

In Defense of the IHRA Definition (despite Its Defects as a Definition)

Bernard Harrison

Abstract

The IHRA definition of antisemitism has been widely criticized on the alleged grounds that it restricts freedom of speech, by misconstruing as antisemitic entirely legitimate criticisms of Israel. A proposed alternative, the Jerusalem Declaration (2021), has been presented by its sponsors as remedying these purported defects. The present paper approaches these questions by way of a different line of objection, focusing on the inadequacies of both definitions as definitions. It proceeds, by way of an examination of the nature and functions of definition in general, to show that certain changes to the “working definition” of the IHRA are all that is required to deal with the objections on grounds of freedom of speech, and that, so amended, the IHRA definition offers a far less misleading guide to contemporary manifestations of antisemitism than the Jerusalem Declaration.

Keywords: functions of definition; IHRA; Jerusalem Declaration; Jews as evil; political discourse vs. defamation

To me, anti-Semitism is now the most shocking of all things. It is destroying much more than the Jews; it is assailing the human mind at its source, and inviting it to create false categories before exercising judgement.

—E. M. Forster, *Two Cheers for Democracy*¹

Some readers may be inclined to dismiss definitional questions as a matter of arbitrary linguistic conventions that may be selected, revised, or replaced at will, and with little consequence; but this misunderstands the problem.

—Kenneth Marcus, *The Definition of Antisemitism*²

In several recent papers,³ my legal colleague Lesley Klaff and I have argued that these criticisms are without foundation. In this paper, however, I propose to examine a different, and far less frequently explored line of criticism, namely, that the IHRA definition is seriously defective *as a definition*. I shall argue once again that, although the IHRA definition is indeed defective in this respect, the defects in question in no way invalidate its claim to offer an accurate, albeit rough, guide to some of the main ways in which Jew-hatred manifests itself at the present moment in history.

INTRODUCTION

The IHRA definition of antisemitism has been widely criticized on the alleged ground that it restricts freedom of speech by stigmatizing, as antisemitic, views that critics assert to fall well within the bounds of legitimate political controversy.

WHAT IS ACHIEVED BY DEFINING TERMS?

“Antisemitism” is an abstract general name, and in addition one that functions as a basic term in certain important political and moral debates. It might be worthwhile to begin, therefore, by asking why, in general, we consider it important to possess adequate definitions of such terms,

and what such definitions are supposed to do for us. An obvious and commonplace answer would be that unless the participants in a debate are careful to define the terms fundamental to their dispute, they cannot be sure that they are talking about the same things, or even that the differences under dispute between them are not merely verbal, in which case they were never in dispute about *things* in the first place, but merely about words.

So what does a definition have to do, to achieve, in order to assure disputants that they are disputing about the same things, and about things rather than about words? Again the obvious and commonplace answer is that an adequate definition of a general name “N” ought to explain what characteristics it is necessary and sufficient for a thing to display in order for it to be correctly describable as an N: as a horse, say, or as antisemitic. That, let us say, is the fundamental goal of defining a term. Any putative definition that fails to achieve that goal is *a fortiori* an inadequate definition.

STIPULATION VS. DISCOVERY

A less obvious question is this: do the characteristics that justify us in regarding something as an N owe their status in that respect to arbitrary stipulation, or to discovery. Do we—or as philosophers and linguists prefer to put it, “the linguistic community”—simply invent them, or could we, in some sense (and if so, in what sense, precisely?) be said to discover them? Might they be, say, in part the outcome of empirical enquiry?

There is a natural temptation to reject the last of these suggestions out of hand. Ordinarily we presume a natural language to be a human construct: an elaborate system of essentially arbitrary conventions. No one would seriously suppose the conventions governing the formation of the past imperfect tense in English to be dictated by nature. Why, then, should one suppose nature to dictate the conditions of application of English general names?

One can think of many cases where such a supposition would indeed be absurd. Take, for example, the definition “Bachelor: unmarried man.” Plainly we do not *discover*, by empirical enquiry, that bachelors are unmarried men. It is simply a “rule of language,” a stipulation, that unmarried men are called “bachelors” in English.

Other cases, however, are less clear. We have been assuming, so far, that to “know the meaning” of a term it is not only sufficient, but necessary, to possess a grasp of its conditions of application sufficient to permit one to apply it to concrete examples: to actually pick out some N’s. And, clearly, this is sometimes the case. If I know that “bachelor” means “unmarried man,” that knowledge puts me in a position to pick out the bachelors among my acquaintance.

But is that always the case? Take, for instance, the word “aardvark.” Like many other speakers of English lacking specific kinds of zoological knowledge and experience, I find myself, unhappily, quite unable to pick out any of the actual individuals to which the term applies. It would be fruitless, that is to say, for you to present me with a mixed bag of unfamiliar kinds of animal, and ask me to pick out the aardvarks among them. I fear I do not know what an aardvark looks like, or even how big it is. You could show me, in other words, any unfamiliar animal you pleased and tell me “This is an aardvark,” and I should be in no position to contradict you.

Nevertheless, it would still be true to say that there is a sense in which I do, despite that, know something about the conditions of application of the term, and something, moreover, sufficiently fundamental to allow me a perfectly reasonable claim to “know the meaning” of the term. I know, that is, that in English “aardvark” serves as *the name of a kind of animal*. To know that, moreover, is clearly a matter of knowing something merely *stipulative* in character: a “rule of language.” It is no doubt a fact of nature that animals come in collections of individuals broadly similar in many ways, including general bodily structure and appearance. However, it is equally clearly a merely linguistic fact, a fact

about language, that English chooses to baptize many such collections with names.

Such names, however, are not all of the same type. Some, like “snail,” or “squid,” apply to any individual displaying a certain bodily architecture. Others, like “Roman snail” or “Humboldt squid” are names for *species*. They name collections of individuals capable of interbreeding to produce further individuals of the same type. One might speak here, in the spirit of Wittgenstein, of two distinct “language-games” (*Sprachspiele*). The object of each “game” is to sort animals into collections, each of which is then baptized with a name. But the rules for forming these groups differ. The first (call it the *bodily architecture game*) makes close similarity of bodily architecture the sole requirement for membership of a nameable collection. The second (the *species game*) adds the requirement that all members of a nameable collection must be capable of interbreeding to produce fertile offspring. Higher levels of biological taxonomy—phylum, class, order, family, genus—add the further requirement that named collections in these categories should be such as to reflect real relationships of genetic, and ultimately evolutionary, relationship.

These requirements are plainly stipulative in character. Equally plainly, they are what has to be grasped in order to understand what it means to say that a given term functions in English as the name of a family, genus, or species, or that it functions as the name of a collection of individuals exhibiting the same general appearance. And if to “know the meaning” of a general term it is sufficient to grasp the nature and functions of the linguistic stipulations governing its use, then in coming to grasp those requirements we do indeed come to know what terms of the two types in question *mean*.

If, on the other hand, “knowing the meaning” of a general term is taken to include the ability to pick out actual individuals to which the term applies, then in the case of the categories of biological taxonomy, knowledge of linguistic stipulations (“rules of language”) is insufficient

to confer knowledge of the meanings of either bodily architecture names or names of species, genera or whatever. The reason for that is simply that one cannot determine *by mere arbitrary stipulation* either (1) what classes of individual organisms answering to the (admittedly purely stipulative) rules for forming nameable collections of each type *actually exist in nature*, or (2) what natural circumstances *as a matter of natural fact* identify an individual as belonging to each such named collection.

So far as (1) is concerned, for instance, the speakers of a language are at liberty to determine—to stipulate—the rules for forming a nameable group of organisms. They can stipulate, say, that each such group shall consist of individuals sharing an easily recognizable bodily architecture. Evidently, “fish” will name one such group, “bird” another. But what other such groups are there? Plainly one cannot just *decide*—“stipulate”—*that* off the top of one’s head. It is a question that can only be answered by going out and looking. And the answer—that there are, for instance, such things as squid or kangaroo—may surprise the cloistered scholar.

Suppose now, that we add to our requirements for forming nameable groups of individuals that the individuals in question should be capable of mating to producing fertile offspring (that we decide to move, in other words, to a notion of taxonomy that honors the concept of a *species*). Given the actual complexity of nature, empirical investigation will be needed, not only to determine which groups of individuals meet that new requirement, but—and this is where (2) above comes in—*how we are to tell which such group a given individual belongs to*. Suppose, for example, we have two individual snails, or two individual plants, that look very much like one another in every easily discernable respect, but in fact belong to different species? What considerations are to guide us in assigning each correctly to its respective species? Here again, mere stipulation cannot help us: what is required is yet more precise and more discriminating empirical enquiry.

It is for these reasons that the *taxonomy* of a branch of biology—zoology, say, or botany, or mycology—is itself a body of empirical knowledge, and not a mere collection of the “linguistic conventions,” or “rules of language” widely imagined by linguists and philosophers to constitute the sole and sufficient basis of meaning in a natural language.

