemitism.co.il/2021/05/israeli-flags-lit-in-front-of.html>

⁸

https://twitter.com/CombatASemitism/status/1393590441849798666?_ke=eyJrbF9jb21wYW55X2lkjoglk1CdWVTWSlslCJrbF9lbWFPbCI6ICJydXNzZWxsQGlsZm5nby5vcmcifQ%3D%3D

Likewise, across the United States⁹ and Canada¹⁰, we have witnessed shocking and sickening scenes of Jews being viciously attacked and beaten in the streets, with the ADL noting there has been an increase of 75% in antisemitic incidents, during the 11-day conflict between Israel and Hamas¹¹. On May 24th 2021, President Biden declared¹² “such attacks on the Jewish community are despicable, and they must stop. I condemn this hateful behavior at home and abroad - it’s up to all of us to give hate no safe harbor.”

It is time, once and for all now, to dispense with the notion that these acts of wanton intimidation, harassment and violence are anything but Jew hatred and antisemitism disguised as anti-Zionism.

The fact of the matter is, the attacks we are seeing directed at Jews across Europe and North America did not occur in a vacuum. ***Such acts of pitiless violence are the direct result of a pervasive discourse vilifying and demonizing the sole Jewish state, all under the pretext of purported criticism of Zionism and Israel.*** As we have seen throughout history, and underscored again in the recent weeks, words have consequences, and such hate, incitement and peddling in antisemitic tropes directly leads to violent attacks against Jews on the streets of London, New York, Berlin or Montreal.

As Israeli writer and former Member of Knesset, Einat Wilf, said in a recent op-ed¹³ in *The Telegraph*, “Anti-Zionism is just the new, innocent-sounding incarnation of an ancient Jew hatred.”

⁹ <https://mynorthwest.com/2905874/rantz-i-was-assaulted-israel-flag-burned-at-seattles-anti-semitic-rally/>

¹⁰ <https://www.cija.ca/press-release-cija-concerned-by-wave-of-violence-and-antisemitism-connected-to-conflict-in-the-middle-east/>

¹¹ <https://abcnews.go.com/Politics/biden-calls-rise-antisemitic-attacks-despicable-unconscionable-american/story?id=77978724>

¹² <https://twitter.com/POTUS/status/1396800517091827713?s=20>

¹³ <https://www.telegraph.co.uk/news/2021/05/23/anti-zionism-just-new-innocent-sounding-incarnation-ancient/>

This explosion of anti-Jewish violence comes as antisemitism has risen dramatically worldwide over the past two decades, amplified and exacerbated by social media, as the most recent Israel - Hamas hostilities have only underscored. Jewish religious and community institutions, as well as Jewish individuals, have been the targets of harassment, vandalism, violence and even murder. Jewish communities around the world are under intense pressure due to extreme antisemitism, and Jewish institutions need to take increased security precautions. Over half of younger European Jews (aged 16-34) admit to being the victim of an antisemitic incident a year before.¹⁴



One in four Europeans hold hard-core antisemitic beliefs and stereotypes³

According to a survey carried out by the Anti-Defamation League in 2019, one in four Europeans hold hard-core antisemitic beliefs and stereotypes,¹⁵ tens of millions of European believe that Israel is carrying out a genocide against the Palestinians similar to the Nazi Final Solution, and that Israel is the greatest threat to world peace.¹⁶ This is barely 80 years after two thirds of European Jewry were murdered by the German Nazi regime and local collaborators across Europe.



Tens of millions of Europeans believe that Israel is carrying out a genocide against the Palestinians similar to the Nazi Final Solution, and that Israel is the greatest threat to world peace.⁴

¹⁴ <https://fra.europa.eu/en/publication/2019/young-jewish-europeans-perceptions-and-experiences-antisemitism>

Over half of younger European Jews (aged 16-34) admit to being the victim of an antisemitic incident in the past year.

¹⁵ <https://www.adl.org/news/press-releases/adl-global-survey-of-18-countries-finds-hardcore-anti-semitic-attitudes-remain> According to a survey carried out by the Anti-Defamation League in 2019, one in four Europeans hold hardcore antisemitic views

¹⁶ <https://besacenter.org/perspectives-papers/europeans-hatred-israel/> Tens of millions of Europeans have demonic views of Israel

Jewish community watchdogs in the UK reported record high antisemitic incidents in 2019.¹⁷ In Germany, Jewish worshippers in a synagogue in Halle were narrowly saved from a massacre by a neo-Nazi gunman on Yom Kippur of 2019. Despite Germany's dark history, German Jews continue to be subject to violence and terror from far-right, Islamist and radical leftist groups.¹⁸ In France, violent acts against Jews constituted nearly 40% of hate crimes reported in 2017, despite Jews making up less than 1% of France's population. In 2019, there was 27% increase of antisemitic violence in France.¹⁹ In the past decade, a dozen French Jews have been murdered by Muslim extremists. In New York City, the city with the largest Jewish population outside of Israel, attacks on Jews constitute more than half of hate crimes reported.²⁰ Over the past few years, American Jews have been assaulted and murdered in Pittsburgh, Poway, Jersey City and Monsey.

These shocking statistics highlight the urgency for countries that value human rights and tolerance to tackle antisemitism. The insecurity and threats facing Jewish communities worldwide are not solely a Jewish problem but bespeak a fundamental social crisis. If democracy and equality are not to become mere buzzwords, government officials and civil society at all levels must get serious in the fight against antisemitism.

Much of this resurgent antisemitism focuses obsessively on Israel, Zionism and Jewish peoplehood. The Jewish state is portrayed as uniquely demonic and illegitimate, guilty of the worst crimes known to humanity. As such, Israel and Jews who identify with it are condemned to ostracism, boycott, harassment and even murder. It is undeniable that the rise in violent attacks on Jews has been accompanied with a parallel in extreme hostility and hatred toward the Jewish state.

¹⁷ <https://cst.org.uk/news/blog/2019/08/01/antisemitic-incidents-report-january-june-2019> Jewish community watchdogs in the UK reported record high antisemitic incidents in 2019.

¹⁸ <https://www.dw.com/en/germany-sees-spike-in-anti-semitic-crimes-reports/a-56537178>

¹⁹ <https://www.jta.org/quick-reads/frances-tiny-jewish-minority-targeted-in-majority-of-racist-incidents-in-2019> In 2019, there was 27% increase of antisemitic violence in France.

²⁰ <https://www.jpost.com/diaspora/antisemitism/nypd-33-percent-arrested-for-antisemitic-crimes-in-2019-were-black-60-percent-white-612779>

As Rabbi Lord Jonathan Sacks (z'l) remarked in 2016, when describing antisemitism as 'a mutating virus', observing²¹ "it takes different forms but it remains the same thing: the view that Jews have no right to exist as free and equal human beings."

Like a virus left untouched, this anti-Zionist antisemitism will erode the very foundations of Jewish life in the diaspora, by:

- Inciting and legitimizing further violence against Jews.
- Threatening Jewish life, including expression of Jewish identity.
- Empowering the BDS Movement and the ongoing vilification of Israel, including its right to exist as a Jewish state, as the very manifestation of modern antisemitism.

Antisemitism cannot be honestly confronted unless public officials and civil society are willing to recognize one of its most powerful modern manifestations - hatred and demonization of the Jewish state.

Accordingly, we make a number of key recommendations and practical legal tools for combating this virulent antisemitism:

- Full adoption and implementation of the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism²², as the basis upon which to identify antisemitism in all its manifestations.
- Closer cooperation with law enforcement authorities.
- Greater education and training of legal professionals, attorneys and judges, including with reference to the IHRA working definition.
- Working closer with University administrations to actively affirm the right of Jewish students to express their Jewish and Zionist identities free from punishment, repercussion or harassment. The IHRA working definition of antisemitism should also be incorporated into university codes of conduct and anti-discrimination guidelines.

²¹ <https://rabbisacks.org/mutating-virus-understanding-antisemitism/>

²² International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism: <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

B. Methodology

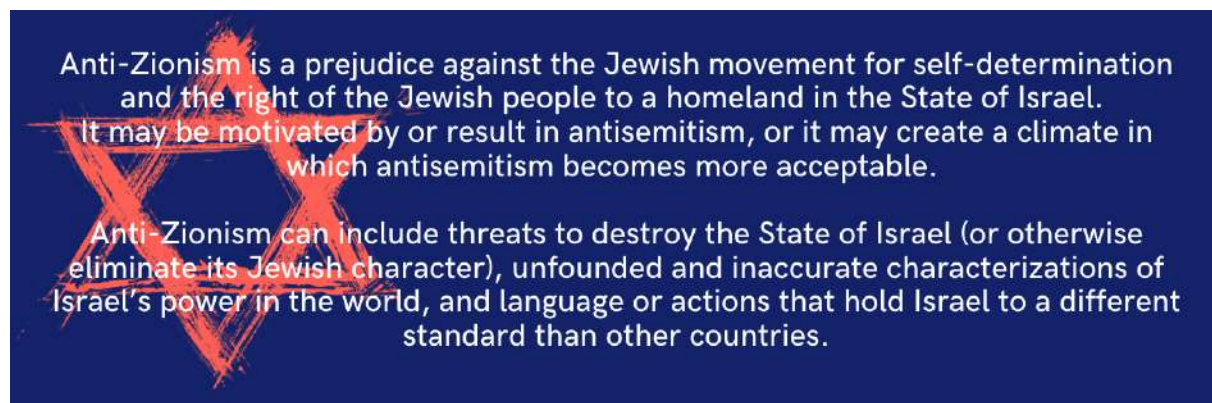
This document relies on the International Holocaust Remembrance Alliance working definition of antisemitism as the most accurate definition of antisemitism, in its classical and anti-Zionist varieties.

This document utilizes the Anti-Defamation League definition of anti-Zionism and anti-Israel bias, as follows:

1. What is anti-Zionism?

Anti-Zionism is a prejudice against the Jewish movement for self-determination and the right of the Jewish people to a homeland in the State of Israel. It may be motivated by or result in antisemitism, or it may create a climate in which antisemitism becomes more acceptable.

Anti-Zionism can include threats to destroy the State of Israel (or otherwise eliminate its Jewish character), unfounded and inaccurate characterizations of Israel's power in the world, and language or actions that hold Israel to a different standard than other countries.



2. What is anti-Israel bias?

Anti-Israel bias is extreme and/or illegitimate criticism of Israel. It can take various forms, including false accusations directed against Israel, often with the aim of

*delegitimizing the country. Anti-Israel bias does not include legitimate criticism of the Israeli government, its policies, or its politicians.*²³

C. Introduction

Despite the renewed rise in antisemitism and its manifestation in attacks on Israel and Jewish peoplehood, the nature and often the very existence of contemporary antisemitism is not well recognized. Intense hostility to and demonization of Israel and Jews, for whom Israel plays a central role in their identity, is dismissed as mere “criticism” or politics. Initiatives to recognize anti-Zionism and anti-Israelism as a distinct form of hatred towards Jews are often met with intense opposition, especially from those most invested ideologically and emotionally in hostility towards Israel.

As will be explained, many proponents of anti-Zionism act out of conscious hostility towards the Jewish people, which they make explicit in their statements and rhetoric. Others act from unconscious or tacit disdain for Jews; anti-Jewish hostility forming a major historical undercurrent in much of European or Western culture. Still others operate out of, and serve as conduits for, a climate of opinion that contains elements (tropes, memes, etc.) that are hostile to Jews, whether they are aware of the ramifications of their actions or not. Finally, anti-Zionists sustain a movement that attacks the commitment to Israel that is central to the identity of most Jews.

Zion, a biblical synonym for the Land of Israel and Jerusalem, is an integral part of Jewish ritual, prayer and historical narrative. The Jewish people have lived in the Land of Israel since ancient times, both according to the biblical narrative and modern historical research. Jews maintained hundreds of years of national sovereignty and independent statehood in the Land of Israel, with their capital in Jerusalem (or Zion). While political Zionism arose as a movement in the 19th century, Zionism at its core is a modern expression of millennia of Jewish longing to return to the Land of Israel and to reconstitute Jewish national life there. **Therefore, the vast majority of Jews understand extreme hostility to Zionism or Israel as an assault on Jewish identity, narrative and history.**

²³ <https://www.adl.org/resources/tools-and-strategies/what-is-anti-israel-anti-semitic-anti-zionist>

19TH CENTURY

While political Zionism arose as a movement in the 19th century, Zionism at its core is a modern expression of millennia of Jewish longing to return to the Land of Israel and to reconstitute Jewish national life there.

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Despite the existence of anti-discrimination and anti-hate crimes laws in practically every jurisdiction, current legal tools have proven to be woefully inadequate in dealing with contemporary antisemitism. The solution is not necessarily to promulgate new laws, but rather to properly apply existing laws against contemporary antisemitism. To do this, judges, lawyers, law enforcement and other authorities must understand the nature of contemporary antisemitism as it manifests itself against Israel, Zionism and Jewish peoplehood.

This document will first describe the attributes and particularities of anti-Zionist antisemitism as a phenomenon that is distinct but related to classical antisemitism. Second, it will familiarize readers with the discourse of anti-Zionist antisemitism and its common tropes such as Israel's illegitimacy, updated antisemitic imagery and a persistent denial that such an antisemitism exists. Third, the document will detail the radical ideologies that feed and promote anti-Zionist antisemitism. Fourth, moving from the theoretical to the concrete, the document will explain the harm to Jewish communities that anti-Zionist antisemitism has caused historically and at present. Fifth, the document will explain the nature of legal responses to anti-Zionist antisemitism and critique some of the limited case law on the issue. Finally, this document will suggest practical tools to ensure the safety of Jewish communities around the world in the face of anti-Zionist antisemitism.

