Keith Kahn-Harris

What we don't know about IHRA: Practices of subversion and neglect

Kurzfassung: Die Debatte über die Antisemitismus-Definition der International Holocaust Remembrance Alliance (IHRA) hat sich im Allgemeinen auf die Bedeutung der Definition selbst und die Folgen ihrer Übernahme oder Nichtübernahme durch Institutionen konzentriert. Dennoch wissen wir sehr wenig darüber, wie die IHRA in der Praxis von Institutionen angewendet wird, die sie übernehmen. Dieser Artikel diskutiert den Fall von Professor David Miller von der Universität Bristol, wo die Annahme der IHRA durch die Universität seine (später von der Universität aufgehobene) Freisprechung von Antisemitismusvorwürfen durch ein Rechtsgutachten, das sich auf die IHRA bezog, nicht verhinderte. Dieser Vorfall zeigt die Möglichkeit, dass Institutionen die IHRA „untergraben" oder einfach vernachlässigen, wenn sie sich mit Antisemitismusvorwürfen befassen. Diese Möglichkeit wird von aktivistischen Befürwortern und Gegnern der IHRA selten erwähnt. Es besteht daher dringender Bedarf an empirischer Forschung darüber, wie die IHRA von Institutionen, die sie übernommen haben, verstanden und angewendet wird.

Abstract: The debate about the International Holocaust Remembrance Alliance definition of antisemitism (IHRA) has generally focused on the meaning of the definition itself and the consequences of its adoption or non-adoption by institutions. Yet we know very little of how IHRA is applied in practice by institutions that adopt it. This article discusses the case of Professor David Miller of Bristol University, where the adoption of IHRA by the university did not prevent his absolution (subsequently overturned by the university) from accusations of antisemitism by one legal opinion that made reference to IHRA itself. This incident demonstrates the possibility that institutions might 'subvert' or simply neglect IHRA when dealing with accusations of antisemitism. This possibility is rarely mentioned by activist proponents and opponents of IHRA. There is therefore an urgent need for empirical research into the ways IHRA is understood and applied by institutions that have adopted it.

While there has been a great deal written – both scholarly, journalistic and polemical – about the International Holocaust Remembrance Alliance definition of antisemitism (referred to in this paper as IHRA), as well as defining antisemitism more generally, it is striking that there has been a lack of attention to *how* IHRA has actually been applied in practice. The controversy over whether IHRA is an appropriate definition has tended to focus on scrutinising the meaning of the definition itself, rather than how the definition is interpreted in institutional settings. Of course, there has been scrutiny of the *outcomes* of interpretations, particularly by those who argue that IHRA delegitimises criticism of Zionism and Israel. But we know very little about what happens 'in the room' when bureaucracies, institutions and authorities seek to apply IHRA to concrete cases. In this paper I draw attention to this lack of knowledge and speculate on whether IHRA might be 'subverted' by institutions that adopt it, or perhaps neglected and ignored.

In 2021, one partially-documented case of IHRA's application in ways that might be contrary to the intentions of those who drafted the definition, came to light in the UK. It concerned Professor David Miller, a sociologist at Bristol University whose work concerns propaganda and Islamophobia. Beginning in 2019, the university received complaints from Jewish students and other parties about Miller, pointing in particular to the conspiratorial nature of his depiction of Zionist networks in the UK as interconnected and intrinsically Islamophobic. Attention was drawn in particular to a diagram that he had used in a lecture that appeared to show a wide variety of Jewish organisations and individuals in the UK as, essentially, functionally identical nodes in a structure that was ultimately reducible to the Israeli government (what I have described elsewhere (2021) as a 'flatland'). He also depicted the Union of Jewish Students (UJS), which has a branch at Bristol, as 'political pawns of a violent, racist foreign regime'.[1]

Bristol University faced increasing pressure to act against Miller and an investigation of Miller in 2021 finally led to the termination of his employment in October 2021. Subsequent to his sacking, a report by a QC ('Queen's Council', a particular kind of senior barrister) on one of Miller's articles and a lecture, commissioned by the University earlier in 2021, was leaked.[2] This report appeared to have absolved Miller of antisemitism in the particular case he was asked to look at. The QC's brief included examining how the IHRA definition (which Bristol University had adopted a number of years before) could be applicable in Miller's case. While the QC referred to criticisms of IHRA in the report and seemed to have a preference for the definition given in the Jerusalem

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[1] For a fuller summary of the case against David Miller, see Harpin (2021) and Hirsh (2021).

[2] The fullest summary of the leaked report appears to be on the website *Electronic Intifada* (Winstanley 2021) which should not be considered an unimpeachable source regarding antisemitism. However, subsequent reactions to the leaked report across the board do not seem to have contested the contest of the leak, even if they contest the interpretation offered by the website.

Declaration on Antisemitism (JDA), the QC concluded that even under IHRA, Miller's statements were not antisemitic.