DICTIONARY DEFINITIONS VS. EMPIRICALLY BASED DEFINITIONS

These considerations suggest a distinction between two quite different types of definition. On the one hand there is the kind—“dictionary definitions,” as we customarily term them—exemplified by many of the entries in an ordinary dictionary, such as Webster’s or the OED. On the other there is the kind—for present purposes I shall call them “empirically based definitions”—exemplified, for instance, by the entries in a botanical flora.

Both kinds of definition can achieve what we described above as the fundamental object of defining a general term N: that of explaining what characteristics it is necessary and sufficient for a thing to display in order for it to be correctly describable as an N. But the two kinds of definition achieve that goal, when they achieve it, in very different ways.

A dictionary definition normally consists of a brief statement of the required characteristics, accompanied, in the more elaborate dictionaries, with some etymological details and a number of citations of passages employing the term. Here, for instance, is an extract from the Oxford English Dictionary entry for “Adoption”

a. The action or practice of legally or informally taking a person into any relationship; *esp.* the taking of a minor who is not one’s offspring into the legal relationship of child. Also: an act or instance of this.

1526: W. Bonde, *Pylgrimage of Perfection*, i. sig. Bi: “Admitted as chyldren by adopcion or choyse.”

1581: J. Marbeck, *Bk. Notes & Common Places* 15: “The Lawiers... define Adoption to be a legitimate act imitating nature, found out for their solace and comfort, which haue no children . . .,” and so on.

This definition works perfectly as a definition. It tells one precisely what conditions have to be met for something to be correctly spoken of, in at least one of the senses of the term, as an adoption. It is also clear that it does not record an *empirical discovery* concerning the meaning of the word “adoption,” but rather a *linguistic convention*, to the effect that a certain legal procedure is to be known by a certain term.

The type of document known to botanists as a flora serves the same purpose. In effect, it explains the application of the complex general names that make up the vocabulary of botanical taxonomy. However, it does so in a very different way from the bulk of dictionary definitions. What is *conventional* or *stipulative* about the application of those terms is not explained by the flora, but is assumed to be already in the possession of the user. That is because explaining what depends solely on linguistic convention in the application of taxonomic terms would be a matter of explaining the requirements laid down, by botanical taxonomists along the lines sketched above, for the formation of the various kinds of collections of individual plants covered by the taxonomic-category terms “family,” “genus,” “species,” and so on. To explain that would merely be to explain the meanings of those taxonomic terms; or to put it another way, to explain what a plant species or a plant family *is*. It would not specify what nameable collections of plants corresponding to each such set of requirements actually exist in nature, or which individual plants actually belong to each such collection. It is information of these kinds—information that derives, of course, not from linguistic stipulation but from empirical enquiry—that working botanists need in order to allow them to name the family, genus and species to which the unfamiliar specimen in front of them belongs. Organizing

that information in a way that serves the needs of the working botanist is the task of the flora. It does so by posing questions about the unfamiliar plant whose answers, provided the user of the flora is sufficiently experienced and competent in botany both to grasp the sense of the question and to ascertain the correct answer by close examination of the specimen, successively determine the family, genus, and species of the specimen. Like a dictionary definition, the flora serves the fundamental goal of definition by *explaining why a given name applies to a given specimen*—why, for instance, this specimen is a specimen of *Ajuga reptans*. But the explanation it offers draws *both* upon the arbitrary stipulations of a linguistic community (those establishing the requirements for forming the various types of collection corresponding to the terms “family,” “genus,” and “species,” *and* on the results of empirical enquiry. What the flora offers, in short, is not an array of dictionary definitions, but an array of *empirically based definitions*.

It might seem reasonable to assume that empirically based definitions find a role only in the language of the natural sciences; whereas the terms composing the vocabulary of human affairs—terms like “adoption” above—acquire their meanings virtually exclusively by arbitrary linguistic stipulation, and are thus perfectly well served by dictionary definitions. That, however, would be a mistake. Many such terms draw, for their meanings, both upon linguistic stipulation and upon empirical observation. Take, for example, the noun “freedom.” A basic definition might run, “Freedom: absence of constraint upon action.” No doubt that definition does no more than record an arbitrary association between word and meaning; a linguistic stipulation. But in order to be guided by it in actual contexts of use, one needs to establish what kinds of thing do in fact constrain action. Establishing that is hardly difficult: it requires no very extensive or abstruse reflection. But the process of reflection required is empirical reflection upon the everyday circumstances of human

life, not merely a further act of linguistic stipulation. It includes, for instance, the obvious thought that constraint upon action can arise either from the exigencies of law or politics, or from those of financial or physical circumstance. That thought has led to the familiar distinction drawn by political theorists between two types of freedom: on the one hand, *negative freedom*, embracing the various kinds of freedom from legal or political constraint secured by constitutional arrangements guaranteeing such things as freedom of speech or assembly; and on the other hand, *positive freedom*: freedom from the kind of constraints imposed by poverty, ignorance or untreated disease. These latter ways of extending the concept of freedom, and the corresponding definitions, evidently do not rest merely upon linguistic stipulation. On the contrary they result from the joint operation of, on the one hand, the original basic—and entirely stipulative—definition of the term “freedom,” and, on the other hand, commonplace empirical enquiry into the question of what kinds of thing actually operate to constrain action. These secondary definitions are, in short, empirically based definitions.

One can go further. It is equally commonplace to point out that an agent’s freedom can be constrained by his or her own vices or obsessions. In that vein we speak of “freedom from prejudice” or “the tyranny of addiction.” And in general, the gradual development, both of our conceptual scheme, and of the spreading web of metaphor and metonymy that accompanies and to a degree drives its growth, depend for many complex concepts upon a constant interplay between linguistic stipulation and empirical observation.

THE LIMITATIONS OF THE IHRA DEFINITION

The basic format of the IHRA definition recalls the standard format of major dictionaries such as the OUP or Webster’s. It consists of an initial definition, given emphasis by being enclosed in a box, followed by a series of examples.

That, however, is as far as the resemblance goes. The function of the examples in the IHRA definition is very different from that of the examples accompanying a standard dictionary definition. The examples in the dictionary definition of a designating expression are offered solely as examples of present or historical *usage*: actual or invented instances of the type of context in which that expression is or has been characteristically deployed. In the IHRA definition, however, the examples are offered as [my italics] “contemporary examples of *antisemitism*.” They are offered, that is to say, not as instances of the *usage* of a designating expression, “antisemitism,” but as examples of *the thing designated*.

That hardly matters, provided the opening sentences of the definition (those enclosed in the box) make it clear why each of the examples offered *is to be regarded as* an example of the designatum of the term “antisemitism.” But if that is not the case, then the examples offered clearly cannot discharge the function assigned to them.

And unfortunately it is not the case. The words contained in the box that opens the text of the IHRA definition say simply (see appendix to this article): “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews.” As legal critics of the definition have repeatedly pointed out, however, any of the acts or opinions stigmatized as antisemitic by the eleven examples might conceivably be performed or entertained by someone who, however mistaken or muddleheaded they might be, does not hate Jews.

Take, for instance, example 10: “Drawing comparisons of contemporary Israeli policy to that of the Nazis.” The substantial claim made by the drafters of the IHRA definition is that this is an example of antisemitism. Critical readers are naturally entitled to ask *why* they are to accept that: *what is it, precisely*, about comparing Israel to the Nazis, in other words, that *makes* it an instance of antisemitism? The only answer offered by the IHRA definition is that it manifests “a certain perception of Jews, which may be

expressed as hatred toward Jews.” But it seems perfectly possible that someone might consider such a comparison valid *without* entertaining any hatred of Jews *as such*. The person in question—call him Mr. I. N.—indeed leans strongly to the view that the government of Israel can be validly compared in many of its proceedings to that of the Third Reich. Nevertheless, Mr. I. N. happens to like and admire many individual Jews who happen to share his political outlook. And in any case, Mr. I. N. is far too committed to current liberal social pieties to be capable either of expressing or of allowing himself to entertain, even *in foro interno*, the least hostility to Jews *as Jews*. Why, then, is Mr. I. N. to be regarded as displaying antisemitic leanings? So far as the IHRA definition is concerned, as several of the legal critics mentioned earlier have pointed out, answer comes there none.

It is not difficult to show a number of the remaining examples to be vulnerable to similar arguments. It appears then, that the IHRA definition of antisemitism fails to explain, for a variety of acts and opinions, which not merely the framers of the definition but a great many people, by no means all of them Jews, would hold to constitute blatantly antisemitic calumnies, what makes those acts and opinions antisemitic. It thus, sadly, fails to perform what in section 2 we identified as the fundamental task of a definition. It fails to explain, for the general name “N” it addresses, what characteristics it is necessary and sufficient for a thing to display in order for it to be correctly describable as an N.