D. Identifying Characteristics of Anti-Zionist Antisemitism



Contemporary forms of antisemitism, which will be referred to as “anti-Zionist antisemitism” or “anti-Israel antisemitism”, incorporate many of the features of classical religious-based or racial antisemitism, while maintaining their own distinct and novel characteristics.

Anti-Zionist antisemitism is distinguished from classical antisemitism based on several features:²⁴

1. Focus on the State of Israel and Zionism:

Historically, antisemitism has portrayed the Jews as the quintessential other, guilty of the worst evils known to society. Traditional Christian antisemitism, or anti-Judaism, taught that Jews were cursed by God, in communion with the Devil and forced to suffer exile and debasement for their rejection of Christ or “the true faith”. Islamic teachings on Jews have traditionally been somewhat more ambivalent. As religion lost its sway in many countries in the modern era, antisemitism developed on racial lines, seeing Jews as a noxious racial element and possessing inherently inferior biological characteristics. Anti-Zionist antisemitism portrays the Jewish state as inherently evil and irredeemable. The State of Israel and its founding movement, Zionism, are seen as illegitimate and racist entity, guilty of the worst crimes known to the modern mind: racism, ethnic cleansing, apartheid and even genocide²⁵.

²⁴ Rosenfeld, A. H. (2006). *"Progressive" Jewish Thought and the New Anti-Semitism* (p. 19). New York: American Jewish Committee.

²⁵ Gerstenfeld, M. (2007). Anti-Israelism and anti-Semitism: Common characteristics and motifs. *Jewish Political Studies Review*, 83-108.

As a 2006 inquiry by the United Kingdom's All-Party Parliamentary Group (APPG) against Antisemitism put it, '*a discourse has developed that is in effect antisemitic because it views Zionism itself as a global force of unlimited power and malevolence throughout history.*' By redefining Zionism in this way, '*traditional antisemitic notions... are transferred from Jews onto Zionism and the State of Israel.*'²⁶

Irwin Cotler, renowned human rights expert and Canada's Special envoy on preserving Holocaust remembrance and combating antisemitism, has described anti-Israel antisemitism as follows:

*"[C]lassical or traditional anti-Semitism is the discrimination against, or denial of, the right of Jews to live as equal members of a free society; the new anti-Semitism-incompletely, or incorrectly, [described] as 'anti-Zionism' .. . - **involves the discrimination against, denial of, or assault upon the right of the Jewish people to live as an equal member of the family of nations.** What is intrinsic to each form of anti-Semitism--and common to both--is discrimination. All that has happened is that it has moved from discrimination against Jews as individuals - a classical anti-Semitism ... - to discrimination against Jews as a people - a new anti-Semitism..."*²⁷

2. Conflation of interests between the far-right, far-left and Islamists:

Anti-Zionist antisemitism is not confined to one side of the political spectrum. **In fact, it is often a point of convergence for the far right, the far left and Muslim radicals.** Neo-Nazis and white supremacists portray Israel as the true genocidal state (instead of Nazi Germany), exaggerating or inventing the Holocaust to blackmail non-Jews and gain immunity for its own crimes. The far-left attacks Israel as a racist and militaristic outpost of Western imperialism in the Middle East. Islamic radicals see the State of Israel as a Crusader assault on Islam, humiliating the Muslim *ummah* (nation) by its existence on sacred Muslim *wakf* (trust land). These competing ideologies and groups

²⁶ All-Party Parliamentary Group against Antisemitism (UK) (September 2006). "Report of the All-Party Parliamentary Inquiry into Antisemitism" (PDF). Archived from the original (PDF) on August 22, 2013. Retrieved 14 February 2007.

²⁷ Irwin Cotler, Human Rights and the New Anti-Jewishness, FRONTPAGE MAG., Feb. 16, 2004, <http://frontpagemag.com/Articles/ReadArticle.asp?ID=-12191>

often work in tandem against Israel and Jewish communities.²⁸ These three sources of anti-Zionist antisemitism will be discussed in greater detail later.

3. Globalized:

Contemporary antisemitism is not localized or confined to certain countries. It is a globalized phenomenon spread by interlocking and global networks and movements. It spreads on the Internet, social media and communications platforms. There are international antisemitic movements affiliated with the far-right, far-left and Islamists that both coordinate concerted campaigns in various countries and allow grassroots diffusion. **The antisemitic messages propagated by these networks are ready to latch on to the real-time events as they develop and incorporate them into their antisemitic narrative.** For example, antisemitic groups were ready to promote conspiracy theories casting Jews or Israel as responsible for the novel coronavirus pandemic.

4. Evolution of traditional antisemitic imagery:

Contemporary anti-Zionist antisemitism has inherited centuries of antisemitic imagery and tropes, which it adjusts to the modern era. For example, the accusation of Jewish racism has its origins in distorted understandings of the Jewish teaching of “chosenness”. Even in antiquity, the Greeks accused the Jews of xenophobia, arrogance and hatred of non-Jews. The idea of Jewish arrogance or exploitation of non-Jews has resurfaced in Christian, modern and postmodern societies.²⁹ Hatem Bazian, a major proponent of the antisemitic BDS (Boycott, Divestment, Sanctions) movement invoked these tropes when he re-tweeted an image on Twitter showing a

²⁸ See The New Antisemites How the Delegitimization Campaign Against Israel Drives Hatred and Violence in America, The Unholy Alliance Between the Delegitimization Campaign and Neo-Fascists: Antisemitism, p. 94
<https://static1.squarespace.com/static/5cc20f51ca525b73bdd50e3a/t/5e5e448bdf3e9809a59a88bb/1583236400890/The+New+Anti-Semites.pdf>

²⁹ Wistrich, R. S. (2015). The Anti-Zionist Mythology of the Left. *Israel Journal of Foreign Affairs*, 9(2), 192

Jewish man with his arms raised, juxtaposed with the caption, *"Mom, look! I is chosen! I can now kill, rape, smuggle organs & steal the land of Palestinians."*³⁰



Similarly, David Duke, the white supremacist and former leader of the Klu Klux Klan, entitled one of his books: "Jewish Supremacism: My Awakening to the Jewish Question".



³⁰ <https://www.haaretz.com/us-news/palestinian-uc-berkeley-professor-apologizes-for-retweeting-anti-semitic-cartoons-1.5626988>

A striking example of the seamless intertwining of classic antisemitic imagery and modern anti-Zionism can be seen in the words of the Portuguese author, Jose Saramago, who wrote: “[C]ontaminated by the monstrous and rooted ‘certitude’ that in this catastrophic and absurd world there exists a people chosen by God ... the Jews endlessly scratch their own wound to keep it bleeding, to make it incurable, and they show it to the world as if it were a banner. Israel seizes hold of the terrible words of God in Deuteronomy: ‘Vengeance is mine, and I will be repaid.’”³¹ Saramago promoted the idea of Judaism as a religion of vengeance, historically juxtaposed to Christian grace – a trope also exemplified by the figure of Shylock demanding his “pound of flesh”. To the antisemite, Israel’s policies towards the Palestinians are not motivated by rational security concerns, but rather a Jewish tendency towards vengeance. The traditional Jewish idea of “chosen-ness” as a mission is twisted to into a sense of Jewish racial or national supremacy giving them license to oppress and harm others.

E. The Discourse of Anti-Zionism

According to Alan Johnson, editor of *Fathom* online journal, anti-Zionist antisemitism “has three components: (i) a political programme to abolish the Jewish homeland (and no other homeland); (ii) a discourse to demonise it as evil and ‘Nazi’ (and only it); and (iii) a movement to make it a global pariah state so it can be ‘smashed’ (an anathema applied to no other state in the world).... **The old antisemitism wanted to make the world ‘Judenrein’ – free of Jews. The new antisemitism wants to make the world ‘Judenstaatrein’– free of the Jewish State, which all but a tiny sliver of world Jewry either lives in, has family members living in, or treats as a vitally important part of their identity.**”³² This discourse must be recognized in order to confront contemporary anti-Zionist antisemitism.

The dawning of the new millennium saw an explosion of antisemitic violence in Western Europe, often under the guise of anger or protest towards the State of Israel. In response, the European Monitoring Centre on Racism and Xenophobia (EUMC)

³¹ <https://nationalpost.com/full-comment/david-frum-death-of-a-jew-hater>

³² <https://fathomjournal.org/wp-content/uploads/2019/03/Institutionally-Antisemitic-Report-FINAL-6.pdf>

conducted its first study of European antisemitism in 2004. However, it was soon apparent that the EUMC lacked a definition of antisemitism on which to base their analysis. In cooperation with Jewish community organizations and leading scholars, the EUMC drafted a "working definition" on antisemitism, which it issued in early 2005. This working definition would form the basis of the definition later adopted by the International Holocaust Remembrance Alliance (IHRA).

IHRA is an intergovernmental organization composed of 34 member countries that unites governments and experts dedicated to preserving and advancing the memory of the Holocaust. In May 2016, the IHRA Plenary in Bucharest adopted the working definition of antisemitism.

The IHRA working definition of antisemitism has identified and incorporated the prominent elements of anti-Israel discourse into its examples of contemporary antisemitism.³³



The following abstract will proceed to discuss and explain several features of this discourse using the IHRA description's illustrative examples.

1. Israel as an illegitimate state:

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.

³³ <https://www.holocaustremembrance.com/working-definition-antisemitism?focus=antisemitismandholocaustdenial>

To anti-Zionists, of all the countries in the world, many of which are nation-states associated with particular ethnic or national groups, only the State of Israel is seen as fundamentally illegitimate. Zionism is the Jewish people's national movement, dedicated to the establishment and maintenance of a Jewish homeland in the land of Israel. Zionism flows out of Judaism's most sacred and fundamental texts, narratives, beliefs, history and practices, all of which uphold the centrality of the land of Israel to Jewish identity. **Despite the myriad of national movements worldwide, and the various ethnic and national groups clamouring for independence, only Zionism, the Jewish national movement, is singled out, falsely condemned as racist, and delegitimized. Only Zionism, which most Jews view as integral to their Jewish identity, is disallowed, often by those who wish to erase and deny the Jewish people's ancient connection to the land of Israel.**

Anti-Zionism inverts European antisemitic vilification of Jews as an "Oriental other". Traditional antisemitism in Europe saw Jews as an alien element in Christian society. The very title "Semites" in antisemitism refers to Jews' Asiatic or Eastern origin, which was unassimilable culturally and biologically in Western culture. Today, Jews are once again portrayed as alien and foreign to the Middle East. The State of Israel is falsely characterized as a colonial implant, a Western entity, that must be dislodged from the majority Arab and Muslim Middle East. This of course ignores Jews' Middle Eastern origins and the fact that Jews "returned to Zion" from all across the globe, including from dispersed communities in the Middle East.³⁴

Anti-Zionism engages in a systematic falsification of Jewish history, thus robbing Jews of their identity and heritage. It consistently denies thousands of years of Jewish history in the land of Israel and the centrality of Israel to Jewish identity. This can be seen in the baseless claims that Jews are in reality "Khazars", a central Asian people unrelated to the biblical Israelites, or in the insistence that Jesus was truly a "Palestinian". The denial of Jewish history in the land of Israel plays a central role in anti-Zionist discourse.³⁵

³⁴ Wistrich, 192

³⁵ <https://palwatch.org/page/18138>

Anti-Zionism's ultimate goal is the dismantling of the State of Israel. Of course, **“dismantling” the State of Israel is a euphemism for its violent destruction.** Despite protests by anti-Zionists that they merely seek a peaceful “de-Judaization” of Israel, it is difficult to see how this could come about without vehement opposition from the majority of Israel's population. Given that the majority of the citizens of the State of Israel remain committed to its continued existence, and have proven themselves ready to fight for it, the “dismantling” of the state would require the subjugation of its population, and their subsequent expulsion or massacre. Professor Anthony Julius put it succinctly:

“To maintain that the very existence of Israel is without legitimacy, and to contemplate with equanimity the certain catastrophe of its dismantling, ... is to embrace – however unintentionally, and notwithstanding all protestations to the contrary – a kind of Antisemitism indistinguishable in its compass and its consequences from practically any that has yet been inflicted on Jews.”³⁶

2. Holocaust Inversion:

“Drawing comparisons of contemporary Israeli policy to that of the Nazis.”

The comparison between Israel and Nazi Germany has its origins in Soviet propaganda. However, it has become increasingly mainstream in Europe since protests against Israel's Operation Cast Lead against Hamas in December 2008 - January 2009.³⁷

The comparison between Israeli policies and the Holocaust – the largest and greatest antisemitic act in history - is not made innocently. **Rather, it is deliberately chosen to offend Jews by comparing the victims of Nazi persecution with its perpetrators, and to diminish the uniqueness and significance of the Holocaust.** Holocaust Inversion, meaning the use of Nazi and Holocaust comparisons against

³⁶ Anthony Julius, “Don't Panic”,
<https://www.theguardian.com/uk/2002/feb/01/britishidentity.features11>

³⁷ Iganski, P., & Sweiry, A. (2009). Understanding and Addressing The 'Nazi card' Intervening Against Antisemitic Discourse.

