AMNESTY INTERNATIONAL
LINES OF RESPONSE

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1. **How does Amnesty International understand antisemitism and what is the relationship to racism?**

Antisemitism is used to denote the phenomenon of discrimination, prejudice, stereotypical discourse and hostility towards people who are Jewish or who are perceived to be Jewish, and/or their property, community or religious institutions because of their religious beliefs or identity. Tackling antisemitism is part of the wider work against discrimination and against different forms of racism, which authorities have an obligation to prevent, address and eliminate.

As such, Amnesty International approaches its work against antisemitism as part of its wider strategies to tackle all forms of discrimination and to combat racial injustice. In this sense, we are clear that states have an obligation under international human rights law to take effective steps to counteract stereotypes and societal prejudice, which may, in some contexts, fuel discrimination, violence and other abuses, and must exercise due diligence to protect members of the group concerned against any such abuses.

2. **What is Amnesty International's position on the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism?**

Amnesty International rejects the IHRA definition of antisemitism, being concerned that the prohibition of the conduct in some examples described as 'contemporary examples of antisemitism' would constitute a curtailment of political expression, that is protected under international human rights law and would undermine the right to defend human rights. These 'contemporary examples of antisemitism' include 'denying the Jewish people their right to self-determination; e.g. by claiming that the existence of a state of Israel is a racist endeavour'; 'Drawing comparisons of contemporary Israeli policy to that of the Nazis' and 'Applying double standards by requiring of [Israel] a behaviour not expected or demanded of any other democratic nation'.

The IHRA definition and its examples are part and parcel and cannot be separated from each other. Since its inception in 2016, it has always been seen as one package. Repeated statements by the IHRA leadership, as well as laws and policies in states that have adopted the IHRA definition, have made it clear that the examples provided by the IHRA definition are intrinsically linked to it and inseparable. In May 2018, IHRA's Committee on Antisemitism and Holocaust Denial unilaterally proclaimed that 'the definition and the examples constituted the full definition, and that the subject was not open to further discussion'. In June 2020, IHRA's Chair stated: 'When IHRA member countries agreed to the text of the working definition, they adopted it in its entirety — the text inside the box, and the examples included. So that means, each Member Country stands behind the text of the working definition in its entirety — the text inside the box, and the examples included.'

Over the years, the IHRA definition and its examples have repeatedly been instrumentalized by authorities to suppress criticism of the Israeli state's policies by wrongly labelling such criticism as antisemitic, stifling growing calls for an end to Israel's violations of international law, including the system of apartheid that it imposes on Palestinians, and for an immediate ceasefire in Gaza. There have also been proposals for new laws, based on the IHRA definition, which could further restrict and stifle criticism of the state of Israel and its policies. The stifling of criticism of Israeli state's policies and resulting chilling effect is exacerbated by the increasing number of people being sanctioned for criticizing the state of Israel or expressing support for Palestinian rights online. It is worth noting that authorities in a number of states are also weaponizing existing 'counter-terror' laws to supress freedom of expression in relation to solidarity with Palestinians.

Branding fair criticism of Israeli government's human right record as antisemitic also undermines the fight against real antisemitism.

3. How is the IHRA used to restrict and criminalize freedom of expression?

The IHRA definition is not legally binding and states who join the IHRA are not bound by international law to enshrine it in law or implement it in policy and practice. However, many States have taken moves to integrate the IHRA definition into their domestic laws and policies.

Thus far, the IHRA definition has been adopted or endorsed by 43 countries to provide guidance on what constitutes antisemitism and therefore amounts to hate speech or hate crimes. For example, a new US law and an EU Handbook that follow the IHRA definition and its examples are being used to train police officers, prosecutors, judges, educators, civil servants and human rights monitoring bodies to identify and track manifestations of antisemitism. The IHRA definition is also being used to categorize antisemitic incidents, as collected by a wide range of actors including police officers, interior and justice ministries, civil society organizations, hate crime monitoring bodies and academics; to support decision-making processes by states, law enforcement agencies, the judiciary, municipal governments, educators, civil society organizations and Jewish communities; and to identify aspects of antisemitism in court hearings, prosecutor actions, police recordings, investigations and hate crime statistics and to help direct funding to civil society organizations and human rights organizations.