REVISING THE DEFINITION: PRELIMINARY MOVES

Here is another way of formulating the fundamental task of definition, as it concerns general names like “bachelor” or “plant species.” One can think of such a term as designating a class of individual items, in the case of “bachelor,” the class of bachelors; in the case of “plant species,” the class of plant species. The job of definition is to define the membership of each such class.

In the case of “bachelor” that job can be done by a dictionary definition—“Bachelor: unmarried man”—that, in effect, states a fact about linguistic convention, or usage: namely, that English speakers use “X is a bachelor” as shorthand for “X is an unmarried man.” In the case of “plant species,” as we have already argued, matters are slightly more complicated. A dictionary definition of “species”—“Species: collection of individuals capable of interbreeding to produce fertile offspring”—will tell us how the term is used in English. But to define the membership of the *class* of plant species we need something more. We need the mass of empirically derived information organized by the type of document known to botanists as a “flora”: in effect, that is to say, an array of empirically based definitions, in the sense of that term introduced earlier.

The task faced by the IHRA definition, now, is not, or at least not primarily, that of defining how the term “antisemitism” is *used*, by some, or even a majority of, speakers of English, but rather that of defining the membership of a class; namely, the class of antisemitic acts or utterances. We need to consider the possibility that a dictionary definition—in effect, a report on the conventions of English usage alone—might not be sufficient to discharge that task. Might we not need, on the contrary, a definition that operates, like that of some other complex moral and political terms (“freedom,” for instance) at the intersection between linguistic convention and empirical enquiry: in other words, an empirically based definition?

By analogy with what happens in a flora, and in the case of “freedom,” the process of constructing such a definition would begin with the purely stipulative setting up of certain basic conditions for inclusion in the class of antisemitic acts or utterances. It would then proceed to empirical enquiry into the question of what phenomena in nature actually satisfy those requirements. And one might expect that the phenomena in question might turn out to include various quite distinct and different kinds of thing, much as the criteria for inclusion in the

class of states of affairs manifesting freedom turn out to be satisfied by conditions as different as those involving, on the one hand, the operation of certain types of constitutional arrangement, and on the other, by the absence of certain types of vice or obsession.

Let’s see how such a definition-constructing process might work out for “antisemitism.” The simplest possible dictionary definition for the term is, presumably:

[D1] Antisemitism: prejudice against Jews.

We can make [D1] clearer, no doubt, by further explicating the term “prejudice.” I am grateful to Kenneth L. Marcus for acquainting me with Gordon Allport’s excellent definition of prejudice as “thinking ill of others without sufficient warrant.” Following Allport, we now get the following, slightly less basic definition of “antisemitism”:

[D2] Antisemitism: thinking ill of Jews without sufficient warrant.

Thus far we are simply recording—in effect, summarizing, as dictionary definitions attempt to do—English usage.

But suppose we now ask ourselves what forms such insufficiently warranted ill-thinking actually takes in everyday life? That is a question we clearly need to answer, if we are to fully explore “the meaning” of the term “antisemitism.”

But though this may be a question about *meaning*, it clearly is not a question about *usage*, or *linguistic convention*, but rather a question about empirical reality. In other words, our situation with respect to “antisemitism,” at this point, exactly mirrors our situation with respect to the terms “species,” or “freedom.” In their case, remember, we first made some preliminary, purely stipulative, purely “linguistic” decisions, establishing what criteria are going to need to be satisfied for something to be regarded as a species, or as a state of freedom; at which point, if we were to make further progress, we found ourselves forced to exchange linguistic stipulation for empirical enquiry into the question of

what concrete, real-world entities actually satisfy those criteria. In exactly the same way, having committed ourselves to [D2], and with it to the idea that to be a version of antisemitism, something has to involve thinking ill of Jews without sufficient warrant, we now find ourselves forced, if we are to get any further with the task of explicating the term “antisemitism,” to exchange mere linguistic stipulation for empirical enquiry into the question what kinds of thinking about Jews actually satisfy that criterion.

TWO TYPES OF ANTISEMITISM

Elsewhere I have argued that empirical enquiry reveals at least two distinct kinds of thinking about Jews that involve thinking ill of them without adequate warrant.⁴ And just as in the case of the positive and negative varieties of freedom, they turn out to be very different *kinds of thing*. On the one hand insufficiently warranted ill-thinking about Jews can manifest itself as a *state of mind*; a settled disposition on the part of this or that individual to feel dislike, hostility or contempt towards Jews for no better reason than that they are Jews.

It is often argued that that is the *sole* reality designated by the term “antisemitism.” Thus, the eminent British jurist Sir Stephen Sedley opens a recent article, “Defining Anti-Semitism,” in the *London Review of Books*, with the trenchant obiter dictum, “Shorn of philosophical and political refinements, anti-Semitism is hostility towards Jews as Jews.”⁵

I have elsewhere labelled this form of antisemitism “social antisemitism.” “Ethnic antisemitism” would do as well. Social, or ethnic antisemitism clearly represents one major way in which antisemitism manifests itself. But is it the only way? Does antisemitism not also manifest itself, not as a *state of mind*, a mere collective hostility, but as a delusive, but nevertheless elaborately constructed and defended *political theory*, which, like all such theories, continues to circulate not because this or that individual happens to accede to it, but because, like children’s

nursery rhymes or the vocabulary of commonplace proverbial wisdom, it is immemorially embedded in the folk culture of our society?

The broad outlines of the theory—for convenience, let’s label it “political (or theoretical) antisemitism”—are familiar enough. Its central claim is that world affairs—or important aspects of them—are “really” under the control of “the Jews,” a sinister collectivity sometimes envisaged as the entire Jewish community, sometimes as that community minus those of its members who happen to agree politically with the antisemite. “The Jews” are united in the pursuit of interests of their own, interests hostile in the highest degree to those of non-Jews. They are aided in this pursuit, so the theory continues, by their quasi-demonic powers of conspiratorial organization. “The Jews” use these remarkable powers to bend the resources of non-Jewish societies to Jewish ends. They have in this way managed to assume secret control over a wide range of institutions—the banks, the media, and so forth—which most people would suppose to be controlled by, and to respond in the main to the needs of, non-Jews. In the process “the Jews” have made themselves responsible for much evil, naturally including, of course, whatever harms and sufferings seem to this or that collection of antisemites most to be regretted in the current situation of non-Jews. These harms and sufferings are, according to the theory, in no way the fault of non-Jews, and world cease to exist immediately if their “real” cause, in the shape of “the Jews” could only be eliminated. For that reason, for the political antisemite, a redemptive politics, whether of the left or the right, must begin with an accurate analysis of “the Jewish Problem,” and a set of proposals for “solving” that problem, essentially through the elimination of “the Jews.”

The term “antisemitism” in short, sometimes designates a state of mind—Sedley’s “hostility towards Jews as Jews”—and sometimes a theory, concerning the alleged secret role played by “the Jews” in the determination of political events. Inability to perceive this duality accounts, among other things, for the intractability of the

long-running debate over whether antisemitism is or is not a form of prejudice unique to Jews. To those for whom antisemitism is conterminous with social antisemitism, of course, it cannot be. Hostility towards each and every member of a minority for no better reason than that he or she belongs to that minority is a common enough human phenomenon, which by no means affects Jews alone. On the other hand, it is equally difficult to imagine that the bizarre theoretical tenets of political or theoretical antisemitism have ever been entertained with regard to any group other than the Jews.

Political antisemitism was a widespread and popular view in the nineteenth and early twentieth centuries. It was the version of antisemitism promulgated by Hitler and the Nazi Party. The defeat of Nazism, along with widespread knowledge of the main facts of the Holocaust, made the expression of such views so unpopular for a time that it seems to some extent to have slipped from recent popular consciousness that “antisemitism” can, in one of its senses, designate a *theory*: a body of pseudo-science. Only this, I suspect, can account for the curious fact that I have occasionally found myself congratulated for my “originality” in distinguishing between social and political antisemitism. The whole point of distinguishing between them is, of course, that they appear *to empirical observation* to offer two distinct kinds of insufficiently warranted ill-thinking towards Jews. And the last thing for which anyone pretending to accurate empirical observation would wish to be congratulated is *originality*!

In fact, recognition that theoretical elements of one sort and another enter, somehow or other, into many of the things striking us intuitively as cases of antisemitism, is not uncommon in the long series of attempts to define the notion. Thus, Kenneth Marcus, in his *The Definition of Antisemitism*, not only grants, but makes it a central element of his argument, that antisemitism can present as an ideology, and that “as an ideology, it provides a way to make sense of the entire world and all of history, not just the rela-

tively small territory occupied by the descendants of Jacob.”⁶ Similarly, Anthony Julius, in *Trials of the Diaspora*, notes that “Towards the end of the nineteenth century, the two distinct follies of race theory and conspiracy theory came together, establishing a new, ‘ideological’ version of anti-Semitism. Indeed, it is only in relation to Jews that racist and conspiracy theories combined.”⁷ I would disagree with this only to the extent of doubting whether the nineteenth century rise of antisemitism as a delusive theory of world governance was new, rather than merely regenerated in a new form, at that point.