Israel, is an act of hostility towards Jews, Jewish history and the legitimacy of the State of Israel. Journalist Jonathan Freedland explained it this way:

*“[Holocaust Inversion] seem[s] designed to cancel out the world’s empathy for Jewish suffering in the 1930s and 1940s: under this logic, the Holocaust has now been ‘matched’ by Israeli misbehaviour, therefore the Jews have forfeited any claim they might once have had to special understanding. The world and the Jews are now ‘even’. Third, and worse, the Nazi-Zionist equation does not merely neutralise memories of the Holocaust – it puts Jews on the wrong side of them... Jews end up with the gravest hour in their history first taken from them – and then returned, with themselves recast as villains rather than victims.”*³⁸

Furthermore, in the modern world, Nazi Germany has come to be seen as the symbol of absolute evil. Therefore, comparisons to Israel are intended to demonize Israel and legitimize its destruction of the Jewish state.

3. Updated antisemitic imagery

“Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.”

As previously mentioned, anti-Zionist antisemitism traffics in many of the same tropes as classical antisemitism which it applies to the State of Israel and its Jewish supporters worldwide. Among the most potent and ancient of antisemitic stereotypes is the idea of a Jewish cabal or conspiracy.

The idea of a Jewish cabal against wider society goes back to classical and medieval Christianity. Jews were depicted as a demonic force, a people cunning and wicked enough to have committed the sin of deicide. Jews were frequently accused of spreading plague and disease to attack Christian society. In the modern era, the 1903 forgery, the “Protocol of the Elders of Zion” purported to be a Jewish conspiracy to subjugate the non-Jewish world through financial control and other shadowy tools. The

³⁸ Jonathan Freedland, *Is Anti-Zionism Antisemitism?*, (first published in Paul Iganski and Barry Kosmin (eds.) *A New Antisemitism? Debating Judeophobia in 21st Century Britain*, pages 113-129, Profile Books, London, in association with the Institute for Jewish Policy Research, 2003).

Protocols were subsequently published throughout Europe and North America. The idea of Jewish world domination played a central role in Nazi propaganda. Jews were often portrayed as spiders or as an octopus strangling the world with its tentacles.

In its anti-Zionist incarnation, this conspiracy is recycled as Israel and its supporters manipulating foreign governments, banks and or the media in its favour. Following the 9/11 terrorist attacks, conspiracy theories circulated alleging Israeli responsibility and claiming that thousands of Jews skipped work that day due to insider information about the attacks. Similarly, Neo-Nazis and other extremist groups frequently refer to the American government as the ZOG or “Zionist Occupied Government”.

The Canadian Parliamentary Coalition to Combat Antisemitism noted with concern in its 2009 Report that *“traditional antisemitic libels are being attached to the State of Israel and to Jews. Recent libels include an article in Sweden’s popular newspaper Aftonbladet, alleging that Israelis abducted Palestinians in a conspiracy with American rabbis, killing them to steal their organs for transplant. This refashioning of the traditional ‘blood libel’ was also seen in a Canadian Islamic community newspaper in British Columbia, which posted on its website an article headlined ‘Ukrainian kids, new victims of Israeli organ theft’.... the Iranian revolutionary regime, Hamas, Hezbollah, and other radical Islamists are using the Protocols of the Elders of Zion to spread traditional forms of antisemitism and to dehumanize the State of Israel.”*³⁹

Anti-Zionists frequently argue that Jews maliciously and in bad faith accuse critics of Israel as antisemitism. **This claim is a subset of the various anti-Jewish conspiracy theories.** Sociologist David Hirsh named this rhetorical device “the Livingstone Formulation” after the London mayor who so frequently indulged in it⁴⁰. As Hirsh explains, it is a *“rhetorical device that seeks to construe the raising of the issue of antisemitism as more suspect and inherently problematic than the phenomenon of*

³⁹ Report of the inquiry panel Canadian parliamentary coalition to combat antisemitism, 2009, p.10-11, 19-20

⁴⁰ Hirsh, D. (2010). Accusations of malicious intent in debates about the Palestine-Israel conflict and about antisemitism: The Livingstone Formulation, “playing the antisemitism card” and contesting the boundaries of antiracist discourse. Transveral, Graz, 1, 47-77

antisemitism itself'.⁴¹ The Livingstone Formulation rests on the proposition that when Jews speak up about anti-Zionism, **they are not genuinely concerned about their safety and security**. Neither are they simply mistaken as to what constitutes antisemitism (and must be educated by “enlightened gentiles”). **Rather, Jews are intentionally lying, abusing public sympathy against antisemitism, in order to shut down critics of Israel.** It also assumes that Israel itself is so odious and repugnant that it can only be protected by slurs against its critics, instead of rational debate and discussion.



This sign invokes the antisemitic charge of deicide – Jewish responsibility for the crucifixion of Jesus – at an anti-Israel protest

Credit: Avpics/Alamy Live News

<https://jewishnews.timesofisrael.com/jews-are-christ-killers-banner-at-anti-israel-protest/>

4. Jewish Disloyalty -

“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.”

Historically, Jews were suspected of disloyalty to local rulers due to their ties to other Jews. In 1894, Alfred Dreyfus, a French military captain who was Jewish, was falsely accused of passing military secrets to the Germans and was convicted in a French

⁴¹ Hirsh, D. (2015b). The Corbyn left: The politics of position and the politics of reason. Fathom, Autumn. Retrieved from <http://fathomjournal.org/the-corbyn-left-the-politics-of-position-and-the-politics-of-reason>

military court. His Jewish ancestry played a significant role in the false allegations against him. During the 1930s and 1940s, the Nazis promoted the idea that Jews “stabbed Germany in the back” during the First World War. In 1946, Joseph Stalin launched an antisemitic campaign in the Soviet Union by accusing Jews of being disloyal “rootless cosmopolitans”.

This allegation has resurfaced with Diaspora Jews sometimes referred to as “Israel-Firsters” or accused of acting as agents of Israel. For example, Dame Louise Ellman, a longtime Jewish Member of the British Parliament for the Labour Party, was allegedly referred to as the “Honourable Member for Tel Aviv” by Labour Party officials, thereby implying that she represented Israeli rather than British interests.⁴² In 2018, Dimitri Lascaris, the head of the Canadian Green Party, tweeted that two prominent Jewish members of Parliament were “*more devoted to apartheid Israel than to their own Prime Minister and their own colleagues in the Liberal caucus*”.⁴³

F. Sources of Anti-Zionist Antisemitism

As previously mentioned, contemporary antisemitism comes primarily from three disparate ideological sources. Although these political ideologies may seem contradictory, they often partner together to advance their anti-Israel agenda and feed off each other’s extremism.

1. The Muslim world

Some traditional Islamic sources contain (although not exclusively) negative portrayals of Jews - as stubborn, corrupt, sinful, or distorters of Scripture. However, the convergence of Muslim antisemitism and modern European antisemitism has its roots in the 1930s as radical Arab nationalist and Islamist organizations sought inspiration in or actively allied with Nazi Germany.⁴⁴ Indeed, following Germany’s defeat, many

⁴² <https://www.thejc.com/news/uk/jeremy-corbyn-faces-claim-he-allegedly-called-dame-louise-ellman-the-honourable-member-for-tel-aviv-1.468009>

⁴³ <https://www.timesofisrael.com/trudeau-slams-activist-who-suggested-jewish-mps-more-loyal-to-israel-than-canada/>

⁴⁴ Wistrich, R. S. (2013). *Parallel lines: anti-Zionism and antisemitism in the 21st century*. Jerusalem: Vidal Sassoon International Center for the Study of Antisemitism, the Hebrew University of Jerusalem

Nazi advisors found refuge in Egypt and Syria and actively contributed to the anti-Israel propaganda efforts. This ideological cross-breeding has resulted in a toxic mixture of Islamic religious themes with the most noxious of classical antisemitic stereotypes. This religious-based antisemitism continues to animate Islamist groups in both the Shia and Sunni worlds, including Khomeinist Iran, the Muslim Brotherhood and its Hamas offshoot, and Salafist groups such as al-Qaeda and ISIS. Most of these Islamist groups openly call for genocide against Israel's Jewish population.⁴⁵ As migrants from the Muslim countries immigrate to the Western countries, radical elements have also exported these attitudes that continue to reverberate throughout society and find their homes in circles beyond migrant communities.⁴⁶ This form of antisemitism sees Israel as a religious affront to the Muslim *ummah* and an embodiment of the negative Jewish characteristics described in Islamic Scriptures. It paints the existence of a Jewish state as a pan-Muslim catastrophe and therefore the Israeli-Palestinian conflict in religious terms, including an Islamic obligation to wage *jihad* in order to destroy the Jewish state. In this worldview, Jews are portrayed as enemies of Islam, and conspiracy theories, such as Jews scheming to destroy the al-Aqsa mosque and to corrupt Muslims, run rampant.

⁴⁵ Wistrich, R. S. (2013)

⁴⁶ Druez, Elodie, and Nonna Mayer. "Antisemitism and Immigration in Western Europe Today. Is there a connection? The case of France." (2018).



Islamist antisemitism: Fathi Hammad, a senior Hamas official, reportedly urged people in Jerusalem to buy a knife and decapitate Jews.

Memri via Twitter

2. The far-left

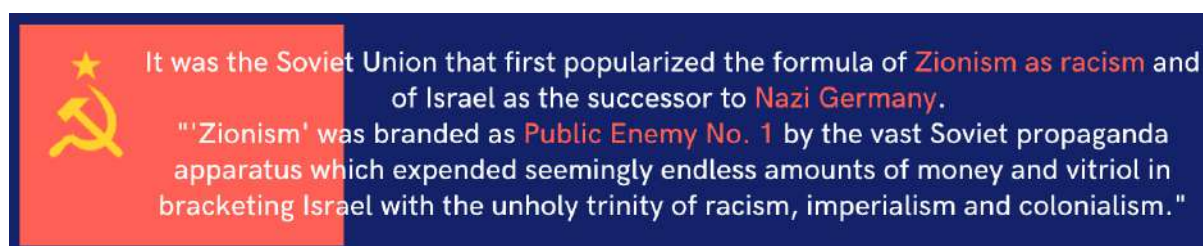
Left-wing traditions, both liberal and radical, have their own particular histories of antisemitism and opposition to Jewish particularity. This antisemitic tradition has been referred to as “the socialism of fools”.⁴⁷ It was the Soviet Union that first popularized the formula of Zionism as racism and of Israel as the successor to Nazi Germany. *“Zionism” was branded as Public Enemy No. 1 by the vast Soviet propaganda apparatus which expended seemingly endless amounts of money and vitriol in bracketing Israel with the unholy trinity of racism, imperialism and colonialism.*⁴⁸ Since the 1970s, much of the radical Left have elevated anti-imperialism to a central ideological tenet and have focused their ire on Israel, identified as *the* imperialistic, racist and oppressive power *par excellence*, as a tool to delegitimize and discredit the United States and the Western world.⁴⁹ In keeping with the tradition of antisemitism, Israel is demonized as odiously desecrating society’s most sacred values - in this case, human rights and anti-imperialism. Israel thus serves as the foil for ideologues who divide the world between white, Western oppressors and brown, Third World

⁴⁷ <https://fathomjournal.org/corbyn-is-one-man-left-wing-antisemitism-is-a-tradition/>

⁴⁸ Wistrich

⁴⁹ Troy, G. (2013). *Moynihan's moment: America's fight against Zionism as racism*. Oxford University Press.

oppressed, with Israel and the Palestinians playing their respective symbolic roles.⁵⁰ The far left divides the world into two camps - the oppressors and the oppressed. Israel continues to serve as a totem for the Left in America and Western Europe for their domestic and international opposition to racism and discrimination - based on a false symbolism, and not reality.



3. *The far-right*

Since the end of the Second World War, many on the far-right have adopted anti-Zionist themes, among these the ideas that Israel and the Jews exaggerated the Holocaust in order to extort the non-Jewish world and that Israeli crimes exceed the supposed Nazi atrocities. As author, broadcaster and journalist Melanie Phillips recently noted during the Intelligence Squared debate on whether anti-Zionism is antisemitism, *"The Palestine solidarity campaign is riddled with antisemitic comments...Today, a German neo-Nazi group has linked to the BDS movement noting its approval to isolate the Zionist aggressor state in defense of the rights of Palestinian people. **The language of BDS and the far right is interchangeable.**"*⁵¹ In Germany, neo-Nazi groups regularly attend anti-Israel rallies organized by Islamist groups, protest against the "Palestinian Holocaust" and support moves to label Israeli products⁵². The 2006 Report of the British All-Party Parliamentary Inquiry into Anti-Semitism observed: *"Anti-Zionist discourse can be polluted with anti-Semitic themes in different ways and with different levels of intent. It can be used deliberately as a way*

⁵⁰ Hirsh, D. (2017). *Contemporary left antisemitism*. Routledge.

⁵¹ YouTube, Debate: Anti-Zionism is Anti-Semitism, published 07/26/19, accessed 09/19

⁵² See The New Antisemites How the Delegitimization Campaign Against Israel Drives Hatred and Violence in America, The Unholy Alliance Between the Delegitimization Campaign and Neo-Fascists: Antisemitism

*to mask or articulate prejudice against Jews... For instance, a far right party may use the terms of "Zionist" and "Zionism" instead of "Jews" and "Jewish."*⁵³

G. How Anti-Zionism Hurts Jews

1. How Anti-Zionism has destroyed Jewish communities

Soviet anti-Zionism propaganda demonized Israel as a successor to Nazi Germany and served to justify state repression, surveillance and hostility towards Jews and Jewish practice. In 1967, the Polish government denounced the threat of Zionism, arguing that certain Polish Jews constituted a fifth column against Poland and socialism. Driven into a frenzy by the government, Polish students demonstrated vigorously against the Zionist danger. In more than 100,000 public meetings all over Poland, anti-Zionist resolutions were passed. One representative resolution read: *‘[we demand] a complete removal of Zionist elements and other enemies of our socialist reality from the political, state administrative, educational, and cultural apparatus and also from social organizations...’*⁵⁴ Jews were effectively purged from positions of influence and tens of thousands of Polish Jews ultimately emigrated from Poland during 1967-1970.



