

Samuel H. Brody

Lawrence, KS

Testimony in Opposition to HB 2299

House Education Committee, Rep. Susan Estes, Chair

February 11, 2025

Mme. Chair, Members of the Committee:

Thank you for the opportunity to testify today. My name is Samuel Hayim Brody, and I am an Associate Professor in the Department of Religious Studies and the Jewish Studies Program at the University of Kansas. I am also a board member of the Lawrence Jewish Community Congregation. I speak today in my capacity as a citizen and scholar, rather than as a representative of any of these organizations.

I testify in opposition to this bill specifically on the basis of new section 1(4)(B)(c)(1), stipulating that for the purposes of the state “antisemitism” will be defined in accordance with the IHRA working definition of antisemitism, “including the contemporary examples, as in effect on May 26, 2016.” My comments will be directed entirely to this subsection, and should not be understood to apply to the rest of the bill nor to any possible bill combating antisemitism that this body might consider in the future.

I testify to the following points:

1. The IHRA definition of antisemitism is controversial.

The IHRA definition, although popular with governments and other institutions, is widely understood by professional historians and scholars of antisemitism to be seriously flawed. Its author, Kenneth S. Stern, drafted it 20 years ago as director of the antisemitism division of the American Jewish Committee. In its original context it was intended to help researchers identify places where antisemitism might be occurring so that the AJC could direct resources and aid those affected. Stern himself has spoken out forcefully against incorporating this definition into legislation or Title VI, because doing so leads to inappropriate censorship. Again: [the author of this definition has described it as a “travesty” that it is being used in this way.](#)

Given these facts, it would make sense for the legislature to consider alternatives to the IHRA definition. There is a strong case to be made that no “definition” of antisemitism is necessary; discrimination on the basis of race and religion is already illegal. However, if a strong need is felt to adopt a definition, both the [Jerusalem Declaration](#) and the [Nexus Document](#) offer alternatives with support from the leading scholars of antisemitism around the world.

2. Antisemitism is a conspiracy theory.

Antisemites portray Jews as a single, powerful global organism conspiring to gain control of central levers of society, such as the media, banks, and governments. “The Jews,” as a collective, are seen as working behind the scenes to engineer events and outcomes. Criticisms of the contemporary State of Israel can, but need not, be antisemitic in nature. The State of Israel is a state like all states, and people may support or oppose both its actions and its fundamental form in the same way as they do with all other states. In order to tell whether a criticism of the State of Israel is antisemitic, it is necessary to read it in light of the history of antisemitism. The claim that Israel is secretly in control of U.S. foreign policy is antisemitic; it fits the classical pattern. The claim that Israel is acting in flagrant disregard of Palestinian rights to life, liberty, and the pursuit of happiness is not antisemitic; it does not even depend upon or relate to Israel’s “Jewish” nature in any way.

3. Israel is subject to legitimate criticism.

Thomas Jefferson wrote in the Declaration of Independence: “whenever any Form of Government becomes destructive of these ends [their inalienable rights], it is the Right of the People to alter or to abolish it, and to institute new Government.”

Any form of government. This is a general political point. If I think the Saudi government is destructive of these ends, and advocate its replacement by a republican government, it will not do to dismiss or silence these concerns by attempting to reduce them to Islamophobia. If I think the Chinese government is destructive of these ends, and advocate its replacement by something more participatory and democratic, it will not do to dismiss or silence these concerns by attempting to reduce them to Sinophobia. And if I think the Israeli government is destructive of these ends, and advocate its replacement by a government that would equally represent all the residents of that land, whether Jewish, Christian, or Muslim, it will not do to dismiss or silence these concerns by attempting to reduce them to antisemitism. The IHRA definition is flawed because it ignores this point.

There is nothing antisemitic about thinking it is wrong to respond to an attack that killed 1,000 people by killing, at conservative estimates, 60,000 people. This is no different than being opposed to the U.S. war in Iraq or any other war causing disproportionate civilian casualties through bombing, famine, disease, and the destruction of critical infrastructure.

4. Jews are divided about this.

The straightforward application of the IHRA definition together with its examples could lead to the ironic and tragic situation in which the state would find itself targeting more Jews than any other people in antisemitism investigations. To understand why, imagine if the state passed a law defining “anti-Christianity” as any denial of the real presence of Christ in the Eucharist. The primary groups interested in denying the real presence of Christ in the Eucharist are not atheists, but Protestant Christians. Thus the state would essentially be taking one side of a dispute within Christianity. The same is true here. Judaism is a religion, over two thousand years old. Zionism is a political ideology less than two hundred years old, and most of its adherents are not Jewish but Christian. For the state to enshrine the IHRA definition in law would amount to taking sides in a dispute within the Jewish

community, and censoring the speech of one part of it. That could even perhaps be considered an unconstitutional establishment of religion, insofar as the state would be arrogating to itself the right to say, for example, that modern Orthodox Jews who see the State of Israel as a divine miracle are “really” Jewish, whereas ultra-Orthodox Satmar Hasidim who see the State of Israel as a heretical sin are antisemitic.

Judaism as a religion has often placed argument “for the sake of heaven” at its center. The central texts of Judaism, such as the Mishnah and Talmud, feature page after page of rabbis arguing about intricate points of law and ethics. There has rarely been a “consensus” Jewish view on anything, and the central place of Israel in American Jewish life is both recent and highly contested. Some Jews make Israel the linchpin of their Judaism; others take more inspiration from the previous 1,800 years of Jewish life in which Jews survived and thrived in Diaspora without a nation-state being involved in their religion in any way. This latter position is held by highly educated, highly committed Jews, and not just by disaffected, alienated, and uncommitted youth as opponents sometimes try to claim.

Polling of the American Jewish community finds that while the overwhelming majority of American Jews have a positive view of the State of Israel, over 33% of American Jews, and 42% of those aged 18-34, find the way the State of Israel is executing the war in Gaza unacceptable. Whatever you think of this opinion, it should not be criminalized. Passing HB2299 could subject these young Jews, as well as other people who find this government’s actions problematic, to criminal prosecution, and that is unacceptable by any measure.

5. Only a very small part of the fight against antisemitism is on college campuses.

We live in a moment when the richest man in the world thinks it’s funny to give the Nazi *sieg-heil* at the presidential inauguration. At a time like this, when white supremacist movements openly declare that they see no place for Jews in American life, to go searching for antisemitism among relatively powerless college students seems like willfully misplaced priorities. I understand that many students, Jewish and non-Jewish, felt extremely uncomfortable at the presence of vigorous pro-Palestine protests on college campuses. But feeling uncomfortable is not the same thing as being unsafe. Where there was physical harassment, we already have laws to deal with that. Where there was only political protest, we *should not* have laws to deal with that.

In order not to criminalize legitimate political speech, you should vote down HB2299.

Thank you for your attention.