Again, John Lafarge, an American Jesuit priest and a leader in fighting antisemitism and racism, was capable in 1944 of distinguishing clearly between antisemitism as mere personal prejudice against Jews, and antisemitism as a richly elaborated and altogether delusive theory concerning the alleged role of the Jewish community in determining the course of world affairs.⁸ Mere anti-Jewish prejudice (ethnic prejudice), he says, “while it is the breeding-ground for anti-Semitism, is not the full-fledged article.” “Full-fledged” antisemitism, he continues, is not to be identified with an emotional disposition of hostility towards Jews as Jews, because it is not an emotional disposition of any kind, but rather “a positive body of ideas, an ideology in the full sense of the term,” which “busies itself with ascribing to Jews or to Judaism the origin of all, or nearly all, the social ills of the entire world.”

Finally, even the IHRA definition itself is not without traces of the distinction between antisemitism as ethnic prejudice and antisemitism as theory. In the preamble to the eleven illustrative examples, we find the following: “Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for ‘why things go wrong.’” The definition here does at least gesture in passing towards the distinction between ethnic prejudice and pseudo-explanatory theory, although without elaborating it further, and without recognizing what I shall argue is its crucial importance for the justification of a

proportion of the illustrative examples that follow.

THE DEFINITION REVISED

In view of the widespread—if patchy—recognition that the term “antisemitism” designates at least two quite different kind of things, one a mental attitude (of hostility to Jews), the other a delusive theory concerning the governance of world affairs (“the Jews are responsible for all wars,” and so forth), the question arises why so many people should have supposed it reasonable to strive for a single, unified definition of the term in the first place.

Some do, indeed, question the possibility of a unitary definition, but take that to imply the impossibility of defining the term at all. Thus, for instance, Anthony Julius argues that antisemitism is an assemblage of heterogeneous phenomena having nothing in common but a range of equally heterogeneous family resemblances.

The search for a single, unified theory of antisemitism is an idle one. There is no essence of anti-Semitism. It is instead in the irreducible plurality of its forms of existence that “anti-Semitism” is to be understood and studied. These antisemitisms share certain resemblances, of course—somewhat like members of a single family.⁹

Again, Kenneth Marcus, early in his invaluable *The Definition of Anti-Semitism*, notes that “Some readers may be inclined to dismiss definitional questions as a matter of arbitrary linguistic conventions that may be selected, revised, or replaced at will, with little consequence. . . .”¹⁰ Both these views share two dubious premises, both of philosophical origin, both popular in recent and current philosophy of language, concerning the processes by which meaning is assigned, in a natural language, to terms whose function is to designate items or aspects of the world presented to us in sensory experience. The first is that the meaning of each

such term is established without regard to the meaning of any other term. The second is that establishing the meaning of each such term is simply a matter of associating it arbitrarily with some chosen range of sensory presentations. Julius’s suggestion, in effect, is that the observed phenomena that we have come to associate, arbitrarily, with the term “antisemitism” are too diverse and disparate in character to have anything very much in common beyond a vague and shifting collection of “family resemblances.” Similarly, the conviction of Marcus’s “some readers,” that it is open to anyone to define any term any way he or she pleases, has its roots in the idea that the choice of the phenomena we associate with a given term is essentially *arbitrary*: that *nothing in the nature of reality constrains definition*.

As our preceding discussion has shown, this last conclusion is simply false. For many such terms, the role of arbitrary linguistic convention is merely to decide the criteria (Wittgenstein’s expression)¹¹ that determine what type of collection of items or aspects of sensory reality a given category of terms is supposed to designate (for example, genera, colors, geometrical figures, types of political constitution, and so on, and so forth). When it comes to the further steps of determining what collections of that type exist in reality, and what the identifying characteristics of each such collection are, however, we encounter questions that cannot be settled by arbitrary conventional provisions, but only by empirical enquiry, which at this point becomes the determining factor in establishing the content of the resulting definitions. To this extent, then, definition is not, after all, wholly “a matter of arbitrary linguistic conventions,” but in certain respects is indeed constrained by reality.

The interplay of linguistic convention with empirical inquiry in definitions of this type also allows terms to form families connected, not merely by vague “family resemblances” between the things they designate, but by relationships of conceptual dependence between the terms

themselves. Thus, one cannot understand the meaning of *Ajuga reptans* without understanding that *Ajuga* is a genus-term and *reptans* a species-term, and thus without a prior grasp of the meanings of the terms *genus* and *species*, and beyond that, without an understanding, however rough and ready, of the ways in which the goals and methods of biology link such terms into a systematic taxonomy.

In the light of these considerations, it seems reasonable to see where we might get if we were to abandon the attempt to define “antisemitism” as a single, isolated term, and to see instead where it might stand as one of a larger family of conceptually interdependent terms, some with meanings founded solely in “arbitrary linguistic convention,” others with meanings accreted through processes of empirical enquiry.

A preliminary stab at such a complex definition might, it seems to me, run roughly as follows:

Prejudice: thinking ill of others with insufficient warrant.

Antisemitism: prejudice against Jews.

- (1) Social (ethnic) antisemitism: hostility towards individual Jews as Jews.
- (2) Political (theoretical) antisemitism: a delusive political theory concerning the allegedly crucial role played collectively by “the Jews” in the direction of world affairs, whose main tenets include the following:
 - (i) the Jews are a people given to the pursuit of evil, and are behind every evil that besets the non-Jewish world, including all wars;
 - (ii) the Jews are gifted with quasi-demonic powers of conspiratorial organization;
 - (iii) these extraordinary powers have allowed them to assume control of a vast range of supposedly non-Jewish organizations (the banks, the US Presidency, Hollywood, and so on, and so forth) and to subvert them to the service of Jewish goals;
 - (iv) because of the impossibility of negotiating with what is in effect a hidden and secret

power, the only solution to these problems lies in the complete elimination of the Jews;

- (v) once the elimination of the Jews is achieved, all problems will cease, and the non-Jewish world will return to the state of unbroken peace and happiness to which its manifest virtues evidently entitle it, and from which only the machinations of the Jews have been able to expel it.

ANTISEMITISM AND ISRAEL

Let us now see whether this survey of the little conceptual field constituted by the partly conventional, partly empirical definitional relationships holding between *prejudice*, *antisemitism*, and related concepts, can help us to discharge the fundamental function of definition in the present context by explaining the reasons why each of the various phenomena cited as “illustrations” of antisemitism by the IHRA definition is to be regarded as antisemitic under the terms of the definition.

The bulk of the illustrations concern conduct that clearly displays social or ethnic antisemitism. That is, it displays prejudice (insufficiently warranted hostility) towards individual Jews as Jews. That would seem adequately to cover illustrations 1–6 and 11. However, it leaves the four remaining illustrations 7–10 and 11, which make explicit reference to Israel. The acts and utterances they characterize as antisemitic include denying the right of the Jewish people to political self-determination, characterizing the State of Israel as an inherently racist enterprise, demanding that Israel meet standards neither expected nor demanded of any other democratic nation, drawing comparisons between Israel and Nazi Germany, and leveling against Israel accusations that invoke themes or motifs of classic antisemitism, such as the blood libel.

It has been abundantly noted by critics of the IHRA definition that if it were true (as the preamble to the definition does go some considerable way towards suggesting) that, in Sir

Stephen Sedley's words, "Shorn of philosophical and political refinements, anti-Semitism is hostility towards Jews as Jews," then the definition offers no clear grounds for describing as antisemitic any of the things so characterized in illustrations 7–10. This is because all the things in question can reasonably be claimed to involve, not "hostility to Jews as Jews," but rather hostility to the state, or the government, of Israel. And that would appear to be true even if hostility to Israel takes extreme forms: if it involves, for instance, depicting Israel as a "racist" or "Nazi" state, or for that matter invoking themes, such as the blood libel, associated with traditional antisemitism, provided such allegations are directed, not against "Jews," but against the state of Israel. In certain quarters on the left at present it is conventional to argue, on these grounds, that no criticism of Israel can be antisemitic, and to dismiss any suggestion to the contrary as an attempt to delegitimize "all criticism of Israel."

In logic, of course, for "No criticism of Israel is antisemitic" to be false it is not necessary that "All criticism of Israel is antisemitic" be true. All that is required is that it be the case that *some* criticism of Israel is antisemitic. And it seems clear from the extreme narrowness and specificity of the range of accusations against Israel marked as putatively antisemitic in illustrations 7–10, that this modest and plausible claim is all that the IHRA definition contends for. Even if the IHRA definition is correct in taking these accusations to be antisemitic, as I believe it is, that conclusion leaves open a vast range of criticisms of Israel—for instance, those targeting the former use of smoke bombs containing white phosphorus in Lebanon and Gaza—for which no possible ground for dismissal on grounds of antisemitism emerges from the terms of the IHRA definition.