Similarly, since the establishment of the State of Israel in 1948, Jewish communities in Arab and Muslim countries have faced waves of persecution, harassment and discrimination due to their supposed ties to the State of Israel. Prominent Jews in Iraq⁵⁵, Iran⁵⁶ and other countries were publicly executed based on charges of Zionism.

⁵³ All-Party Parliamentary Group against Antisemitism (UK) (September 2006). "Report of the All-Party Parliamentary Inquiry into Antisemitism" (PDF). Archived from the original (PDF) on August 22, 2013. Retrieved 14 February 2007.

⁵⁴ "Communists Against Jews: the Anti-Zionist Campaign in Poland in 1968", <https://fathomjournal.org/communists-against-jews-the-anti-zionist-campaign-in-poland-in-1968/>

⁵⁵ https://en.wikipedia.org/wiki/1969_Baghdad_hangings

⁵⁶ https://en.wikipedia.org/wiki/Habib_Elghanian

Anti-Zionist antisemitism has led to the decline of Jewish life in Arab and Muslim countries, with over 95% of Jews fleeing to Israel, North American or Europe.

2. Anti-Zionism threatens Jewish life today

Today, this anti-Zionist frenzy is once again threatening Jewish life and actively legitimising attacks on individual Jews. Besides the discrimination and marginalization that anti-Zionism invites, it legitimises attacks on Jewish individuals and institutions due to their supposed affiliation with Israel's imagined war crimes.

Anti-Zionism labels Jewish national identity (and only Jewish national identity) as a form of racism. Even though the world is full of nation-states and numerous groups who clamour for national recognition and statehood, scorn and opprobrium are reserved for Jewish national identity. Given that modern society, post-Second World War and the civil rights movement, rightfully regards racism as repugnant, the branding of Zionism as racism invites discrimination and exclusion against Jews. This can be seen in public events, "open to all, minus cops and zionists [sic]"⁵⁷, or restaurants that proudly display that "Zionists not welcome".⁵⁸ A common trope of anti-Zionist demonization compares Zionism to Nazism, the epitome of ultimate evil in general society. This gives license to calls for violence against Zionists (aka Jews) due to their supposed unspeakable evils.⁵⁹ In this climate of anti-Zionist hostility, Jews are made into pariahs due to their identification with the Jewish homeland and Jews worldwide.

When Jews see the State of Israel or Zionism demonized, they understand themselves to be the targets. Anti-Zionist campaigns create an atmosphere of toxicity and harassment for Jews. Historically, this form of anti-Zionism has made Jewish life impossible in societies where anti-Zionism was elevated to an ideological tenet.

⁵⁷ <https://jewishjournal.com/news/united-states/318089/sarsour-organization-promoted-juneteenth-rally-as-open-to-everyone-minus-cops-and-zionists/>

⁵⁸ <https://www.timesofisrael.com/toronto-restaurant-loses-business-deals-after-saying-zionists-not-welcome/>

⁵⁹ <https://www.timesofisrael.com/mcgill-student-leader-doubles-down-on-punch-a-zionist-today-message/>



Calls to exclude Jewish ("Zionist") teachers from the education system by former British MP and Corbyn loyalist Chris Williamson. Via Twitter

Even in modern democratic societies, anti-Zionism continues to invite discrimination, hostility, and exclusion against Jews. For example, according to AMCHA, an American antisemitism campus watchdog, anti-Israel activity on campus is highly correlated with attacks on and discrimination against Jewish students⁶⁰. Jewish students are routinely faced with harassment and calls to be excluded and barred from aspects of student life, such as student councils. According to AMCHA's 2019 campus report, Jewish students are directly targeted for harm and abuse. In 2019, calls to exclude Jewish and pro-Israel students from campus activities more than doubled, with expressions calling for the total boycott or exclusion of pro-Israel students from campus life nearly tripling. On campuses worldwide, Jewish students have had their suitability for positions in student unions questioned because of their affiliations with Israel⁶¹. At Essex University in the UK, over 200 students voted to reject the creation of a Jewish student society, although a substantial majority voted to accept it.⁶² One university professor posted on social media that "the Zionists next want to create a society here at our university!"⁶³ He was suspended and the University emphasised its support for the creation of the society.⁶⁴

⁶⁰ <https://amchainitiative.org/wp-content/uploads/2019/09/Eliminationist-Anti-Zionism-and-Academic-BDS-on-Campus-Report.pdf>

⁶¹ <https://www.cjnews.com/news/canada/mcgill-student-union-censures-jewish-student-over-israel-trip> and <https://www.insidehighered.com/news/2015/03/03/ucla-student-government-questions-judicial-board-nominee-being-jewish>

⁶² <https://www.bbc.co.uk/news/uk-england-essex-47319571>

⁶³ <https://www.thejc.com/news/uk/should-there-be-a-jewish-society-over-200-university-of-essex-students-vote-no-1.480349>

⁶⁴ <https://www.theguardian.com/education/2019/feb/22/university-of-essex-suspends-lecturer-accused-of-antisemitism>



In 2015, Spanish anti-Israel activists targeted Jewish American singer Matisyahu, who was scheduled to perform at the Rototom Sunsplash reggae festival. Following the anti-Israel movement's "campaign of pressure, coercion, and threats," as described by the festival's organizers⁶⁵, Matisyahu was asked to denounce Israel and express support for a Palestinian state as a condition for being allowed to perform. Matisyahu was the only artist required to pledge allegiance to a certain political policy in order to perform at the festival. The organisers of the festival initially cancelled his appearance when he refused, but subsequently reversed this decision.⁶⁶ [The anti-Israel activists were initially convicted of hate crime, but the conviction was overturned on appeal.⁶⁷]

Anti-Zionist harassment does not limit itself to protests of Israeli political events. It poisons and attacks other aspects of Jewish life, often tangentially related to Israel. For example, many kosher products worldwide are imported from Israel, especially in places with smaller Jewish communities. These kosher products, a basic necessity of orthodox Jewish religious practice, are often the target of anti-Zionist ire due to ties with Israel of the Jewish organization promoting the campaign. In November 2019, the student union at the University of Toronto expressed opposition to a campaign to provide kosher food on campus on the pretext that such a move was supported by "pro-Israel" (ie. Mainstream Jewish) organizations.⁶⁸ This is not an isolated incident –

⁶⁵ <https://www.facebook.com/rototomsunsplashofficial/posts/10153366496516743>

⁶⁶ <https://www.timesofisrael.com/defiant-matisyahu-sings-jerusalem-at-spain-festival/>.

⁶⁷ <https://jewishnews.timesofisrael.com/court-acquits-eight-bds-activists-who-wanted-matisyahu-disinvited-from-festival/>

⁶⁸ "U of Toronto Graduate Student Union opposes campus kosher food as 'pro-Israel'" <https://www.timesofisrael.com/u-of-toronto-student-union-boycotts-kosher-food-on-campus-over-israel-divestment/>

kosher products have been removed, defaced, and vandalized by anti-Zionist groups in the UK⁶⁹, the US⁷⁰ and Canada⁷¹ in recent years.

H. A note on criticism of Israel

It is almost needless to say that criticism of Israel is not antisemitic. However, due to the widespread charge that condemning anti-Zionism as antisemitic is a ruse to protect Israel from criticism of its policies, this must be stated clearly: Identifying and addressing anti-Zionist antisemitism is not intended to, nor does it silence criticism of Israel.

This is simply a straw man. One would be hard pressed to find any serious person who believes that criticism of Israel is antisemitic. There are legitimate criticisms that can be made of the Israeli government, society or policies. Indeed, Israelis themselves frequently disagree on the policies of the Israeli government.

For example, opposing Israeli control over Judea and Samaria, its settlement policy or its response to Palestinian terror is not antisemitic, even if certain arguments or claims may be unfair, factually incorrect or flawed in someone's opinion. However, as we have explained above when criticism crosses over into demonization and delegitimization, it **can** be considered antisemitic.

Criticism of African countries is not racist *per se*. Claiming that an African country has a corruption problem because Blacks are less intelligent or that they would be better off under slavery or apartheid is racist. Similarly, criticism of a female leader is not sexist. An argument that women are too emotional and irrational to lead is a sexist argument. Much in the same way, most criticism of Israel is not antisemitic. Yet, certain criticism (calling for Israel's destruction, conspiracy theories, demonization, Nazi comparisons, etc.) are likely to be antisemitic.

⁶⁹ <https://www.timesofisrael.com/in-uk-supermarkets-the-frontline-to-check-out-bds/>

⁷⁰ <https://www.jpost.com/israel-news/pro-bds-stickers-found-in-kosher-for-passover-supermarket-aisle-585649>

⁷¹ <https://www.algemeiner.com/2015/06/17/publix-supermarket-chain-investigating-bds-vandalism-of-israeli-products-at-miami-store/>

I. Legal Framework responding to Anti-Zionist Antisemitism

As Jewish communities worldwide continue to experience intense pressure from rising antisemitism, many countries have made the battle against antisemitism, including its anti-Zionist forms, into a central policy. In the past five years, over 400 institutions – including some 30 countries as well as local authorities, government ministries, transnational and civil society organizations have adopted the IHRA working definition of antisemitism.⁷² Many governments and institutions have formally incorporated the definition into actual practices, such as law enforcement and legal training or hate crime data collection. This represents a major sea-change in the willingness and ability to confront antisemitism, including in its anti-Zionist form, using legal tools.

Yet the adoption of the IHRA working definition is far from sufficiently widespread. Probably all jurisdictions have laws that prohibit racial, religious and ethnic discrimination. A Jewish citizen who is denied goods and services due to his Jewish heritage or was rejected from a job due to his Sabbath observance will usually have a legal recourse.

However, Jews face new grounds for discrimination due to their real or perceived affiliation with the State of Israel or Zionism. Anti-discrimination and human rights laws must be applied in such a way that protect Jews who identify with Israel and Zionism from harassment and discrimination. This can be done by clarifying that discrimination of Jews on the basis of their Zionism or affiliation with Israel constitutes national/ethnic origin discrimination. This policy should be made explicit, as in the case of American college campuses, and the legal community should be educated as was done in the United Kingdom and South Africa.

This section will demonstrate the enormous shift in the political and legal spheres regarding the ability to tackle anti-Zionist antisemitism through governmental decisions and legal case studies. It will demonstrate some good practices worldwide that can serve as models against antisemitism. It will also critique severely flawed legal decisions that misunderstand anti-Zionist antisemitism, as seen in the *Fraser, Nazim*

⁷² <https://en-humanities.tau.ac.il/kantor/resources>

Ali

and

Masuku

cases.



Anti-Israel graffiti on a synagogue in Los Angeles.

Los Angeles Daily New, Via Twitter

1. The United States

Executive Order on Combatting Anti-Semitism

In 2019, US President Donald Trump issued an Executive Order on Combating Anti-Semitism which explicitly stated that when Jews are discriminated against on the basis of race, colour or national origin, it may give rise to a violation of Title VI of the Civil Rights Act of 1964.⁷³ This is significant because it recognizes that Jews can experience discrimination based on the Jewish people's ancestral, ethnic, cultural heritage in addition to the Jewish religion. The Executive Order tasked federal agencies with considering the IHRA working definition of antisemitism and its examples when investigating Title VI violations against Jews.

The Executive Order reinforced and strengthened prior guidance on the application of Title VI that had been issued by the US Department of Education in 2004 and the US

⁷³ E.O. 13899 of Dec 11, 2019 <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-anti-semitism/>

Department of Justice in 2010. The Department of Education (and other federal agencies) are now required to refer to the IHRA Working Definition of Antisemitism when evaluating and investigating claims of antisemitic harassment and discrimination on campus. University campuses in North America and Europe are one of the central places in which Jews experience antisemitism. According to Hillel International, the 2019-2020 academic year saw an all-time high of close to 200 antisemitic incidents across North America.⁷⁴ Annual reports by the Anti-Defamation League show that antisemitic incidents on college campuses have nearly tripled since 2012.⁷⁵

While the legal constellation governing American universities is unique to the United States, the developments in ensuring the protection of the Jewish students on campus demonstrates how existing laws can cover anti-Zionist antisemitism with policy directives.

According to Title VI of the 1964 Civil Rights Act, discrimination based on race, colour and national origin are prohibited in institutions and services that received federal funding, including universities. Patterns of racial harassment are “*indicative of a racially hostile environment in violation of Title VI. Misconduct need not be directed at a particular student to constitute discriminatory harassment and foster a racially hostile environment.*”⁷⁶ University administrations are required to prevent the emergence of racially hostile environments and ensure students’ safety from racial discrimination in order to meet their Title VI obligations.

