

## Opinion | I'm Jewish. Here's why I voted against the Antisemitism Awareness Act.

Combating antisemitism is vital. The bill the House just passed is the wrong way to do it.

By Jerry Nadler

May 8, 2024

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As protests over the Israel-Gaza war have heightened the debate over the line between constitutionally protected speech and antisemitism, the House passed a bill last week that supporters say is intended to combat anti-Jewish speech on campus. On its face, the Antisemitism Awareness Act might seem like legislation that I, as an observant Jew, a proud Zionist, a strong supporter of Israel and a member of Congress who has spent a career fighting antisemitism, would easily support.

Instead, I voted against it, as did several other Jewish members of Congress. While I support the sentiment expressed by its sponsors, this bill does nothing to fight antisemitism in any meaningful way. Instead, it merely tinkers with definitions and could ultimately make investigating antisemitism on campuses more difficult in the future. In addition to trampling the free-speech rights of students and professors, this bill was disingenuously designed to split the Democratic caucus and score cheap political points.

Specifically, the bill would require the Education Department's Office for Civil Rights to use the definition of antisemitism put forth by the International Holocaust Remembrance Alliance, and only this definition, when investigating claims of antisemitism on campus. This might not seem like a big deal, but the IHRA definition includes examples of antisemitism that might sweep in perfectly valid criticism of the state of Israel that, alone, does not necessarily constitute unlawful harassment or antisemitism.

To be clear, I strongly disagree with the anti-Israel sentiments being expressed at certain campus protests. I do not believe Israel is a racist endeavor, nor do I think it's appropriate to draw comparisons of contemporary Israeli policy to that of the Nazis.

But categorically banning this kind of speech, as the Antisemitism Awareness Act threatens to do, is antithetical to our values as Americans — which, as a member of Congress and a lawyer who has fought in Congress to protect the right to free speech, I am bound to defend,

even if I strongly disagree. As written, this bill could strip students and professors of their right to engage with others and with their college administrations on a critical matter of national importance. I want my Jewish community to feel safe on campus, but I do not need it shielded from controversial views simply because those views are unpopular.

Kenneth Stern, meanwhile, the lead author of the IHRA definition, has opposed codifying his work for a slightly different reason. In 2019, in the face of a similar proposal from the Trump administration, Stern wrote that the IHRA definition “was never intended to be a campus hate speech code.” It is supposed to be, instead, a tool for helping us monitor antisemitism “over time and across borders.” He did not want us to freeze his definition, or any other, into law, because context matters and changes over time. What constitutes antisemitism on a college campus in New York City today might be a different sort of problem in a different setting years from now. In time, we might also come to understand that additional conduct constitutes a new kind of antisemitic threat, and that some of what is in this particular definition is no longer relevant.

Freezing a single definition of “antisemitism” into law, then, is remarkably shortsighted. The approach manages to be both over-inclusive and under-inclusive, as well as remarkably subjective. For the same reason, federal civil rights laws largely avoid codifying terms such as “racism” and “bigotry.” In practice, the flexibility to “know it when you see it” is the best defense against hateful speech and actions, which evolve along with the culture.

If Congress is serious about fighting antisemitism, there is a better way. Last year, the Biden administration outlined a comprehensive National Strategy to Counter Antisemitism. The cornerstone of this effort was a proposal to increase enforcement against antisemitism on campus by the Office for Civil Rights. President Biden proposed a 27 percent increase in funding to the office for that purpose; House Republicans countered with a 25 percent decrease in funds. Congress “compromised” by holding funding flat.

I find that unacceptable. If we are going to effectively and meaningfully protect students on campus, then we must back up existing protection by fully funding the Office for Civil Rights so it has the resources and infrastructure it needs to keep up with the rise of antisemitic incidents on campuses. The bipartisan Countering Antisemitism Act by Rep. Kathy Manning (D-N.C.) does just that by codifying Biden’s national strategy into law, and I hope that the Senate will take up that bill instead.

In the face of a dangerous and disconcerting rise in antisemitism on and off college campuses, it’s easy to find comfort in quick, feel-good solutions to complicated problems. But trampling our rights and making the fight against antisemitism harder for future students will put us further from our goal.