Bearing this in mind, let us look more closely at the specific suggestions advanced by illustrations 7–10. Illustration 7 begins with the suggestion that it is antisemitic to deny the Jewish people their right to self-determination. Why, now, should that be considered *antisemitic*?

There is, undeniably, something sufficiently strange about such a denial to require further explanation. In the normal course of world events, whether a people gains the ability to govern itself is largely a matter of chance. But normally, when it does so, its right to do so goes without question. It is at present unclear whether the Scots or the Catalans will one day re-emerge as fully independent, self-governing nations. But should they do so it is hardly likely that anyone would wish to deny the *right* to self-determination of Scots *qua* Scots or Catalans *qua* Catalans. Why, then, should anyone wish to deny the *right* of Jews to self-determination?

Normally, the denial, in a specific case, of a right accepted in other, putatively parallel cases, is grounded in a belief that granting that right in the case in question would, or does, yield consequences deemed to be morally insupportable. And that seems to be what is alleged of Israel. That is, it is alleged that the "crimes" of Israel are so great as to demand its abolition as a state. It seems clear, moreover, since it appears that a majority of those who take this view would consider their demands in this respect satisfied by the collapse of Jewish majority rule in Israel and its re-emergence as a Muslim-majority state, that from their point of view the grounds for regarding the existence of the present state of Israel as morally insupportable must somehow be closely connected with its being, for the moment, a *Jewish* state.

At this point, plainly, we need to know in more detail in what, precisely, the "crimes" of Israel consist, and why one should suppose that they would not be repeated or exceeded by a non-Jewish successor state. Israel is, like any other state, open to a good deal of criticism on human rights grounds, much of which originates within Israel itself. The pages of the left-wing Israeli daily *Haaretz* are a good source for such stories, few if any of which are ever contested locally on grounds of *antisemitism*, a topic that in any case arouses far less interest in Israel than it does elsewhere. The trouble with attempting to build, on the basis of this kind of material, a case for

demanding *the abolition of Israel as a Jewish state*, is that numbers of contemporary states and regimes for which no such demand is ever voiced, including most other states in the region, have a vastly worse human rights record than Israel. To ignore this disparity is to suggest that one and the same act is less morally culpable when committed by a non-Jew than when committed by a Jew. There are, of course, political circles in which something along these lines meets with general acceptance: circles in which it is conventional to consider, for instance, that while a Palestinian is doing nothing wrong in attempting to detonate a bomb designed to kill civilians, the Israeli policeman who shoots the bomber to prevent him or her from doing so is committing a crime against humanity. But I take it that outside such circles nothing obstructs the recognition of such lines of talk as antisemitic. This, after all, is part of the reason why “applying double standards by requiring of [Israel] a behaviour not expected or demanded of any other democratic nation” makes it into the IHRA’s list of illustrations of antisemitism as illustration 8.

The evident disparity between Israel’s human rights record and that of other states is sufficient to ensure that those who deny the right of Israel to exist as a self-governing Jewish-majority state rarely if ever attempt to build a case for that view *aimed at a general audience* on a detailed examination of Israel’s human rights record *relative to that of other states*. They fall back instead on attempts to construct parallels between Israel and certain recently existing states for which there *already exists general acceptance*, across quite a wide political spectrum, *of a parallel claim*. Effectively there exist two states that fill this bill, the Nazi-dominated Third Reich (1933–1945) in Germany, and the explicitly racist apartheid state, based on institutionalized racial segregation, that existed in South Africa prior to 1994. There is no doubt wide acceptance that it would have been better, morally speaking, had these states never existed, which is very much what a proportion of today’s antizionists would like to persuade as many people as possible to believe

about Israel. Hence the frequently voiced claims, in student and hard-left politics across the Western world, to the effect that Israel is an “apartheid state” or an essentially “racist endeavor,” or that it is a “Nazi state,” that Israelis are “the new Nazis,” and so on.

The trouble with these claims, however, is that they are essentially dreamwork. However accurately they may reflect the feelings and the political animus of those who make them, they simply fail to connect with the concrete political realities they are presented as summarizing. They are merely hand-waving; arbitrary insults pulled out of thin air and representing nothing real. However tense Jewish-Palestinian relations may be, there is to be found in Israel nothing remotely resembling the concrete legal and political structures essential to the institutional racial segregation characteristic of apartheid. Israeli citizenship confirms the same benefits on all its holders, and only 74.1 percent of its citizens are Jewish. Many of the latter are Jews of Arab or Kurdish or Maghrebin descent (*Mizrahim*), and some are of black African descent, like the Ethiopian Jews who entered Israel in two waves of mass immigration organized by the Israeli government in 1984 and 1991, and who now number over 160,000. There are Arab political parties and Arab members of the Knesset. Of late, Israeli hospitals and medical assistance have been made available on a large scale to Arab refugees from the long Syrian civil war.¹² Israel, in short, is not a “racist endeavor,” but a multicultural society of a type that would have been utterly unacceptable to the ideologues and apparatchiks of Apartheid in South Africa. Again, unlike Nazi Germany, Israel is not a one-party state with a charismatic Führer-figure permanently installed at its head. It is a multi-party parliamentary democracy in which governments of varying political color succeed one another as the popular vote dictates.

The distance between these claims and the day-to-day realities of Israel would not, of course, suffice to make them antisemitic in character, if “antisemitism” could be exhaustively

defined as “hostility to Jews as Jews.” One can, it might reasonably be thought, be hostile to the state of Israel, and do one’s best to spread politically motivated fantasies concerning it, without being hostile to, or prepared to spread such fantasies concerning, “Jews as Jews.”

But if social (or ethnic) antisemitism (hostility to Jews as Jews) is not the only form that antisemitism can take, then the case is altered. And in fact, as we have noted, there is (at least) one other form that it takes, namely political antisemitism. These two forms of antisemitism are not only distinct but radically different kinds of thing. Social (or ethnic) antisemitism is a state of mind. Political antisemitism is a complex, highly elaborated theory concerning the supposed secret governance of the world.

Two such different kinds of thing are bound to have very different criteria of identity. And so they do. For something to be an expression of *social (ethnic)* antisemitism, it must be not only an expression of (insufficiently justified) hostility to some Jew, but one couched in terms that might equally well apply to any individual Jew whatsoever. For something to be an expression of *political* antisemitism, on the other hand, there need be no question of hostility to *individual* Jews at all. All that is required is that it ascribe—falsely—to some Jewish *collective*, aims and powers evoking the central beliefs and tenets of political antisemitism, and does so in a manner that fuels a revival of the fears—of a collective Jewish commitment to evil ends, of secret Jewish control over world affairs, and of the resulting subversion of non-Jewish interests—upon which the theory battens, and through spreading which it acquires converts.

It seems clear, now, that these latter criteria are fully satisfied by the kind of hostility to Israel that focuses upon the small handful of very general claims concerning the supposed intrinsic character of Israel as a state—Nazism, racism, apartheid—marked as antisemitic by the IHRA definition. By its very nature as a state, such claims assert, Israel is committed to a range of goals widely regarded, at the present time, as the

epitome of evil. Believers in this analysis face a dilemma when it comes to explaining the support for the continued existence of Israel on the part of many Western countries, and in particular on the part of the United States. One can either extend the analysis from Israel to the states in question, or, more plausibly, one can argue that the Jewish community, through behind-the-scenes deployment of its financial resources and through the secret operations of pressure groups such as AIPAC (the American Israel Public Affairs Committee), has been able, by preventing the emergence of informed political opposition to Israel at the highest levels, to subvert the real interests of the bulk of non-Jewish citizens. On the whole it is this second option that has been chosen by elements on the left sympathetic to BDS (the Boycott, Divestment, and Sanctions movement). But this choice immediately reanimates, in a new form, the myth of a world Jewish conspiracy that provides the second central tenet, along with the collective Jewish commitment to evil, of political antisemitism. Around these two basic claims, further elements of the traditional theory, tending to demonstrate the supposed subordination of non-Jewish to Jewish interests, have accumulated. It has become commonplace, for instance, to assert, however implausibly, that the existence of Israel, and its supposed unwillingness to resolve the Israel-Palestinian conflict is what lies behind all the recent wars in the Middle East (“Jews are responsible for all the wars in the world”), despite the fact that these conflicts, in Iraq, Syria, Yemen, and so on, would appear on the face of it to have vastly more to do with matters, including the Arab Spring, the rise of Islamism, and the endeavours of Iran to establish itself as the leading power in the region, that have little if anything to do with Israel.