Until 2004, the Office of Civil Rights (“OCR”) declined to investigate allegations of antisemitic discrimination, reasoning that Jews consisted of a religious group and therefore did not enjoy Title VI protection. This was in opposition to the Supreme Court ruling in *Shaare Tefila Congregation v. Cobb* that Jews were to be considered a race for the purposes of civil rights legislation⁷⁷. This policy began to change in 2004 with the Department of Education releasing a series of formal “Dear Colleague” letters

⁷⁴ <https://www.hillel.org/about/news-views/news-views---blog/news-and-views/2020/08/10/hillel-launches-new-initiative-to-support-train-university-administrators-to-address-antisemitism-on-campus>

⁷⁵ <https://www.adl.org/audit2018#themes-and-trends>

⁷⁶ U.S. Department of Education, Office for Civil Rights, “Dear Colleague Letter” (Oct. 26, 2010) (“2010 Dear Colleague Letter”), available at <http://bit.ly/2UjcWDs>,

⁷⁷ *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615 (1987)

dealing with discrimination against groups *“that exhibit both ethnic and religious characteristics, such as Arab Muslims, Jewish Americans and Sikhs...Groups that face discrimination on the basis of shared ethnic characteristics may not be denied the protection of our civil rights laws on the ground that they also share a common faith... Thus, for example, OCR aggressively investigates alleged race or ethnic harassment against Arab Muslim, Sikh and Jewish students.”*⁷⁸ The 2019 Executive Order formally enshrined this practice.

In 2019, the Louis D. Brandeis Center along with Arnold & Porter Kaye Scholer LLP, in consultation with Jewish United Fund and Hillel International, filed a detailed and complex complaint with the Office for Civil Rights (OCR) in the Department of Education alleging antisemitic harassment at the University of Illinois at Urbana-Champaign (“UIUC”). The Brandeis Center’s complaint detailed a shocking epidemic of antisemitism emanating from both the extreme right and extreme left on campus. Jewish student centers such as the Chabad House and the Jewish fraternity building were vandalized and physically damaged. Jewish religious symbols such as *mezuzot* and menorahs were destroyed. Swastikas were spray-painted across campus.



At the same time, anti-Israel hate groups repeatedly vilified and defamed Jewish students as Nazis and white supremacists. As a result, Jewish and pro-Israel students were effectively barred from many aspects of public life. The environment deteriorated so badly on campus that in October 2020, a Jewish student union representative resigned due to constant and consistent harassment by her peers for her Jewish identity.”⁷⁹

⁷⁸ Memorandum from Kenneth L. Marcus, Deputy Assistant Sec’y for Enforcement, Office for Civil Rights, U.S. Dep’t of Educ. (Sept. 13, 2004), *available at* <http://www.ed.gov/about/offices/list/ocr/religious-rights2004.html>

⁷⁹ <https://brandeiscenter.com/wp-content/uploads/2020/10/UIUC-Incidents.pdf>

Following the OCR's announcement that it would open an investigation into UIUC, the university issued a joint statement along with the Brandeis Center and campus Jewish organizations. The statement represented a major preliminary victory in securing the rights of Jewish students. **The university recognized that “for many Jewish students, Zionism is an integral part of their identity and their ethnic and ancestral heritage. These students have the right to openly express identification with Israel.”** The university also condemned efforts to exclude Jewish groups from social justice projects or to delegitimize them as Nazis. The university pledged that “*Anti-Semitism, anti-Semitic forms of anti-Zionism and other forms of discrimination have no place*” on campus.⁸⁰ UIUC pledged to create an Advisory Council on Jewish and Campus Life, institute “recurring educational programming regarding anti-Semitism,” and “*revise procedures...so they are...aligned with shared values opposing discrimination and harassment on campus, including anti-Semitic actions*”.

While the OCR investigation is ongoing and the UIUC must continue taking practical steps to root out antisemitism, this joint statement and the commitments it contains represents a powerful model that other universities should adopt.

In 2019, a Jewish student at New York University (NYU) filed a Title VI complaint alleging an extreme antisemitic environment on campus. Most of the incidents involved the local SJP chapter promoting hostility and hatred for Israel. SJP activists burned Israelis flags, physically assaulted a singer performing HaTikvah at Israeli Independence Day celebrations and harassed Jewish students on social media. Following the Executive Order on Combatting Antisemitism, NYU reached a settlement with the Department of Education in which it committed to incorporate the IHRA working definition of antisemitism into its anti-discrimination and anti-harassment policies. NYU's revised policy will require: training of students, faculty and staff on antisemitism, student invitations to detail incidents of discrimination and harassment, collaborations with Jewish groups on campus, and meetings with student club members to detail the policy.⁸¹

⁸⁰ <https://blogs.illinois.edu/view/6231/1530347443>

⁸¹ <https://jewishinsider.com/wp-content/uploads/2020/09/NYU-OCR-Resolution-Agreement-9-25-20-With-Watermark.pdf>

These achievements at UIUC and NYU demonstrate the effectiveness of policymakers clarifying that existing laws cover anti-Zionist antisemitism. This can be done through government policy-statements that explicitly recognize as antisemitic the discrimination and harassment of Jewish students due to their real or perceived affiliation with Israel. **If academic institutions do not take steps to explicitly affirm the rights of Jewish students who identify with Israel or Zionism, Jewish students will continue to experience hostility, intimidation and harassment on college campuses.**

State Department Declaration on Anti-Zionism

In 2010, the US Department of State adopted a definition of antisemitism that served as a precursor to the IHRA Working Definition. After the IHRA definition was issued in 2016, the State Department began utilizing the IHRA Definition and calling on other governments to adopt its use.⁸²

In November 2020, the US Department of State issued a statement calling anti-Zionism a form of antisemitism and committing to prevent American State Department funding of the BDS movement.⁸³ The United States further called upon all governments to ensure that public funds are not being channelled to antisemitic organizations.

2. The European Union -

Practical Applications of the IHRA Definition -

On 1 June 2017 the EU Parliament adopted a resolution calling on EU Member States and EU institutions and agencies to adopt and apply the IHRA definition in order to support the judicial and law enforcement authorities in their efforts to identify and prosecute anti-Semitic attacks more efficiently and effectively.⁸⁴

⁸² <https://www.state.gov/defining-anti-semitism/>

⁸³ <https://2017-2021.state.gov/identifying-organizations-engaged-in-anti-semitic-bds-activities/index.html>

⁸⁴ https://www.europarl.europa.eu/doceo/document/TA-8-2017-0243_EN.pdf?redirect

In December 2020, the European Council adopted a declaration recognizing the rise in anti-Jewish rhetoric and attacks on the Continent and on the need to develop a common strategy in the fight against antisemitism.⁸⁵ The Declaration called for widespread adoption of the IHRA definition by both governmental agencies and NGOs. It recognizes the **dangers of anti-Jewish conspiracy theories as a steppingstone to hatred, hate speech and violence and calls for concerted efforts against online hatred.**

In January 2021, the European Commission published its Handbook for the Practical Application of the IHRA Working Definition of Antisemitism.⁸⁶ It contains examples of good practices of the judiciary, law enforcement, education system, government funding and civil society using the IHRA definition. For example, many countries incorporate the IHRA definition into police training and curriculum. Some countries, like Germany and Romania, formally reference the IHRA definition in hate crimes legislation. A full list of good practices can be found in the handbook.

In February 2021, Germany announced that it was upgrading the status of IHRA, formally enshrining it legally as an international institution and strengthening its commitment to fight against antisemitism in legislation.⁸⁷

Parliamentary Decisions - Member States

In a series of parliamentary decisions, European legislatures have recognized the connection between anti-Israel boycotts and hostility, and discrimination towards local Jewish citizens.

Parliaments in **Germany, Czech Republic, France and Austria** have all passed resolutions rejecting the antisemitic BDS campaign and recognizing calls for Israel's destruction as antisemitic.



⁸⁵ <https://www.consilium.europa.eu/en/press/press-releases/2020/12/02/antisemitism-council-declaration-on-fighting-antisemitism/#>

⁸⁶ https://en-humanities.tau.ac.il/sites/humanities_en.tau.ac.il/files/media_server/Hanbook%20practical%20use%20of%20the%20IHRA.pdf

⁸⁷ <https://www.israelhayom.com/2021/02/04/german-cabinet-recognizes-ihra-as-international-institution/>

Germany - In May 2019, the German Bundestag overwhelmingly passed a resolution labelling the BDS movement antisemitic.⁸⁸ The resolution noted that BDS's tactics *"inevitably arouse associations with the Nazi slogan 'Kauft nicht bei Juden!'" – "Don't buy from Jews!"*⁸⁹ Germany was the first country to officially designate BDS as antisemitic.

Czech Republic – In October 2019, the Czech lower house of parliament passed a resolution condemning *"all manifestations of antisemitism directed against individuals, religious institutions, organizations as well as the State of Israel, including the denial of the Holocaust."* It further rejected *"any questioning of the State of Israel's right of existence and defense"* and *"condemns all activities and statements by groups calling for a boycott of the State of Israel, its goods, services or citizens."*⁹⁰

France - In November 2019, the French National Assembly passed a resolution calling on the government to adopt the IHRA Definition of antisemitism and explicitly recognizing hatred against Israel as a form of antisemitism.⁹¹

Austria - In February 2020, the Austrian parliament unanimously condemned the BDS movement and called on the government not to allow groups that question Israel's right to exist or express antisemitic views to access public infrastructure.⁹² In January 2021, the Austrian government published a comprehensive 38 point plan on combating antisemitism.⁹³

At the beginning of 2021, the Republic of Austria presented a national strategy to prevent and combat all forms of antisemitism. With regard to IHRA, the strategy

⁸⁸ For an in-depth analysis on the sea-change on German attitudes to BDS, see this report by the Foundation for the Defense of Democracies: <https://www.fdd.org/analysis/2020/08/21/boykott/>

⁸⁹ CDU/CSU, SPD, FDP, und Alliance 90/The Greens, "Der BDS-Bewegung entschlossen entgegentreten – Antisemitismus bekämpfen [Resolutely oppose the BDS movement – fight anti-Semitism]," German Bundestag, 19th Parliamentary Term, May 15, 2019. (<http://dip21.bundestag.de/dip21/btd/19/101/1910191.pdf>)

⁹⁰ <https://www.timesofisrael.com/czech-lawmakers-pass-resolution-condemning-bds-movement/>

⁹¹ https://www.assemblee-nationale.fr/dyn/15/textes/l15b2403_proposition-resolution

⁹² <https://www.timesofisrael.com/austrian-parliament-unanimously-passes-condemnation-of-anti-israel-boycotts/>

⁹³ <https://t.co/DKOszwIXVj?amp=1>

underlines that Austria supported the development of a working definition of antisemitism and advocated for its adoption within IHRA. Similarly, Austria later supported the initiative set by the German OSCE Chairmanship in 2017 for the adoption of the IHRA working definition by the OSCE, which, however, did not succeed.

On April 25, 2017, the Austrian Federal Government noted with approval the IHRA's working definition of antisemitism and decided to forward it to the National Council and the Federal Council for information and possible further consideration. At the same time, the Austrian federal government recommended that the working definition of antisemitism be used, for example, in school and adult education as well as in training for the judiciary and the executive branch.

Even before the adoption of the IHRA working definition, the Austrian Federal Office for the Protection of the Constitution and Counterterrorism developed a working definition of antisemitism in April 2016 that is geared to the specific tasks of the Federal Office for the Protection of the Constitution and Counterterrorism and the State Office for the Protection of the Constitution and Counterterrorism and implemented it in a binding manner. This definition covers the entire range of antisemitism and anti-Zionism and also takes into account possible developments. It reads as follows:

"The phenomenon of antisemitism, irrespective of recurring resentments, describes a way of thinking and acting that has been shaped over centuries, has developed ever new forms in the course of history, and can even escalate to deadly hatred. In addition to a negative stereotype of Jews, there is also racist, religious, political and social hostility toward Jews and their institutions. Similar resentments can also be served under the guise of a supposedly legitimate criticism of the state of Israel. The stereotyped perception of Jews is directed in word and/or deed against individuals and groups, their property and the collective. Antisemitism exists even without the physical presence of Jewish individuals."

The strategy paper emphasizes that antisemitic constructions are integral components of the respective ideologies in right-wing extremism as well as in Islamism, and that there are also antisemitic forms of argumentation in the left-wing extremist spectrum.

But even beyond the extremes, traditional antisemitic ideas and anti-Jewish resentments, which have long been rooted in the cultural history of Europe, can be found in the middle of society. They can be found in everyday actions as well as in political debates. Racist antisemitism - the ideological basis of the National Socialist extermination of Jews - is only occasionally at the forefront of agitation in Austria today. Instead, the focus is on secondary antisemitism (which includes all forms of Holocaust denial and relativization) and anti-Israeli/anti-Zionist antisemitism.

The strategy paper states, among other things, that Austria dealt with anti-Zionist antisemitism within the framework of the EU Council Presidency at a high-level conference "Europe Beyond Antisemitism and Anti-Zionism - Securing Jewish Life in Europe" in Vienna on November 21, 2020. A Europe without antisemitism and anti-Zionism is not only the cornerstone of a secure and vibrant Jewish future on the European continent, but also a guarantee for a peaceful and successful future.

The above developments show that European countries, both at the EU and state levels, have demonstrated a serious commitment to protecting their Jewish citizens. Many have specifically recognized through parliamentary or governmental decisions that calls for Israel's destruction are antisemitic and declared that public funds should be used by groups who promote that goal. Furthermore, many of these countries have translated these declarations into practical steps by law enforcement, the judiciary, public institutions and civil society.

3. The United Kingdom

Contemporary antisemitism has been considered by judicial and quasi-judicial bodies in a number of cases in recent years with varying results, observations and sympathy.

