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More Than Two Dozen Distinguished Law Faculty Urge American Bar Assoc. to Reconsider Antisemitism Resolution

Washington, DC, March 14, 2023 – Nearly 30 of our nation’s most distinguished law professors, including two former university presidents, [spoke out](#) for the very first time today to urge the American Bar Association (ABA) to reverse its decision to remove what is considered the global gold standard for defining Jew-hatred from the ABA’s new resolution on antisemitism.

The signatories, many of which are longtime ABA members, teach at the top law schools in the country, including Harvard, Northwestern, UC Berkeley, UC Irvine, the University of Michigan, the University of Minnesota, and George Mason University. In addition, two of the signatories are former university presidents, one from the nation’s most prestigious public university system and the other from the most recognized of the Historically Black Colleges and Universities (HBCU). The petition was drafted and organized by the Academic Engagement Network’s law faculty committee.

The petitioners note that, “[A]ntisemitism cannot be effectively combated or remedied if it is poorly understood. For this reason, we regret that Resolution 514 as adopted and revised omits an internationally-agreed upon standard and urge the ABA to reconsider its stance on this matter.”

At its midyear meeting, the ABA adopted a new resolution on antisemitism. While the initial draft of the resolution included the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism, the final, revised version deleted the definition due to a major pressure campaign from anti-Israel groups. The law professors note that these groups have “themselves engaged in hostile anti-Israel rhetoric that has crossed the line from legitimate criticism to antisemitic hate speech. For example, the organization Jewish Voice for Peace has repeatedly trafficked in antisemitic conspiracies.”

More than 1,000 global entities, including 850 government bodies such as the U.S. State Department, the European Union, and the United Nations, have adopted the IHRA definition as their official definition of antisemitism. More than half of U.S. states have individually adopted the IHRA definition, as have numerous US cities, universities, NGOs, and corporations. The definition is viewed as an invaluable educational tool for understanding how Jews experience antisemitism today, and it includes both classical antisemitic tropes and canards, as well as examples of contemporary antisemitism often directed against the State of Israel—such as calls for Israel’s destruction and comparing it to Nazi Germany.

“It is unfortunate that the supporters of Resolution 514 were reportedly persuaded to opt out of using the IHRA definition only after a number of organizations mobilized in recent weeks to voice wildly exaggerated concerns that it is ‘dangerously chilling’ speech in support of Palestinian rights,” wrote the petitioners. “We reject claims that the IHRA definition undermines and chills free expression, suppresses pro-Palestinian advocacy, or prohibits speech critical of Israel. In fact, the definition explicitly states that it is not antisemitic to criticize Israel in ways similar to other countries. But when conspiracy theories and anti-Jewish stereotypes flourish under the guise of calls to eliminate Israel, this needs to be called out and condemned as antisemitism. Left unchecked, this hateful speech justifies the harassment, exclusion, and marginalization of Jews in America and worldwide.”

The signatories note that calls for Israel's destruction and discrimination against Jews are antithetical to human and civil rights, and thus, it is entirely appropriate for the ABA to endorse the IHRA definition for training and educational purposes. In the U.S. context, the definition should not be imposed as a hate speech code, but it is a sensible tool for understanding how antisemites may express their hatred against Jews in the form of anti-Israel expression, sometimes just by replacing the word "Jew" with the word "Zionist."

When crimes are committed against Jews, note the legal experts, the IHRA definition can also help to determine whether antisemitic intent was a motivating factor. The definition can also be relied upon to decide whether a campus, given all the circumstances, has violated Title VI of the Civil Rights Act of 1964, by failing to protect Jewish students from discrimination on the basis of real or perceived shared ethnic or ancestral characteristics.

Furthermore, note the law professors, instead of silencing or chilling constitutionally protected political speech, the IHRA definition can help to encourage robust conversations about the multifaceted nature of contemporary antisemitism, including when it is disguised as anti-Israel and anti-Zionist animus. On campus, it can actually promote speech by ensuring that Jewish students are able to openly express their Zionist identities and can participate freely in campus life.

AEN is an independent, non-partisan national organization comprised of more than 850 faculty members on nearly 300 campuses who work to counter antisemitism and support a robust dialogue about Israel and Jewish identity. AEN does not take a position on the Israeli government or its policies, while staunchly opposing boycotts of Israel's higher education institutions as antithetical to academic freedom and the pursuit of knowledge. Former Canadian Member of Parliament and Minister of Justice Irwin Cotler and U.S. Representative Donna Shalala serve on AEN's Advisory Board, chaired by the former President of the University of California Mark G. Yudof. Deborah Lipstadt was an AEN Advisory Board member before taking on the role of U.S. Special Envoy to Combat Antisemitism.