We seem at this point to have effectively resolved the problems with which, in section 5, we confronted the IHRA definition. Provided we remedy the narrowness of the opening “working definition,” and cease imagining that antisemitism can manifest itself only as a state of

mind, and not also as a delusive, pseudo-explanatory theory of the hidden governance of world affairs, it turns out to be not at all difficult to say why all of the acts and utterances offered in the “illustrations” as instances of antisemitism should indeed be regarded in that light.

IN DEFENSE OF THE IHRA DEFINITION

The IHRA definition has been widely criticized on two main grounds. The first is that its legal utility is largely negated by the terms of the initial definition of antisemitism as “a certain perception of Jews, which may be expressed as hatred toward Jews.” Human rights lawyers have argued that an accusation of antisemitic speech or action founded upon the definition could proceed only if the speech or action in question could be viewed unambiguously as expressive of “hatred” towards Jews *in general*. And in the case of the claims concerning Israel singled out as antisemitic in illustrations 7–10, they argue, it could not.

A second widely advanced criticism has been that in singling out these claims as illustrative of antisemitism, the definition offends against the general presumption that political debate, however extreme and acrimonious it may become, is, and ought to be, protected under freedom of speech legislation. The nerve of this objection, of course, is that, while it may be extreme to accuse Israel of being a “Nazi” or “apartheid” state, or a “racist endeavor,” such opinions are advanced by sincere and concerned people, and need in no way involve or express “hatred toward Jews.” The IHRA definition, it is alleged, thus offers no reason why such accusations should be considered *antisemitic*. Hence, such critics conclude, the reason for including such claims in the brief roster of types of antisemitic utterance provided by the “illustrations” can only be that the mainly Jewish authors of the definition found them *politically* offensive. But, they argue, given that all political speech is offensive to somebody, that can hardly offer a reason for censoring, let alone prohibiting, these instances of it.

Both arguments are contestable. For a start, it is not clear that the accusations in question do bear solely upon the state of Israel. If Israel were, as contended, a “Nazi state,” or an “apartheid state,” or a “racist endeavor,” it must follow that anyone actively supportive of the continued existence of Israel must *a fortiori* be an active supporter of Nazism, apartheid, or racism. Hostility towards such people—racists, neo-Nazis, or supporters of apartheid—is not only widespread, but arguably justifiable. At the same time, studies indicate that the vast majority of Jews support the continued existence of Israel as a Jewish state, while many Jews and Jewish organizations hold such views to be an essential element of Jewishness: of what it is to be a Jew. In the circumstances it is hard to see how one could advance any of the above accusations without thereby expressing “hatred,” or at any rate hostility, towards “Jews as Jews.” The assumption that hostility to the state of Israel *on these grounds* can be as sharply distinguished as some human rights lawyers imagine from “hostility to Jews as Jews” is arguably, therefore, unsound.

Let’s stay with this point a little longer. There are, obviously, many human rights-based criticisms of Israel, which *are* simply *that*—human rights-based criticisms *of Israel*—and which need involve no reference to Jews in general, or, for that matter any trace of antisemitism, implicit or otherwise. Why do the four accusations concerning Israel singled out as antisemitic in the illustrations to the IHRA definition not also fall into that category?

One possible answer might be that there are countries with a far worse human rights record than Israel’s, and totalitarian governments to boot, against which related accusations might with considerably greater plausibility be levelled, but against which they never are in fact levelled. This, of course is the burden of the IHRA definition’s eighth “illustration”: that it is antisemitic to require of Israel “a behavior not expected or demanded of any other . . . nation.”

But the problem with talk of Israel as a “Nazi,” or “apartheid,” or “racist” state goes

deeper than this. It is not that these claims exhibit “double standards,” by basing themselves on “behaviour” on the part of Israel accepted without criticism when exhibited by other nations. The problem is rather that they are not based on *any* “behaviour” on the part of Israel, or indeed on any empirical evidence whatsoever. They enter political discourse as supposedly providing “reasons” why Israel has no “right” to exist as a self-governing Jewish state, and why it would be better had it never come into existence in the first place. But the “reasons” thus offered for these claims—that Israel is a “Nazi,” an “apartheid,” a “racist” state—lack access to the possibilities of further development and amplification, the contact with empirical reality, that they would need if they were actually to count as reasons for the radical claim that *this* state, alone of all others in existence at the present time, lacks in some sense the “right” to exist. In effect, they add nothing to the claim they supposedly amplify and defend: they simply repeat that claim in tones of rising political hysteria. And the hysteria in question is of a historically familiar kind, namely, the kind made familiar most recently by Nazi propaganda of the 1930s, according to which “the Jews” are a fundamentally evil people whose conspiratorial machinations and secret control over non-Jewish institutions (extending in terms of some present versions of this mythology to the entire American political order, including the Presidency) are all that prevent our present discontents (in the present case an extensive range of discontents concerning the relationships of the West with the Islamic world in general and the Middle East in particular) from returning to a wholly satisfactory “normal.”

In short, the claims represented as antisemitic in illustrations 7–10 are antisemitic because they belong, not to a political critique of Israel’s record on human rights, but to a revival of the traditional inanities of political or theoretical antisemitism. And because belief in those inanities requires the believer to see the vast mass of

Jews as supporters of things widely and understandably regarded as evil, the claims in question are also antisemitic in the sense of expressing “hostility to Jews as Jews.”

This conclusion is equally hostile to the second criticism widely alleged against the IHRA definition: that it seeks illicitly to limit freedom of speech. While it is clear that a free society should impose no such limitations upon political debate, it is less clear that similar principles require toleration of mendacious collective defamation of a kind calculated to expose its objects not merely to harassment but to actual physical violence.

In British law such questions have been brought sharply to the fore by the Equality Act 2010, which among other things prohibits behavior that “creates a hostile, humiliating or offensive environment.” One of the protected characteristics under the acts is “religion or belief.” In October 2012, a mathematics lecturer, Ronnie Fraser, brought an action against the UCU (University and College Union) for, as he claimed, allowing to flourish within it a culture of institutional antisemitism.¹³ Fraser and his numerous supporters based his case partly on the rejection by the union of an earlier form of the IHRA definition, and on its denial, on the usual grounds of the alleged racism, neo-Nazism, apartheid, and so on, of Israel, of the right of the Jewish people to self-determination. After a lengthy hearing before an employment tribunal, Fraser lost his case. The tribunal’s report made it clear that, in the opinion of its members, everything in the conduct of officers and members of the union complained of as constituting antisemitic harassment in fact constituted an entirely legitimate exercise of free speech. Paragraph 178 of the tribunal’s report adds, “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.”¹⁴

David Hirsh remarks of this, “The tribunal meant that saying that the boycott [Israel] campaign brought with it a culture of antisemitism was in fact a bad-faith attempt to silence criticism of Israel. The tribunal in effect responded with a legally binding *Livingstone Formulation*.”¹⁵ Hirsh reserves the title “the Livingstone formulation” for the idea that objections on grounds of antisemitism to any criticism of Israel whatsoever are invariably disingenuous, because it was a political trope frequently to be heard from the left-wing former mayor of London. But this in itself does little to establish what, precisely, is mistaken or objectionable about it. Several reasons, in fact, suggest themselves.

First of all, if Israel were, in some clear and demonstrable sense, a “Nazi,” or “apartheid,” or “racist” state, then the charge of supporting neo-Nazism or apartheid or racism would apply not merely to Jewish supporters of Israel but to Israel’s vastly more numerous non-Jewish supporters, including, for instance, members of the Great Britain-Israel groups operating in both main political parties. Yet the abuse and harassment on these grounds from BDS-supporting groups, on campus, in trade-union settings and elsewhere, complained of by Jews, including Fraser, is only ever directed against Jews, never against non-Jews. That alone might be taken to suggest that these charges are not taken seriously by those who bring them, except as convenient sticks to beat Jews with. It may also be a consideration, of course that the 350,000-strong Jewish community in Britain is small and scattered enough to bully with relative impunity.

A second consideration that might give one pause before assenting to paragraph 178 is that one major theme or motif of traditional antisemitism is that Jewish claims to have been harmed by non-Jews are never anything but disingenuous tactics designed to advance Jewish interests.

Thirdly, there is the inherent absurdity of the suggestion that the object of Fraser and his numerous supporters, many of whom were

non-Jews and some of whom were of Muslim background, was to “achieve a political end by litigious means.” The “political end” in question is not specified, but could only be the suppression of criticism of Israel. But, as we have already noted, the IHRA definition leaves open, as non-antisemitic, a vast field of potential criticisms of Israel, including any that might, under parallel circumstances, be brought against any other state.

Fourthly, the report of the tribunal assumes that what motivates Fraser, and presumably also his non-Jewish supporters, is “offense” or “hurt” at any opposition to their political position as supporters of Israel. Thus, from paragraph 156:

The claimant is a campaigner. He chooses to engage in the politics of the union in support of Israel and in opposition to activists in the Palestinian cause. When a rugby player takes the field he must accept his fair share of minor injuries . . . similarly a political activist accepts to risk of being *offended or hurt* [my italics] on occasion by things said or done by his opponents (who themselves take on a corresponding risk).