Fraser v. University and College Union

In *Fraser v. University and College Union*⁹⁴ the Claimant, a university lecturer, made claims of harassment against his trade union arising out of anti-Israel statements and resolutions made and passed at its meetings. The claims were rejected by an Employment Tribunal mainly on the grounds that the trade union was not legally liable for harassment by its members, including resolutions passed by its members. The Tribunal held that one of the claims, in respect of the Union's invitation to Bongani Masuku to speak at a conference in 2009, would have been arguable if it had occurred after new legislation came into force in 2010. However, they thought that this claim was not covered by the previous legislation, and in any case it was brought long outside the time limit, which they declined to extend.

While the claims were rejected primarily on these legal grounds, the Tribunal also displayed serious ignorance and misunderstanding of the nature of Jewish identity, contemporary antisemitism and its effects on Jews. The Tribunal thought that *"a belief in the Zionist project or an attachment to Israel or any similar sentiment cannot amount to a protected characteristic. It is not intrinsically a part of Jewishness and, even if it was, it could not be substituted for the pleaded characteristics, which are race and religion or belief."* (Par. 150)

The Tribunal seemed unaware that the State of Israel plays a central role in the identity of most British Jews, as it does for Jews in other Diaspora communities. Among British Jews, close to 80% express emotional attachment to Israel and over two-thirds have family or friends in Israel.⁹⁵ The Tribunal's observation is also inconsistent with the acceptance by the House of Lords (the UK's Supreme Court) in *Keren Kayemeth Le Jisroel v Commissioners of Inland Revenue* that *"the return of the Jews to the Promised Land is an element of great importance in their religion and their religious life."*⁹⁶

⁹⁴ *Fraser v UCU* was decided by the Central London Employment Tribunal on 22nd March 2013. The full judgment can be found at: <http://www.judiciary.gov.uk/media/judgments/2013/fraser-uni-college-union>

⁹⁵ Survey carried out by Institute for Jewish Policy Research, <https://pearsfoundation.org.uk/wp-content/uploads/2018/06/Committed-concerned-and-conciliatory-The-attitudes-of-Jews-in-Britain-towards-Israel.pdf>

⁹⁶ [1932] AC 650 at 656



Among British Jews, close to 80% express emotional attachment to Israel and over two-thirds have family or friends in Israel.⁸⁰

The Tribunal began its discussion with a reference to the “*long and terrible [...] persecution of the Jewish people through history*” (par. 51). The Tribunal also noted Fraser’s identity as the son of Jewish refugees whose family members were murdered in the Holocaust (par. 2). However, it seems that this Holocaust invocation merely served to blind the Tribunal to the nature of contemporary antisemitism, as distinct from classical or racial antisemitism typified by the Nazis.⁹⁷

The Tribunal belittled and dismissed Fraser’s experiences (par. 155) and accused him of trying to win a political argument by raising claims of antisemitism (a form of the Livingstone formulation). The Tribunal concluded contemptuously: “*Lessons should be learned from this sorry saga. We greatly regret that the case was ever brought. At heart, it represents an impermissible attempt to achieve a political end by litigious means. It would be very unfortunate if an exercise of this sort were ever repeated*” (Par. 178).

This decision demonstrates the lack of protection and recourse Jews can face from anti-Zionist hostility. Intense anti-Israel actions and attitudes in the UCU led to the resignation and marginalization of Jewish academic members. Jewish members were repeatedly dismissed and slandered as racists, extremists and enablers of apartheid. Israeli academics and their British Jewish counterparts were denied platforms and shunned. Yet, by refusing to understand the role that Israel plays in modern Jewish identity, the court dismissed Fraser’s claims of harassment as mere political debate. Jews are marginalized when their concerns over antisemitism are dismissed. This in effect gives a blanket exception to even the most extreme forms of anti-Israel hostility from being considered antisemitism. **Almost all antisemitic excesses, statements**

⁹⁷ Klaff, L. (2019). Fraser v University and College Union: Anti-Zionism, antisemitism and racializing discourse.

and expressions are excused if directed towards Zionism or Israel. When Jews raise the alarm, they are accused of maliciously trying to prevent criticism of Israel.⁹⁸

Jewish Human Rights Watch v Leicester City Council

In this case, the NGO Jewish Human Rights Watch challenged a resolution of a City Council which read “... *insofar as legal considerations allow, to boycott any produce originating from illegal Israeli settlements in the West Bank until such time as it complies with international law and withdraws from Palestinian Occupied territories.*” The challenge was based on section 149 of the Equality Act 2010,⁹⁹ which requires public authorities to have “*due regard*” when exercising their functions to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct, and to foster good relations between persons of different national, ethnic and religious groups.

The Court of Appeal held¹⁰⁰ that section 149 applied to resolution (par. 27), but that the Council had complied with it, since (in the Court’s view) it did have “*due regard*” to community relations. The Court considered (par. 38) that “*the motion recognised the right of the State of Israel to exist in peace and free from incursion, and was concerned only to condemn certain actions of the Government of Israel. The condemnation was in line with a respectable body of opinion, including the UK government, the United Nations General Assembly, the European Union and the International Court of Justice. The criticism made was temperate and legitimate. The proposed boycott had a limited target in line with that criticism. As the CST report correctly points out, there is legitimate scope for criticism of Israel without that implying antisemitic attitudes. There was nothing in the context set by the proposed resolution and the debate to suggest that the resolution was in fact being proposed as a cover for or incitement to antisemitism. By the amendment, the body of the resolution itself made reference to the importance of good community relationships and promotion of harmony and respect for all people.*”

⁹⁸ David Hirsh ‘Struggles over the Boundaries of Legitimate Discourse: Antisemitism and Bad-Faith Allegations’, in Charles Asher Small (Ed) *Global Antisemitism: A Crisis of Modernity* vol v *Reflections*, New York: ISGAP 2013, pp 89-94.

⁹⁹ <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

¹⁰⁰ <https://www.bailii.org/ew/cases/EWCA/Civ/2018/1551.html>

While the Court brushed aside the criticism that the motion discriminated against the Jewish State by singling it out, without addressing any other States governing disputed territories, it does appear to follow from the Judgment that the resolution would have been illegal if the debate or the resolution itself had been marked by antisemitic tropes such as Nazi analogies or calls for the destruction of Israel.

Nazim Ali

Nazim Hussain Ali led the “Al Quds Day” march in central London on 18 June 2017, 4 days after a devastating fire in a block of flats called “Grenfell Tower” resulted in 72 deaths. Participants waved Hizbollah flags and carried banners calling to “*boycott Israel*”, “*end apartheid*”, “*stop ethnic cleansing*” and the like. A prominent place was given to members of the anti-Zionist Neturei Karta group. Addressing the rally through a loudhailer, Mr Ali said (amongst other things):

“They are responsible for the murder of the people in Grenfell. The Zionist supporters of the Tory Party.”

“Careful, careful, careful, of those Rabbis who belong to the Board of Deputies, who've got blood on their hands, who agree with the killing of British soldiers. Do not allow them in your centres.”

“Any Zionist, any Jew coming into your centre supporting Israel, any Jew coming into your centre who is a Zionist. Any Jew coming into your centre who is a member for the Board of Deputies, is not a Rabbi, he's an imposter.”

“We'll be going past the BBC. We all know what the B stands for in BBC. It's a shame that they never report on the murder of Palestinians. It's a shame that they never report on the killing of innocent men, women and children. The Zionists are known to go to dinner with the heads of the BBC to make sure they don't give us any exposure to the innocent victims of Zionism terrorism.”

"We will not be scared of the Zionist murderers. We will not be scared of Israeli murderers, we will not be scared of Israeli killers, Israeli baby killers."

"Andrew Dismore, the MP is addressing the Zionist crowd, he is another pro baby killer, he likes to kill children and support the killing of children."

"It's in their genes. The Zionists are here to occupy Regent Street. It's in their genes, it's in their genetic code."

"European alleged Jews. Remember brothers and sisters, Zionists are not Jews."

Several British organisations and individuals reported these remarks to the Police and pressed for the prosecution of Mr Ali for hate crimes. The Crown Prosecution Service ("CPS", the public prosecutor) declined to prosecute, on the ground that there was insufficient evidence, even though substantially the whole address (including the remarks quoted above) had been filmed and recorded.

The English Charity, Campaign Against Antisemitism ("CAA"), then commenced a private prosecution under section 5 of the Public Order Act 1986,¹⁰¹ which prohibits the use of threatening or abusive words within the hearing or sight of a person likely to be caused harassment, alarm or distress. However, the CPS exercised its power to take over this prosecution and discontinue it. CAA challenged this decision of the CPS. The Court rejected the challenge, taking the view that the CPS was entitled to conclude that the prosecution was not likely to succeed in showing that the words were "abusive" when taken in their full context.¹⁰²

[In 2019, following many representations prompted partly by the "Al Quds Day" marches, the British government fully proscribed Hizbollah under the Terrorism Act 2000. Until then, only the "armed wing" of Hizbollah had been proscribed under this legislation. Amongst other things, the full proscription made it clear that carrying the Hizbollah flag or other Hizbollah emblems at a public rally was a criminal offence.

¹⁰¹ <https://www.legislation.gov.uk/ukpga/1986/64>

¹⁰² <https://www.bailii.org/ew/cases/EWHC/Admin/2019/9.html>

Following further representations, the Police confirmed that they would now enforce the prohibition, and the 2019 march proceeded without Hizbollah flags.

Mr Ali is a pharmacist and various individuals had also drawn his remarks at the rally to the attention of the regulator, the General Pharmaceutical Council (GPhC). The GPhC postponed consideration while potential criminal proceedings were pending, but following the decision mentioned above, the GPhC referred the case to its Fitness to Practise Committee.

Shortly before the hearing,¹⁰³ Mr Ali made a statement (par. 35) that he wished *“to apologise unreservedly to anyone ... who was offended by my comments on 18 June 2017 ... I am not, and have never been, anti-Semitic. I oppose all forms of prejudice. I never intended to say anything that was anti-Semitic on 18 June 2017. Specifically, I never wanted or intended to cause pain or offence to Jewish people by my comments on 18 June 2017. ...”* He added in a further statement *“I unreservedly accept that the words I used were grossly offensive”* and formally admitted the charge that he had made offensive comments. The hearing proceeded on the remaining charge, that his remarks had been antisemitic.

The Committee received evidence from two witnesses for the GPhC, David Collier and Jonathan Hoffman. David Collier described the experience on his blog.¹⁰⁴ The Committee adopted a dictionary definition of antisemitic provided by their legal adviser as *“hostile to or prejudiced against Jewish people”* (par. 12-13, 199 and 205). They appeared to discount the IHRA definition on the ground that it was a definition of *“antisemitism”* not *“antisemitic”* (par. 200). They considered that whether the remarks were antisemitic should be considered from the point of view of a *“reasonable person”*, not a reasonable Jewish person (par. 212-3), and thus the evidence of Jewish witnesses was of little value (par. 206-210). They considered that the reasonable person would understand *“Zionists”* to be those who support the establishment and maintenance of Israel as a state (par. 220), and would not regard this as the same as

¹⁰³

https://www.pharmacyregulation.org/sites/default/files/determinations/ali_nazim_2041615_principal_hearing_05-11-2020.pdf

¹⁰⁴ <https://david-collier.com/general-pharmaceutical-council/>

“Jews” in the context of Mr Ali’s remarks (par. 222). They concluded that a reasonable person would not regard his remarks as ant-semitic.

A supervisory body, the Professional Standards Authority (PSA), has power to refer decisions of the GPhC and various other regulators for judicial review by the High Court. Representations were made by UKLFI and others to the PSA, pointing out particularly that the Committee was wrong to assess Mr Ali’s rhetoric solely from the standpoint of a “reasonable person”, who they thought would not understand the remarks, and that they should have considered their impact on those to whom they were addressed (whose hatred was incited) and those against whom they were targeted (whose worst fears were raised). The PSA referred the case to the High Court, stating it “was concerned that the Committee had erred in its approach to a charge that the comments made by Mr Ali were antisemitic ... *therefore* the decision taken by the Committee was not sufficient to protect the public.”¹⁰⁵

The case as referred to the High Court now directly raises the issue of the meaning of “antisemitic” in the context of anti-Israel rhetoric, and the outcome is likely to be of considerable importance.

Equality and Human Rights Commission Investigation into the Labour Party

If the Fraser case and the GPhC’s decision represented the inability or refusal of some judicial and quasi-judicial bodies to recognize anti-Zionist antisemitism, the findings of the Equality and Human Rights Commission (EHRC) investigation into the antisemitism in the Labour Party demonstrate the linkage between anti-Zionism and classic antisemitism and what happens to Jews and public institutions when anti-Zionism is allowed to fester and develop.¹⁰⁶

Since Jeremy Corbyn’s election to the head of the Labour Party in September 2015, numerous concerns were raised by the Jewish community regarding Corbyn’s myriad antisemitic connections and anti-Israel rhetoric. Furthermore, Corbyn’s election

¹⁰⁵ <https://www.uklfi.com/nazim-ali-case-referred-to-the-high-court>

¹⁰⁶ Equality and Human Rights Commission, Investigation into antisemitism in the Labour Party, October 2020 Report, <https://www.equalityhumanrights.com/sites/default/files/investigation-into-antisemitism-in-the-labour-party.pdf>

brought the entry of many of his far-left Momentum movement supporters into the Labour party and saw the increase of open antisemitic behaviours in the party.