Since all these laws and handbooks are based on the IHRA definition and its examples, many forms of expression that are protected under international law and should not be considered as antisemitic are indeed being unduly suppressed and criminalized. Moreover, since many countries and organizations are using this definition to document instances of antisemitism, statistics on antisemitism are inaccurate as it is impossible to distinguish which incidents constitute discrimination against Jewish people and which relate to conduct that is protected under international law but wrongly considered as antisemitic. This results in a misrepresentation of the problem thus hindering the prospect of adopting adequate measures to counter antisemitism.

4. When has the application of the IHRA definition of antisemitism led to the restriction of freedom of expression?

Amnesty International opposes the IHRA definition because it has resulted in violations of the rights to freedom of expression, peaceful assembly and the principle of non-discrimination.

The IHRA definition has been endorsed, adopted and implemented in law and/or policy by 43 states in different ways, as well as by thousands of academic and cultural institutions. Some states have passed laws incorporating the IHRA definition, for example in Romania. Other countries have adopted the definition in non-binding resolutions of legislative bodies, such as the French National Assembly and Senate. Such resolutions mandate the government to promote the IHRA definition in education, judicial and law enforcement services.

The IHRA definition and examples have also informed government rhetoric and policies. For example, France's President Emmanuel Macron and the Interior Minister Gerald Darmanin have repeatedly declared 'antizionism to be the new form of antisemitism' and France's national strategy for combating racism bases its goals and objectives on antisemitism on the IHRA definition. In this case, the IHRA definition informs what constitutes hate speech or discriminatory and extremist expression that constitutes incitement to violence or hatred, influencing the enforcement of laws and policies designed to prevent and punish these crimes. It also feeds into the conflation of Israel as a state and Jewish people by equating criticism of Israeli policies with discrimination, prejudice, stereotypical discourse and hostility towards Jewish people.

State authorities often impose significant and disproportionate restrictions on organizers and participants in peaceful assemblies, including the criminalization of expression during protests and demonstrations in the form of fines, arrest and prosecution for using specific slogans, symbols, flags, speeches and chants. Several states, including the UK, Germany, Austria and the Czech Republic, have either wrongly labelled or banned certain words or phrases as inherently antisemitic or as 'terrorist'

propaganda, including ‘from the river to the sea, Palestine will be free’ or ‘Intifada’.

The crackdown on peaceful assemblies is having a chilling effect that is being compounded by the number of prosecutions of people criticizing the state of Israel or expressing support for Palestinian rights online, as the authorities are weaponizing existing 'counter-terror' laws. There have also been proposals for new laws which could further restrict and stifle criticism of the state of Israel.

5. Is criticism of Israel antisemitic?

Criticism of any state, its founding principles, ideology or practises cannot in itself be prohibited or penalized. In fact, the Human Rights Committee has observed that uninhibited public debate concerning public institutions should be highly valued and protected. In this sense, expression that criticizes Israel or Zionism should not be restricted even if they are considered as shocking or offensive as long as they do not advocate hatred that incites violence, hostility or discrimination. The same standard applies for criticism of any other state or ideology, for example criticism of the Islamic Republic of Iran or the Russian federation or their founding principles, ideologies or practises cannot be in themselves be considered as Islamophobic or anti-Russian.

International human rights law is also clear that laws promulgated with the purpose or effect of inhibiting legitimate criticism of government or public officials violate the right to freedom of expression. Amnesty International opposes laws that prohibit insult or disrespect of heads of state or public figures, the military or other public institutions or flags or symbols (such as lèse majesté and desacato laws). International human rights law states that all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. In fact, public officials should tolerate a greater latitude of public scrutiny from society given the public interest resulting in criticism of them.

Legal provisions to protect the right to honour and reputation are designed to protect individuals, not abstract values or state institutions. Criminal or other laws that provide special protection against criticism of public officials or state institutions are inconsistent with the right to freedom of expression and should never be adopted or if currently in existence, should be repealed.