In one sense, of course, as an argument purely against granting too much weight to the notion of “being offended or hurt,” this is entirely sound. One problem with the notion of “hate speech,” which has begun to gain currency in connection with the growing popularity of identity politics, is that it often motivates demands to restrict or cancel speech merely on the grounds that it might be considered offensive by members of this or that minority group. The objection implicitly—and to that extent correctly—defended by paragraph 156 is that that admission of a right *not to be offended* is incompatible with any significant commitment to freedom of speech.

But is *offense* what is at issue in the Fraser case? In reality what Fraser and his Jewish supporters—like the many Jews who have resigned from the UCU—were complaining

about was not *offense*, but *defamation*. That point is made very clearly by my fellow philosopher David-Hillel Rubin, professor of philosophy at Birkbeck College, University of London.

If Zionism is racist, then I am being told that I, my family, my friends are racists . . . In truth, although I resigned from the union, it felt much more like my union having been taken away from me. Over the years I have watched the anti-Israel sentiment in the union grow from a peculiar occupation of the union, though well within the bound of political legitimacy, to what it is today: a fetish that has crossed the line into antisemitism.¹⁶

The line that has been crossed is, precisely, that which marks the boundary between sound, empirically based criticism of Israel, and specifically anti-Jewish defamation masquerading as criticism of Israel. It is a boundary precisely marked by the IHRA definition of antisemitism, whatever its minor defects as a definition.

Distinguishing between defamation and mere offense is not the end of the matter, however. There is a further issue to be raised, which turns on the type of defamation at stake in attempts to brand Jewish supporters (and why only Jewish supporters?) of Israel as supporters of racism, apartheid, Nazism, and so on. What primarily distinguishes defamation from offense in the case of individuals is that while the latter involves no threat to the reputation, and through that to real interests of the complainant, the former does. In the present case we are dealing with collective, or group defamation: an attempt to tar Jewish supporters of Israel with the brush of commitments widely held to be the nadir of evil. Physical attacks on Jews, many of them serious and some of them fatal, have greatly increased over the past couple of decades. Further study at this point would be needed to determine to what extent belief in the accuracy of these defamatory claims serves to motivate such attacks. But it is hardly plausible that it plays no such role.

Legal friends tell me that Hirsh is not strictly correct that the conclusions of the tribunal are “legally binding.” The conclusions of such tribunals do not establish precedent. Under the circumstances, it would appear that is something for which we must all be grateful.

In 2021, an international body consisting virtually entirely of university professors in a range of fields, including Jewish studies, Middle East studies, history, and political science, proposed the *Jerusalem Declaration on Antisemitism*.¹⁷ The preamble of this document presents it as a “response” to the IHRA definition, and locates the need for a response in the perceived stance of the latter on Israel.

The Jerusalem Declaration on Antisemitism responds to “the IHRA Definition,” the document that was adopted by the International Holocaust Remembrance Alliance (IHRA) in 2016. Because the IHRA Definition is unclear in key respects and widely open to different interpretations, it has caused confusion and generated controversy, hence weakening the fight against antisemitism. Noting that it calls itself “a working definition,” we have sought to improve on it by offering (a) a clearer core definition and (b) a coherent set of guidelines. . . . The IHRA Definition includes 11 “examples” of antisemitism, 7 of which focus on the State of Israel. While this puts undue emphasis on one arena, there is a widely felt need for clarity on the limits of legitimate political speech and action concerning Zionism, Israel, and Palestine. Our aim is twofold: (1) to strengthen the fight against antisemitism by clarifying what it is and how it is manifested, (2) to protect a space for an open debate about the vexed question of the future of Israel/Palestine.

It would require a further essay to fully examine the declaration; however, a few preliminary observations may usefully be made here in the light of the foregoing arguments. The declaration follows the format of the IHRA definition in offering first a “definition” and, second, a set of discursive “guidelines.” The guidelines are

divided into three groups, the first headed “A. General,” the second “B. Israel and Palestine: examples that, on the face of it, are antisemitic,” and the third “C. Israel and Palestine: examples that, on the face of it, are not antisemitic.”

The opening “definition” reads: “Antisemitism is discrimination, prejudice, hostility or violence against Jews as Jews (or Jewish institutions as Jewish).” This shares the main defects of the IHRA “working definition,” and does so for the same reasons. For a start, it assumes that “antisemitism” functions in English solely as a name for a state of mind, namely, a disposition to entertain feelings of hostility towards Jews solely because they *are* Jews. The second of the “A” group of “guidelines” does, however, sketch the main doctrines of what I have here called “political” or “theoretical” antisemitism:

What is particular in classic antisemitism is the idea that Jews are linked to the forces of evil. This stands at the core of many anti-Jewish fantasies, such as the idea of a Jewish conspiracy in which “the Jews” possess hidden power that they use to promote their own collective agenda at the expense of other people. This linkage between Jews and evil continues in the present: in the fantasy that “the Jews” control governments with a “hidden hand,” that they own the banks, control the media, act as “a state within a state,” and are responsible for spreading disease (such as COVID-19). All these features can be instrumentalized by different (and even antagonistic) political causes.

Although this passage describes its subject-matter as “ideas” and “fantasies,” terms vague enough to apply to mental states of many kinds, it is clear that at this point we have passed from speaking of antisemitism as consisting an *emotional disposition*—a mere tendency to entertain feelings of hostility—to speaking of it as consisting in a *body of theoretical beliefs*, whose propositional contents—that Jews are inherently evil, that there exists a Jewish conspiracy, that Jews secretly control putatively non-Jewish insti-

tutions and so forth—are quite sharply enough defined to expose them to assessment in terms of truth and falsity.

Unfortunately, since the “definition” section of the declaration presumably takes precedence over any “guideline” in establishing the *meaning* of the term “antisemitism,” the framers of the declaration have left themselves with no means of distinguishing in any systematic or principled way between antisemitism as an emotional disposition of a type entertained towards many other minority groups (in other words as just one more form of ethnic prejudice) and antisemitism as a body of hostile, pseudo-explanatory theory of a type faced, so far as I can see, by no other minority group, but *only*, ever, by Jews.

One major importance of this distinction, of course, is that while contempt and hostility may gravely disadvantage the members of any minority group towards which they are widely felt, they rarely result in efforts to exterminate the group in question. On the other hand, a system of beliefs that credits the members of a small, widely dispersed and essentially powerless minority group not merely with a collective commitment to evil, but with quasi-demonic conspiratorial powers allowing them to exercise secret control over institutions central to the wellbeing of the majority community—this is another matter entirely. What made the Nazi party seek to exterminate European Jewry was not that they happened to dislike and despise “Jews as Jews,” but that a determining proportion of its membership, along with a great many ordinary Germans (and for that matter ordinary Poles, Frenchmen, or Englishmen) were not only familiar with the main claims of theoretical antisemitism, but *believed them to be correct*.

When it comes to the question “What kinds of conduct are to be considered antisemitic?,” which, as we have argued here, it is the main business of an attempted definition to attempt to resolve, what approach one takes will depend very much upon which kind of antisemitism one has in mind: antisemitism *qua* emotional disposition, or antisemitism *qua* body of pseudo-

explanatory theory. If the former, then it will follow that X's conduct is antisemitic if, and only if, it expresses "prejudice, hostility or violence" to use the declaration's choice of terms, towards Jews as Jews. If the latter, it is antisemitic if, and only if, it involves disseminating claims that (a) tend to give credence to one or more of the tenets of theoretical antisemitism, in one or more of their many concrete versions, and (b) are demonstrably false.

One of the problems with defining "antisemitism" merely as "hostility to Jews as Jews," as if this move represented a return to sturdy common sense; a cutting away of a forest of essentially disingenuous and "philosophical" (that is, "needlessly hair-splitting") technicalities, is that it erases the evident conceptual connection, by way of the notion of prejudice, between the concept of *antisemitism* and those of *defamation* and *falsehood*. The brief opening "definition" sections of both the Jerusalem Declaration and the IHRA definition commit this mistake. The declaration indeed permits the term "prejudice" to figure alongside "hostility" in its form of words, but since it fails to define "prejudice" this admission fails of further effect.

In the case of the Jerusalem Declaration, these omissions produce further conceptual confusions, with resulting lacunae in the argument, later in the text. In group C of the "guidelines" ("Israel and Palestine: examples that, on the face of it, are not antisemitic"), for instance, we find two passages that deserve particular attention.

13. Evidence-based criticism of Israel as a state. This includes its institutions and founding principles. It also includes its policies and practices, domestic and abroad, such as the conduct of Israel in the West Bank and Gaza, the role Israel plays in the region, or any other way in which, as a state, it influences events in the world. It is not antisemitic to point out systematic racial discrimination. In general, the same norms of debate that apply to other states and to other conflicts over national self-determination apply

in the case of Israel and Palestine. Thus, even if contentious, it is not antisemitic, in and of itself, to compare Israel with other historical cases, including settler-colonialism or apartheid. . . .