In May 2019, an official investigation by the EHRC was launched into the Labour Party's institutional antisemitism, prompted by complaints brought forward by the Campaign Against Antisemitism (CAA) and Jewish Labour Movement (JLM).

The report found the Labour Party under Corbyn's leadership responsible for "*unlawful acts of harassment and discrimination*". The investigation "*points to a culture within the party which, at best, did not do enough to prevent anti-Semitism and, at worst, could be seen to accept it.*" The EHRC findings identified serious failings in leadership, an inadequate process for handling antisemitism complaints and political interference in the investigation of these complaints.

The EHRC report found two acts of unlawful harassment directly carried out by Labour party officials, a further 18 borderline cases (carried out by local councillors, local election candidates and Labour Party office holders) for which there was not enough evidence to conclude that the party was legally responsible and many more cases of antisemitic conduct by 'ordinary' party member for which the party was not legally responsible under the Equality Act. Despite the lack of legal responsibility for these actions, the Party failed to adequately address them and institute a "zero tolerance" policy on antisemitism.

The EHRC found that the following types of antisemitic conduct amount to harassment:

- Use of antisemitic tropes:

This means using written or verbal phrases or images that suggest antisemitic ideas or stereotypes. Examples that were found included referring to the idea that **Jews are part of a wider conspiracy** or are responsible for **controlling others and manipulating the political process**, including the Labour Party. For example, referring to Jewish people being a 'fifth column'.

Among the conduct deemed antisemitic and beyond any form of legitimate criticism of the State of Israel was a graphic posted by MP Naz Shah suggesting that Israel should be relocated to the United States, with the comment 'problem solved', and a post in which she appeared to liken Israeli policies to those of Hitler. **Therefore, the EHRC recognized that calls for Israel's destruction or dismantling are antisemitic.**

- Suggesting that complaints of antisemitism are fake or smears:

Labour Party agents denied antisemitism in the Party and made comments dismissing complaints as 'smears' and 'fake'. This conduct may target Jewish members as deliberately making up antisemitism complaints to undermine the Labour Party, and ignores legitimate and genuine complaints of antisemitism in the Party.¹⁰⁷

This is an official repudiation of the "Livingstone formulation", the idea that Jews make up allegations of antisemitism in bad faith in order to silence critics of Israel. The dominant approach to hate crimes in the UK is encapsulated in the Macpherson principle, widely adopted since a racist murder in the 1990s: **the definition of a racist incident is one perceived by the victim as such.** Once the victim's perception has been established, the burden of proof is on the other party to provide an alternate explanation. The "Livingstone formulation" turns this around and assumes that when Jews raise antisemitism concerns, they are not to be believed. **The EHRC correctly labels this "antisemitism denial" as a form of antisemitism.**

The report further denoted the types of unwanted and harassing comments made on social media.¹⁰⁸ These are comments that:

- diminished the scale or significance of the Holocaust
- expressed support for Hitler or the Nazis
- compared Israelis to Hitler or the Nazis
- described a 'witch hunt' in the Labour Party, or said that complaints had been manufactured by the 'Israel lobby'

¹⁰⁷ P. 28 of EHRC report

¹⁰⁸ P. 31 of EHRC report

- referenced conspiracies about the Rothschilds and Jewish power and control over financial or other institutions
- blamed Jewish people for the 'antisemitism crisis' in the Labour Party
- blamed Jewish people generally for actions of the state of Israel
- used 'Zio' as an antisemitic term, and
- accused British Jews of greater loyalty to Israel than Britain.



Equality and Human Rights Commission recognized the following claims as antisemitic harassment:

- diminished the scale or significance of the Holocaust
 - expressed support for Hitler or the Nazis
 - compared Israelis to Hitler or the Nazis
- described a 'witch hunt' in the Labour Party, or said that complaints had been manufactured by the 'Israel lobby'
- referenced conspiracies about the Rothschilds and Jewish power and control over financial or other institutions
 - blamed Jewish people for the 'antisemitism crisis' in the Labour Party
 - blamed Jewish people generally for actions of the state of Israel
 - used 'Zio' as an antisemitic term, and
 - accused British Jews of greater loyalty to Israel than Britain.

The EHRC's decision is based on the Equality Act, which does not define antisemitism. The Commission did not rely on the IHRA definition to come to its conclusion. However, it identified examples of contemporary antisemitism, such as comparing Israelis with Nazis, alleging that complaints were manufactured by the "Israel lobby", blaming Jewish people generally for the actions of the state of Israel, using "Zio" as an antisemitic term and accusing British Jews of greater loyalty to Israel than to Britain. This appears to demonstrate a growing understanding in civil and legal societies of the manifestations of anti-Zionist antisemitism and its links to classic antisemitism. This was brought about by hard work and public efforts of Jewish groups and their allies in the UK. **The Commission dealt with the real damage and harm that the Labour party's antisemitism caused to Jews - mass resignations, harassment and hurt.** As stated before, anti-Zionism is no academic theory - it has real world consequences in prejudice, harassment and hatred towards Jews.

This decision highlights once again that the key to fighting anti-Zionist antisemitism lies in pointing out the links which are invariably found between contemporary and

classic antisemitism and in educating legal authorities so that they can use existing laws to confront the changed landscape of antisemitism.

4. Canada - Novel Anti-Discrimination Claim

Throughout the summer of 2020, Foodbenders, a Toronto restaurant engaged in a series of antisemitic online posts and harassment. The situation reached its apex when the owner of the restaurant posted on her social media accounts that “*Zionists [were] not welcome*” at her institution. This was part of a months long series of posts calling for Israel’s destruction, promoting conspiracy theories regarding Israel and “Zionists”, praising Palestinian terrorists and calling Jews Nazis.

In August 2020, the International Legal Forum, along with Canadian counsel, filed a landmark human rights complaint against Foodbenders for racial, religious and ethnic harassment. The complaint relies on Ontario’s Human Rights Act that prevents discrimination in the provision of goods and services, coupled with interpretations based on the IHRA definition. The case is currently before the Human Rights Tribunal of Ontario.

The restaurant is facing the revocation of its business license due to its potential violation of anti-discrimination by-laws. Provincial politicians were involved in filing the complaints with the municipal regulating body.¹⁰⁹ This is in addition to many delivery service providers cutting off their partnerships with Foodbenders over their antisemitic harassment.

Furthermore, Foodbenders is facing a libel claim of over \$800,000 from a local Canadian-Israeli designer.¹¹⁰ The designer was libelled in a series of online posts as a “Zionist terrorist” and a murderer of Palestinian children due to having served in the Israeli army, a mandatory draft obligation for most Israeli citizens.

¹⁰⁹ <https://torontosun.com/news/local-news/levy-foodbenders-owner-faces-hearing-could-lose-business-licence>

¹¹⁰ <https://www.toronto.com/news-story/10078424-prominent-toronto-designer-is-suing-foodbenders-for-800-000/>

The outcome of these cases has the potential to set a precedent in the understanding of the real harm that anti-Zionism causes to Jewish communities. The court will have the opportunity to examine many of the most common anti-Zionist tropes and their discriminatory effect. It is hoped that the courts will not allow antisemitism to harass Jews, even when it is couched in the language of anti-Zionist euphemisms.



"Open for non-racist shoppers" #ZionistsNotWelcome
Antisemitic social media posts by Foodbenders restaurant. Via Twitter

5. South Africa - Masuku: One Step Forward and One Step Back

Aside from the various successes, there remain setbacks. The decision of the South African Equality Court in the *Masuku* can serve as a case study on how to examine the context in which anti-Zionist statements are made. Despite the ruling's reversal, the second instance decision was heavily criticised in the South African legal community and it is now before a court of third instance. The second instance decision itself can be used to demonstrate the fallacy of separating anti-Zionism from antisemitism.

Equality Court - First Instance

The Equality Court's ruling that Masuku's anti-Israel-fuelled diatribe was hate speech demonstrates the proper approach to examining the context of anti-Israel comments when determining whether they are antisemitic.¹¹¹

Bongani Masuku was the International Relations Secretary of the Congress of South African Trade Unions (COSATU). Masuku made a series of extremely anti-Israel comments and threats in the aftermath of the December 2008 - January 2009 Operation Cast Lead. In response the South African Jewish Board of Deputies (SAJBOD) filed a complaint against Masuku with the South African Human Rights Commission. According to s 10(1) of the Equality Act¹¹², no person may propagate or advocate words based on race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth and HIV/AIDS status against any person that could reasonably be construed to demonstrate a clear intention to be hurtful, harmful or to incite harm or to promote or propagate hatred. The South African constitution limits freedom of speech in cases of advocacy of hatred based on race, ethnicity, gender or religion and that constitutes incitement to cause harm.

On February 10, 2009, Masuku posted the following remarks online:

"...As we struggle to liberate Palestine from the racists, fascists and Zionists who belong to the era of their Friend Hitler! We must not apologise, every Zionist must be made to drink the bitter medicine they are feeding our brothers and sisters in Palestine. We must target them, expose them and do all that is needed to subject them to perpetual suffering until they withdraw from the land of others and stop their savage attacks on human dignity. Every Palestinian who suffers is a direct attack on all of us!"

¹¹¹ Masuku v South African Human Rights Commission obo South African Jewish Board of Deputies 2018 ZASCA 180 (4 Dec 2018)

¹¹² The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

On March 5, 2009 and during a rally convened by the Palestinian Solidarity Committee (the PSC), at the University of Witwatersrand (Wits), Masuku threatened supporters of Israel with “*hell*”. Masuku spoke at an event promoting the boycotting of Israel, which was attended by anti-Israel and Jewish students. He said:

“... The following things are going to apply: any South African family, I want to repeat it so that is clear for anyone, any South African family who sends its son or daughter to be part of the Israel Defence Force must not blame us when something happens to them with immediate effect...”

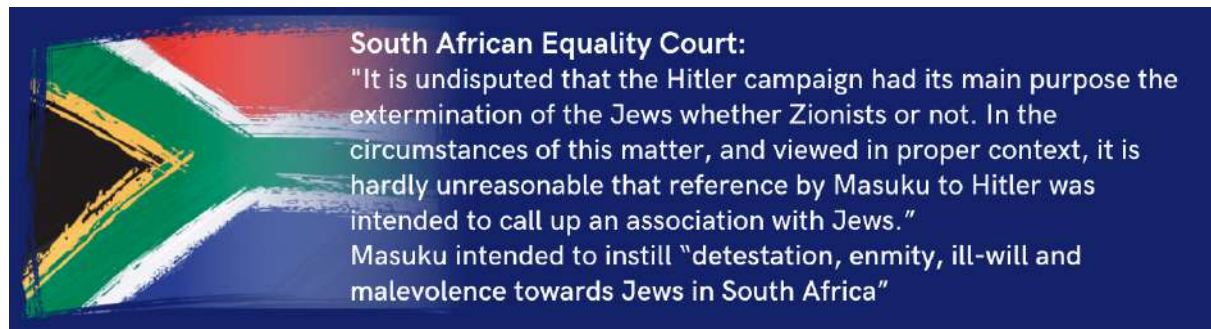
Masuku’s further statement also threatened that those “*who does not support rights of other people must face the consequences even if it means that we will do something may necessarily cause what is regard as harm...*”

At the Equality Court, Masuku argued that his statements in no way attacked Jewish race, ethnicity or religion. According to Masuku, he made a specific reference to Zionists and that Zionism is a political ideology inclusive of various religious groups. Zionists are not a protected group and as such, none of his statements constitute hate speech or incitement to harm under South African law.

As the Equality Court established, the statements were made at a rally held by the Palestinian Solidarity Committee at the Wits university campus. The event was attended by pro-Palestinian students, with Jewish students supporting Israel in protest. A Jewish witness to the event testified that he felt threatened and intimidated by the remarks.

According to the Equality Court, the statements were offensive and targeted at the Jewish community present or not during the utterances. Masuku made reference to Wits and Orange Grove - the university on which Jewish students were protesting and a suburb with a large Jewish community respectively. These references, combined with the threat of “facing the consequences” and “harm”, constitute unprotected speech that results in the humiliation and degradation of the target. The judge also noted that the intention of Masuku himself was wholly irrelevant to the matter and rather focused on how the words could be reasonably interpreted as indicating a plain

aim to be hurtful, harmful or propagate hatred in the circumstances of the matter. Contrary to Masuku's attempted justifications of his threats as merely metaphorical language, the Court understood his words as direct incitement to cause harm to South African Jews.



The Court rejected Masuku's argument that his comments were not directed towards Jews. A later blog post explicitly referenced Jews. The Court accepted evidence brought by expert witnesses that **most Jews in South Africa and worldwide consider themselves Zionists**. The post *"further refers to Zionists as belonging to the era of their friend, Hitler. It is undisputed that the Hitler campaign had its main purpose the extermination of the Jews whether Zionists or not. In the circumstances of this matter, and viewed in proper context, it is hardly unreasonable that reference by Masuku to Hitler was intended to call up an association with Jews"* (par. 48). Masuku intended to instil **"detestation, enmity, ill-will and malevolence towards Jews in South Africa"** as punishment for Israel's supposed crimes towards the Palestinians. Indeed, the only other identifiable group who held different views than Masuku at the event at which he spoke were Jews. His reference to Orange Grove, a suburb with a large Jewish population, can rightly be interpreted as referring to Jews. The same goes for his reference to South African families whose children join the Israeli Defence Force, something done exclusively by Jews.