Conversely, automatically conflating Jewish people with the actions of the state of Israel is antisemitic. For example, requiring Jewish people to condemn Israeli actions simply because they are Jewish or holding Jewish people responsible for the actions of Israel. Similarly, conflating or interchanging Jewish people and Israeli people (as a nationality) is antisemitic.

However, it is important to note that peaceful actions, like protests or boycotts, targeting the state of Israel or Israelis who have a connection with the state policies or state institutions that are condoning or supportive of illegal policies and practice, are not antisemitic. However, targeting Israelis solely because of their nationality would constitute discrimination based on nationality which is a protected ground under international law.

6. When is criticism of Israel considered antisemitic?

It is important to distinguish antisemitism, which constitutes discrimination on the basis of Jewish identity, from other speech that targets Israeli people, which can constitute discrimination based on nationality, or Israel as a State. Jewish people and people perceived to be Jewish should be distinguished from and not equated or conflated with the Israeli authorities, Israel’s policies or violations of Palestinians’ rights. Such conflations are themselves a form of antisemitism.

Conflating or linking scrutiny or criticism through peaceful means of Israel’s human rights violations or the state of Israel’s policies, Zionism, or founding principles with terrorism or antisemitism is both contrary to international law and sets a dangerous precedent.

Under international human rights law, states have an obligation to prevent and prosecute hate crimes and all forms of advocacy of hatred that incite violence, hostility or discrimination. Advocacy of hatred is more than just the expression of ideas or opinions that are hateful towards members of a particular

group. It requires a clear showing of intent to incite others to discriminate, be hostile (experience intense and irrational emotions of opprobrium, enmity and detestation) toward, or commit violence against, the group in question.

All advocacy of hatred that constitutes incitement to violence, hostility or discrimination must be prohibited, but it is important to distinguish when this is done on the basis of Jewish identity (which would be antisemitic) and when it is based on other grounds. For example, incitement to violence against Israelis which should be equally prohibited, would not be automatically antisemitic but can constitute discrimination based on nationality.

It is also important to note that restricting expression in isolation is an ineffective means to combat discrimination, and therefore effective protection and social inclusion of marginalized groups requires broader interventions from the state and other stakeholders. As proposed by the Rabat Plan of Action, tackling the root causes of intolerance requires a much broader set of policy measures, including education on pluralism and diversity, and policies empowering minorities and indigenous people to exercise their right to freedom of expression.

7. Why do we point to the Jerusalem definition and not the Nexus definition of antisemitism? What are the differences between the two?

In April 2023, we signed a letter endorsing Nexus with the Jerusalem Declaration (see Global: UN must respect human rights while combatting antisemitism - Amnesty International). After careful reflection, Amnesty International does not now point to the Nexus definition of antisemitism as it uses vague examples of antisemitism in relation to Israel that could lead to undue restrictions on expressions that are protected under international law.

The Nexus definition of antisemitism describes Israel as 'an embodiment of collective Jewish organization and action'. This framing replicates antisemitic constructions of 'the collective Jew' and the conflation of all Jewish people with Israel, something that the Nexus definition itself critiques.

Another aspect of concern is that the Nexus definition is particularly concerned with 'antisemitism and Israel in American politics'. Amnesty International analyses antisemitism as a form of discrimination as defined under international human rights standards, not domestic political contexts.

On the other hand, the Jerusalem Declaration on Antisemitism of 2021 has been signed by hundreds of scholars of antisemitism, Holocaust studies, Jewish studies and Middle East studies. It's preamble explicitly cites international standards, including the Universal Declaration on Human Rights, the Convention on the Elimination of all Forms of Racial Discrimination, the Declaration of the Stockholm International Forum on the Holocaust, and a United Nations resolution on Holocaust Remembrance. Furthermore, it situates the fight against antisemitism and its distinctive features as inseparable from the fight against all forms or racial, ethnic, cultural, religious, and gender discrimination.

A crucial distinction between the Nexus definition and The Jerusalem Declaration is that the latter (the JDA) recognizes the protection of political speech in international human rights standards and marks a clear distinction between expression that may be shocking or offensive and expression that is antisemitic and must therefore be prohibited. As the Jerusalem Declaration states, 'the line between antisemitic and non-antisemitic speech is different from the line between unreasonable and reasonable speech'.