15. Political speech does not have to be measured, proportional, tempered, or reasonable to be protected under Article 19 of the Universal Declaration of Human Rights or Article 10 of the European Convention on Human Rights and other human rights instruments. Criticism that some may see as excessive or contentious, or as reflecting a "double standard," is not, in and of itself, antisemitic. In general, the line between antisemitic and non-antisemitic speech is different from the line between unreasonable and reasonable speech.

Paragraph 13 begins unexceptionably with the claim that "evidence-based criticism of Israel as a state" is not antisemitic, and continues, *inter alia*, with the observation that "it is not antisemitic to point out systematic racial discrimination." This, on the face of it is also sound, *provided that we are still talking about "evidence-based criticism."* The trouble with much current BDS or antizionist propaganda, on campuses and elsewhere, is that it dispenses with empirical enquiry into specific cases of apparent racial discrimination, in favor of the essentialist claim that Israel, *by its very nature as a state*, is a "racist endeavor" (as the IHRA Definition puts it), or words to that effect. If any support or backing for this claim is felt to be needed, it usually takes the form, not of detailed, empirically based studies, but of further essentialist claims, such as that Israel is, again *by its nature*, an "apartheid" or "settler-colonial" state.¹⁸

These claims are antisemitic because on the one hand they are false, and secondly because, that being so, they can serve only the purpose of spreading, among receptive, mostly very young, minds on the left, the idea, characterized in paragraph 2 of section A of the "guidelines" to the Jerusalem Declaration as "particular to classic

antisemitism,” that Jews, through their support of Israel, are “linked to the forces of evil.”

Yet the Jerusalem Declaration, through its adoption of an absurdly narrow and one-sided initial “definition” of the term “antisemitism,” and its resulting failure to tease out any of the fairly obvious conceptual connections between the notions of antisemitism, prejudice and falsehood, has left itself with no means of saying that: with no means, in other words, of distinguishing between, on the one hand, legitimate political debate, and on the other, mendacious collective defamation inspired by a profoundly historically dangerous body of pseudo-explanatory ideology.

Paragraph 15 of the group C “guidelines” leads the declaration even further from recognition of this—really rather obvious—distinction. Like paragraph 13, it begins with a truism and ends with a dangerous falsehood. The truism is that “political speech does not have to be measured, proportional, tempered or reasonable to be protected under . . . human rights instruments.” The dangerous falsehood is that “In general, the line between antisemitic and non-antisemitic speech is different from the line between reasonable and unreasonable speech.” If antisemitism is a form of prejudice, and if it is sound to define “prejudice,” following Allport, as “thinking ill of others with insufficient warrant,” then it would seem to follow that antisemitic speech is indeed one way of crossing “the line between reasonable and unreasonable speech.” No doubt, “political speech” also crosses that line at times, without the consequence of losing the support of legislation that guarantees freedom of speech. But the whole question here is whether the kinds of collective defamation characteristic of political, or theoretical antisemitism are to be regarded as, in the ordinary sense of the term, “political speech.” It is evident that the one object of the Jerusalem Definition is to obtain, or at any rate to assert, entry to that category for the assertions, central to BDS and antizionist propaganda for the past couple of decades, that Israel is *by its very nature* a “Nazi,”

“apartheid,” and “racist” state. But if these slogans, however ludicrously weak their claim to constitute “evidence-based criticism,” are to be seen as “political speech” rather than defamatory and racist collective abuse, then why are the contents of *Der Stürmer*, or of any openly antisemitic pamphlet or website circulating at the present time, not to be admitted to the former category?

I have argued here that both the IHRA Definition and the Jerusalem Declaration fail *as definitions*. But the IHRA Definition does not claim to be definitive in that respect, any more than it claims to be “legally binding.” It offers only a “working,” which I take to mean rough and provisional, definition, together with a few illustrations of forms which antisemitism may, at times, take. Within these limitations, it would seem to me that the IHRA definition, nevertheless, offers a far safer, far less misled and misleading guide than the Jerusalem declaration, to the forms characteristically taken by antisemitism at the present time.

APPENDIX: THE IHRA DEFINITION

Below is the version of the IHRA definition offered on the website of the International Holocaust Remembrance Alliance.¹⁹ I have altered it only to the extent of adding, for convenience of reference, numbers to the examples.

THE WORKING DEFINITION OF ANTISEMITISM

In the spirit of the Stockholm Declaration that states: “With humanity still scarred by . . . antisemitism and xenophobia the international community shares a solemn responsibility to fight those evils” the committee on Antisemitism and Holocaust Denial called the IHRA Plenary in Budapest 2015 to adopt the following working definition of antisemitism.

On 26 May 2016, the Plenary in Bucharest decided to:

adopt the following non-legally binding working definition of antisemitism:

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

To guide IHRA in its work, the following examples may serve as illustrations:

Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

1. Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
2. Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
3. Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or

group, or even for acts committed by non-Jews.

4. Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
5. Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
6. Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
7. Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
8. Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
9. Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
10. Drawing comparisons of contemporary Israeli policy to that of the Nazis.
11. Holding Jews collectively responsible for actions of the state of Israel.

Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

Criminal acts are antisemitic when the targets of attacks, whether they are people or property—such as buildings, schools, places of worship and cemeteries—are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.

REFERENCES

- 1 E. M. Forster, *Two Cheers for Democracy* (San Diego, CA: Harcourt Brace, 2009).
- 2 Kenneth Marcus, *The Definition of Antisemitism* (Oxford: Oxford University Press, 2015).
- 3 Bernard Harrison and Lesley Klaff, "The IHRA Definition and Its Critics," in *Contending with Antisemitism in a Rapidly Changing Political Climate*, ed. Alvin H. Rosenfeld (Bloomington: Indiana University Press, 2021), 9–43; Bernard Harrison and Lesley Klaff, "In Defence of the IHRA Definition," *Fathom Journal*, January 2020, <https://fathomjournal.org/in-defence-of-the-ihra-definition>.
- 4 Bernard Harrison, *The Resurgence of Anti-Semitism: Jews, Israel and Liberal Opinion* (New York: Rowman and Littlefield, 2006), 12–23; Bernard Harrison, *Blaming the Jews: Politics and Delusion* (Bloomington: Indiana University Press, 2020), 64–71.
- 5 Sir Stephen Sedley, "Defining Anti-Semitism," *London Review of Books* 39, no. 4 (May 2017), <https://www.lrb.co.uk/the-paper/v39/n09/stephen-sedley/defining-anti-semitism>.
- 6 Marcus, *The Definition of Antisemitism*, 192.
- 7 Anthony Julius, *Trials of the Diaspora, A History of Antisemitism in England* (Oxford: Oxford University Press, 2010), 51.
- 8 John LaFarge, S. J., "Anti-Semitism," *Religious Education* 39, no. 2 (1944): 78–80. My thanks are due to Cary Nelson, for drawing my attention to this remarkable essay, and to the blog *Elder of Zion*, <https://elderofzion.blogspot.com>, which recently republished it.
- 9 Julius, *Trials of the Diaspora*, xliii.
- 10 Marcus, *The Definition of Antisemitism*, 6.
- 11 For the connection between the ideas concerning definition presented here, and the later Wittgenstein's notion of a criterion, see Bernard Harrison, "Criteria and Truth," *Midwest Studies in Philosophy* 23 (1999): 207–235.
- 12 See, for example, Anthony Luder, "Treating the Enemy: Victims of the Syrian Civil War in Israel," in *Education, Human Rights and Peace in Sustainable Development*, ed. Mikkola Nugmanova et al. (Vienna: Intechopen, 2019).
- 13 A full account of this action can be found in chapter six of David Hirsh, *Contemporary Left Antisemitism* (London: Routledge, 2018).
- 14 Report of Employment Tribunals case number 2203290/2011, available at <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Judgments/eemployment-trib-fraser-v-uni-college-union-judgment.pdf>.
- 15 Hirsh, *Contemporary Left Antisemitism*, 155.
- 16 *Ibid.*, 162.
- 17 "Jerusalem Declaration," <https://jerusalemdeclaration.org>.
- 18 For an excellent account of the gulf between empirical enquiry and essentialist ideological theory in the thought and discourse of the current BDS-supporting and antizionist left on both sides of the Atlantic, see Alan Johnson, "Intellectual Incitement: The Anti-Zionist Ideology and the Anti-Zionist Subject," in *The Case Against Academic Boycotts of Israel*, ed. Cary Nelson and Gabriel Noah Brahm (Chicago: MLA Members for Scholars' Rights, 2015).
- 19 "Working Definition of Antisemitism," Holocaust Remembrance, <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>.