Masuku's comments went far beyond political speech. *"... The content of the statements is rather profound, and not merely mundanely offensive. The statements were made to an extremely tense audience and in a tense political climate. The statements conveyed more than ordinary detestation for the Jewish and Israeli community and their origin and religion, and were accompanied by threats of potential*

violence, and aim to subject this minority targeted group to probable mistreatment, based purely on their religious and ethnicity affiliation... ***It is equally irrelevant whether the impugned statements, individually or cumulatively, were aimed at Zionism when regard is had to persecution and discrimination inflicted on the Jewish community historically. The protection of their rights, especially equality and religion, remain crucial*** (par. 54, emphasis added).” The court did not provide its own definition of Zionism but took into account the context provided by some witnesses including expert witnesses.

The Equality Court ruled that Masuku’s statements consisted of hate speech and ordered Masuku to make an unconditional apology to the Jewish community. The Equality Court rightly understood that in this context anti-Zionism, despite protests to the contrary, targets Jews. Although people of all religions and ethnic groups may be sympathetic to Zionism, they are supporters or allies to Jews, who form the main players of Zionism. This is consistent with the social justice notion that oppressed groups play the central role in directing their own struggle, with supportive members of majority groups serving as “*allies*”.

Second Instance - Supreme Court of Appeal

Masuku subsequently appealed the decision to the Supreme Court of Appeal, (Court of Second Instance) which overturned the Equality Court’s decision.¹¹³ In its short decision, the Court of Appeal took issue with the identification of Zionism with Jews. Relying on dictionary definitions and expert witnesses, the Court understood Zionism to mean a political ideology that aimed at founding a Jewish state and now supports the State of Israel. However, it found that Zionism is not synonymous with Jews.

“The furthest one can take the matter is that because very many Zionists are Jewish and very many Jews may be Zionists, the two concepts may, in some circumstances, become blurred if care is not taken to distinguish between them” (par. 25).

¹¹³ Masuku & Ano v SAHRC (1062/2017) [2018] ZASCA 180 (04 December 2018)

The court ignored the contextual factors considered by the court a quo. The court held that Masuku's words were nothing more than "*political speech*" (par.29) and that nothing that Masuku said transgressed the boundaries of the Constitution.

Following the Supreme Court of Appeal's overturning of the decision, the South African Jewish Board of Deputies appealed to the Constitutional Court. (Court of third instance and the Highest Court in South Africa) in August 2019. The case was heard in the Constitutional Court, but judgment has been withheld as there was subsequently a constitutional challenge to the existing legislation concerning hate speech and will only be issued once that has been clarified¹¹⁴. **The decision by the Supreme Court of Appeal (the Court of Second Instance) was widely criticized in the South African legal community**¹¹⁵. One reason was that the court overlooked the applicable legislation which had been created specifically in terms of Constitutional imperatives enjoining the South African Legislature pass legislation to clarify and define what would constitute hate speech (as an aside the SAJBD was instrumental in assisting the legislature in the drafting of certain aspects of the said legislation and gave substantive input on the legislation when it was in the drafting phase) regarding hate speech and relied directly on the Constitution itself.

The Supreme Court of Appeal's ruling is deeply flawed as it posits only a coincidental connection between Jews and Zionists. There are many Jewish Zionists, and many Zionist Jews, in the same way that there are many liberal Jews or Jewish accountants. This is a fundamental misunderstanding of the link between Zionism and Judaism. Jews who identify as Zionist do so *because of their Judaism, and it is central to their identity as Jews*. In addition to the historical, cultural and religious ties that connect Jews to the Land of Israel, for many Jews, Zionism is a central aspect of their personal family histories. In South Africa, this phenomenon is especially pronounced. A very large portion of South African Jews are third or fourth generation descendants of Holocaust survivors. The mainstream Jewish community understands the genocidal experience of the Holocaust as the ultimate expression of Jewish powerlessness and

¹¹⁴ See *Qwelane v SAHRC & others* (686/2018) [2019] ZASCA 167 (29 November 2019) which went on appeal to the Constitutional Court and is now awaiting judgment.

¹¹⁵ For example, see article by David Bilchitz "Why incitement to harm against those with different political opinions is constitutionally impermissible" 2019 *TSAR* 364

statelessness. For them, the existence of the State of Israel is a guarantee that Jews will no longer face persecution or oppression. This identification with the State of Israel goes far beyond any specific Israeli policy - the Jewish state's existence is understood as the anchor for their own personal safety and confidence to live as Jews in Diaspora communities.

While this personal experience is particularly pronounced in South Africa, it is by no means unique. The 20th century saw the destruction of the centres of Jewish life in Europe by the Germans and their collaborators during the Second World War. Additionally, following the rise of Arab nationalism in the 1940s, close to a million Jews were displaced from communities in Arab and Muslim countries in which they had lived for millennia. Most of the refugees from Europe and the Middle East were resettled in the State of Israel. This experience of upheaval and displacement has profoundly affected modern Jewish identity and brought most Jews, whether in Israel or in the Diaspora, to understand the State of Israel's existence as the antidote to this threat. As such, Zionism stems from Jewish identity and is in fact seen as a guarantee of Jewish survival and continuity.

An Australian federal court, in discussing the harm caused by Holocaust deniers to the Jewish community, noted: *"... the Australian Jewish community has the highest percentage of survivors of the Holocaust of any Jewish community in the world outside of Israel... thus challenges and denigrates a central aspect of the shared perception of Australian Jewry of its own modern history and the circumstances in which many of its members came to make their lives in Australia rather than in Europe. To the extent that the material conveys these imputations it is, in my view, more probable than not that it would engender feelings of hurt and pain in the living by reason of its challenge to deep seated belief as to the circumstances surrounding the deaths, or the displacement, of their parents or grandparents. For the same reason, I am satisfied that it is more probable than not that the material would engender in Jewish Australians a sense of being treated contemptuously, disrespectfully and offensively."*¹¹⁶ The same

¹¹⁶ Jones v Toben [2002] FCA 1150, [93].

https://adsdatabase.ohchr.org/IssueLibrary/FEDERAL%20COURT%20OF%20AUSTRALIA_Jones%20v%20Toben.pdf

holds true for the historical events that led the overwhelming majority of Jews to either live in, or identify with, the State of Israel.

Therefore, this decision underscores the crucial need to educate the judicial officials on the nexus between Judaism and Zionism, and the effects of anti-Israel antisemitism on Jewish communities.

J. Practical Tools to Combating Anti-Israel Antisemitism

As previously mentioned, the European Union published a practical handbook on how to use the IHRA definition to combat antisemitism. In this section, we will highlight some main tools that can be adopted by law enforcement, the judiciary, educational institutions, governments and civil society.

1. Law Enforcement

Police officers and law enforcement agents are often required to use their judgement in reporting an incident as a hate crime. Without familiarity with the nature of Israel-related antisemitism, police may not be able to recognize the antisemitic motivation or character of an incident. When Jews (and other minority groups) believe that their criminal complaints will not be adequately addressed, they are less likely to report hate crimes in the first place. This in turn leads to a chronic underreporting of antisemitic incidents, making it more difficult for governments to adequately access and deal with antisemitism.¹¹⁷

Therefore, it is incumbent upon states to incorporate the IHRA working definition and materials on Israel-related antisemitism in police training and curricula. This is already the case in several states. For example, in Germany, the IHRA definition is included

¹¹⁷ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-antisemitism/monitoring-antisemitism_en

in guidelines on how to record hate crimes.¹¹⁸ In England and Wales, police training incorporates the IHRA definition.¹¹⁹

This way, law enforcement would accurately classify an assault on Jews with anti-Israel slogans or at an Israeli cultural event as an antisemitic hate crime.

2. Judiciary

Similar to law enforcement, judges and attorneys are called upon to decide on whether speech or action violate anti-discrimination or hate crimes law. While classical antisemitism or Nazi themes are easy to recognize, much of the legal community is unfamiliar with anti-Zionist conspiracy theories or imagery. This makes it harder to discern antisemitic patterns or motivations when they are camouflaged in anti-Israel garb. As we have seen in the *Fraser* and *Masuku* cases, judges who do not understand contemporary anti-Zionism leave Jewish victims with no redress and damage trust that Jewish communities have in the legal system. Therefore, the IHRA definition and materials on anti-Zionist antisemitism must be incorporated into the training and curriculum of attorneys and judges. Hate crime and anti-discrimination legislation can officially reference the IHRA definition in assessing an incident's motivation.

3. Higher Education

As previously described, university and college campuses can sometimes be a hostile place for Jewish students. Jewish students can be silenced or shunned when they express pro-Israel views. Political, cultural or social events featuring Israeli speakers or relating to Israel can be forcibly shut down. Jews may be excluded from student government or social initiative due to their real or supposed affiliation with Israel.

¹¹⁸ Bundestag Printed Paper 19/8180, 7 March 2019, p. 16ff; <http://dipbt.bundestag.de/dip21/btd/19/081/1908180.pdf> Bundestag Printed Paper 19/19403, 25 May 2020, <http://dipbt.bundestag.de/dip21/btd/19/194/1919403.pdf>

¹¹⁹ College of Policing, Hate Crime Operational Manual, 2014, pp. 36-38, <http://www.college.police.uk/Whatwe-do/Support/Equality/Documents/Hate-Crime-Operational-Guidance.pdf>

University administrations must actively affirm the right of Jewish students to express their Jewish and Zionist identities free from punishment or repercussion from professors or peers. While critical debate of Israeli policies or Middle Eastern politics is an essential part of academic freedom, administrators must deal with professors or students who cross the line into threats or conspiracy theories against Jewish students. Universities must ensure that Jewish students are able to hold events without harassment or disruption, which means that they must be prepared to protect these events if necessary. The IHRA definition should be incorporated into university codes of conduct and anti-discrimination guidelines.

Furthermore, national governments must ensure that universities protect Jewish students from discrimination and harassment. This can be modelled along the American Executive Order on Combatting Anti-Semitism.

K. Conclusion

The parallel rises in antisemitic violence and extreme anti-Israel rhetoric are undeniable. Far from being mere “criticism” of Israel, anti-Zionism marks out the Jewish state as inherently evil, violent and irredeemable. Its ultimate goal is the violent destruction of the State of Israel, which would be a horrific catastrophe for its Jewish population and Jewish communities worldwide. Anti-Zionism though, is also a domestic problem as it legitimises and encourages attacks on Diaspora Jewish communities.

This document has highlighted anti-Zionism antisemitism’s manifestations, characteristics, sources and consequences. It has demonstrated that many countries, especially in North America and Western Europe, are waking up to its dangers and have made the safety and protection of their Jewish citizens into an urgent legal and civil policy. This document has also discussed several practical steps that can translate the goal of combating antisemitism into a reality.

Close to 80 years after the systematic genocide of European Jewry, civilized countries must ensure that Jewish life can flourish within their borders so that the promises of equality and tolerance can have real meaning.

"Jews cannot fight antisemitism alone. The victim cannot cure the crime. The hated cannot cure the hate. It would be the greatest mistake for Jews to believe that they can fight it alone. The only people who can successfully combat antisemitism are those active in the cultures that harbour it..."

Antisemitism begins with Jews, but it never ends with them. A world without room for Jews is one that has no room for difference, and a world that lacks space for difference lacks space for humanity itself."¹²⁰

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and a world that lacks space for difference lacks space for humanity
itself."¹⁰⁵

Rabbi Jonathan Sacks



¹²⁰ Sacks, J. (2012). *Future tense: Jews, Judaism, and Israel in the twenty-first century*. New York: Schocken.

L. Appendix A - IHRA Good Practice Checklist from European Commission Handbook

Government	Endorsement by Head of State, Cabinet or Parliament	
Legislation	Hate crime legislation	
	References to IHRA Definition	
Interior/ law enforcement	Policy training and curricula	
	Educational materials and manuals for police officers on antisemitic hate crimes	
	Reference for hate crime recording	
	Appointment of a police liaison official on antisemitic	
	Extra-curricular police training, also with civil society organizations or Jewish community institutions	
	Establishment of an internet monitoring division within the police, using the IHRA definition	
Judiciary and judicial authorities	Appointment of a state attorney or commissioner for antisemitism, using IHRA definition as orientation	
	Included in curriculum for state attorneys	
	Included in curriculum for judges	
	Extra-curricular training state attorneys provided	
	Extra-curricular training for judges provided	
Education	Guiding reference at education ministries	
	Evaluation of educational material against the IHRA definition	
	Included in curriculum for teachers (e.g. political science, history, citizenship)	
	Educational material on antisemitism by the education ministry	
	Extracurricular classes for teachers, educators and decision makers	
	Use by school administrations for preventive and reactive measures	
	Referenced by Codes of Conduct at universities	

	Support of academic research on antisemitism	
Foreign affairs	Guiding reference at Foreign Ministry	
	Condemnation of antisemitic incidents related to foreign policy	
	Basis for reporting on antisemitic incidents worldwide	
State funding for programmes against antisemitism	State funding for civil society programmes against the antisemitism based on and disseminating the IHRA working definition	
Funding control mechanism	Control mechanism to avoid funding for antisemitic groups and projects	
Subsequent administrative levels	Disseminating the IHRA definition at municipal and regional government level (state and civil society)	
At technical and working levels	National action plan for combating antisemitism - Commissioner/coordinator	
	Inter-ministerial working group on antisemitism	
Civil society organizations	Dissemination among partners and networks	
	Recording and reporting antisemitic incidents	
	Providing police training	
	Support for victims of antisemitism	