

# THE NEW REPUBLIC

## **A Dem's Principled Opposition to a Grandstanding GOP Antisemitism Bill**

*Why Jerry Nadler and four other Jewish Democrats voted "no"*

Michael Tomasky /May 3, 2024/

It's always worth taking note when a legislator casts an unexpected vote. So it caught my eye Wednesday morning as I was scanning the House roll-call vote on H.R. 6090, the Antisemitism Awareness Act.

It passed by a wide margin, 320–91; 187 Republicans and 133 Democrats voted for it, and 21 Republicans and 70 Democrats against. I scrolled down to look at the “no”s, because votes like this one—which right and left approach, let us say, from different moral universes—always offer an amusing coalition of the unwilling. GOP “no”s included hard-rightists like Lauren Boebert, Paul Gosar, Matt Gaetz, and Marjorie Taylor Greene. Democratic “no”s mostly all came from the Progressive Caucus, even the progressive wing of the Progressive Caucus—Alexandria Ocasio-Cortez, Cori Bush, Rashida Tlaib, and more.

Then a surprising name caught my eye: Jerry Nadler of Manhattan. And another: Jan Schakowsky of Evanston, Illinois. These are both liberal Democrats, of course. But they're also both Jewish, and they represent heavily Jewish districts. This was interesting.

Thursday, I spoke with Nadler about his vote. I should say that I've known and respected Jerry for many years. We met (can it be?) in 1987, when I was a young reporter covering New York politics. Before I get to the matter at hand, a quick story from those days that made me realize that Nadler was willing to take unpopular positions.

There were neighborhood political clubs in those days in Manhattan (they still exist, but their heyday was long ago). In Greenwich Village, there were two clubs: an older and more established one that opposed Mayor Ed Koch, very unpopular by the late 1980s among progressives, and a newer, pro-Koch club. An issue arose at some county Democratic meeting I was covering, I don't even remember what it was exactly, but I do recall that Nadler, then a state assemblyman, rose to speak in defense of the pro-Koch club's First Amendment rights. He was booed. I was no Koch fan then, but I thought it was kind of a gutsy thing to do.

Flash-forward. Why did a Jewish congressman from the most famous Jewish district in America (the Upper West Side) oppose an antisemitism resolution? “It’s violative of free speech,” Nadler told me, “and it’s totally unnecessary.”

H.R. 6090 would require the Department of Education’s Office of Civil Rights to use the definition of antisemitism adopted by the International Holocaust Remembrance Association in 2016 when investigating complaints of bias at institutions that receive federal funds. That means college campuses (even private universities like Columbia receive federal grants and so on).

The IHRA definition, debated for years, has been adopted by around 20 countries, including the U.K., Canada, Germany, and more. Its definition is mostly nonproblematic, but to Nadler, one aspect of it threatened to squelch free speech on campuses. “You could read it as saying that criticism of Israel is antisemitic,” he said.

And this is where we get to the question of the Republicans’ motivation in introducing this bill. The IHRA definition is not without controversy, precisely because of some language about criticism of Israel that many consider blurry. Two other definitions of antisemitism have been promulgated—the Jerusalem Declaration on Antisemitism and the Nexus Document. Choosing to rely solely on one of the three definitions struck some critics as concerning. Even the author of the IHRA definition, Kenneth Stern, has become a sharp critic of using it with respect to speech on college campuses, and Nadler told me that Stern opposed this bill.

But: The IHRA definition did have a notable champion in the United States: Donald Trump. As president in 2019, he signed an executive order to protect Jewish students under the Civil Rights Act, using the IHRA definition. Sounds good and uncontroversial, but numerous critics, including progressive Jewish groups, worried about its potential chilling effect on campuses. Stern, writing in *The Guardian*, argued that his definition “was created primarily so that European data collectors could know what to include and exclude.... It was never intended to be a campus hate speech code, but that’s what Donald Trump’s executive order accomplished this week.”

The Biden administration never rescinded that executive order. However, Biden did launch a different approach. In May 2023, he unveiled the first-ever national strategy to combat antisemitism. The 60-page plan outlined 100 steps that federal agencies committed to complete within a year and was based on input from 1,000 stakeholders.

Biden also proposed increasing the 2024 budget of the Department of Education’s Office of Civil Rights by 25 percent. Republicans proposed cutting it by 25 percent. The ultimate compromise, says Nadler, is that it was flatlined. That battle is being repeated for 2025. House Republicans could shift their position on that, if they want to show that they wish to combat antisemitism in a real way. There’s also a House bill, sponsored by North Carolina

Democrat Kathy Manning, that would codify the Biden administration's approach, and it has an impressive 15 Republican co-sponsors (and 24 Democrats).

Speaker Mike Johnson could put his weight behind that. But as we see on an hourly basis, he (while pretty extreme himself) is dealing with a whole different universe of crazy. Marjorie Taylor Greene explained her opposition to the bill by saying that under it, Christians could be convicted “for believing the Gospel that says Jesus was handed over to Herod to be crucified by the Jews”—an age-old and classic antisemitic fable.

I'm not sure this bill is dangerous. A lot of solid liberals voted for it. I just think it's worth noting that some Jewish members opposed it (there were three more, in addition to Nadler and Schakowsky: Sarah Jacobs of California, Jake Auchincloss of Massachusetts, and Rebecca Balint of Vermont), in part out of concern that criticism of the policies of Israel could be construed under law as antisemitic.

Antisemitism is certainly all too real, on college campuses and across the country, and obviously, there are times when criticism of Israel can and does include antisemitic tropes. But the laws of the United States should help clarify the difference between antisemitism and criticism of Israel, not obscure it.

*This article first appeared in Fighting Words, a weekly TNR newsletter authored by editor Michael Tomasky.*