In the wake of the leak, there were a number of attempts to parse its significance. In an article in the *Jewish Chronicle*, Dave Rich of the Community Security Trust argued that the QC's report was, in part, a product of the 'assault on IHRA' (2021):

> The Jerusalem Declaration and the broader campaign against the IHRA definition have thrown enough dust in the eyes of people trying to assess claims of antisemitism that egregious offenders like Miller get to stroll right through.

Rich did acknowledge that some advocates of the JDA had been vocal in demonstrating that Miller's comments do fall foul of its definition of antisemitism and did not dispute that the JDA allows this reading. In *Haaretz*, David Feldman and Yair Wallach, both prominent UK advocates of the JDA, argued that the QC had essentially ignored JDA's detailed guidelines (focusing only on its core definition) and that 'the Jerusalem Declaration gives us the tools to reveal Miller's antisemitism for what it is' (2021). They also pointed out that 'definitions are only as good as the people who use them…without knowledge, understanding and good sense both the IHRA definition and JDA will fail'.

Both articles are interesting in that they acknowledge the limitations of definitions as tools in the fight against antisemitism. While they account for the failure of definitions in this particular case differently – for Rich, the wider campaign of delegitimising IHRA, for Feldman and Wallach, a lack of a broader educational process – there is a common awareness that *defining* antisemitism as such can never be the end of the story.

This episode is important to consider because it provides a rare case study in how IHRA and/or JDA can be *subverted*. That does not mean that the QC went into the report with this specific intention. However, it does show that IHRA in particular offers much more scope for indemnification against accusations of antisemitism than is supposed by some of its proponents and opponents.

As a general principle, one doesn't have to be a deconstructionist to recognise the fact that humans have the capacity to read the same text in radically contradictory ways. Psychologically we know that 'motivated reasoning' enables all of us to find in texts what we want to find (or not find). We know from its many critiques, including Ullrich's (2019) expert opinion that lead to this special issue, that IHRA has ambiguities and absences, including but not necessarily limited to those that are inherent in any kind of definition that must balance concise generality with the precision that would allow its application to specific cases. IHRA necessarily touches the limitations of language itself to provide clarity; much hinges on the gnomic nature of terms such as 'may include' before the list of examples.

As Sina Arnold argues in this special issue, definitions can only ever be interpreted within 'contexts' that are socially constructed. Yet, as Jensen argues in this issue, IHRA appears to be based on an empiricism that may be ill-equipped to deal with antisemitism's nature as a delusionary discourse, aside from the possibility of its application within discursive contests that are distinct from those of its drafters. Indeed, the idea that antisemitism can be identified and policed through a succinct written definition is difficult to reconcile the protean nature of antisemitic discourse; what Gidley et al. (2020) call a 'reservoir' of culturally available images and ideas that can be drawn on selectively or widely for purposes that may be highly contingent or may reflect a long-term commitment to antisemitic thinking. In that sense, IHRA itself should be seen as an unstable source of discourse, in a world of other unstable discourses. This is not, as such, a criticism of IHRA, but a recognition that it is open to reframing and reinterpretation for multiple purposes, whether or not that openness has been exploited or not.

This leads us to ask a question that, as far as I know, has not previously been asked: Given the substantial discursive opportunities to re-contextualise and re-interpret IHRA, why have those who oppose the definition not adopted it with the deliberate intention of subverting it? And concomitantly: Why have those who oppose JDA not adopted it with the deliberate intention of subverting it?

Viewed from the narrow (and cynical) perspective of institutional self-interest, there may be good reason to adopt either definition (or another one entirely) depending on their particular level of vulnerability to certain kinds of external pressure. Adopting IHRA might, for example, allow a US university in a Republican State with a strong Christian Zionist presence to pacify that potential source of pressure; while interpreting it in such a way as to protect academics critical of Israel from censure. Adopting JDA might, for example, allow a university pacify a student body with a strong pro-Palestinian contingent; while interpreting it in a strong way to quietly ensure that some forms of pro-Palestinian campaigning are disciplined.

I am talking here about the possibility of *intentional* subversion. Intention is extremely difficult to establish for either individuals or institutions. It is possible though that Bristol University's dismissal of Professor Miller despite at least one legal opinion that absolved him, might constitute such intentional subversion. If so, it is an ironic kind of subversion: It subverts a legal judgement that cleared Miller of behaviour defined by IHRA and JDA, while making its own judgement that conforms with that of proponents of IHRA and JDA. That prominent proponents of both IHRA and JDA agree that Miller's behaviour fall under both definitions may make this case unusual. But

from the university's perspective it was perhaps a fortuitous outcome that they could pacify two sets of critics that are often opposed to each other. Again, whether this was intended is difficult to establish.

We also know of at least one major example where the adoption of IHRA by an institution did not prevent subsequent accusations that that same institution was institutionally antisemitic. Amidst considerable pressure for and against the decision, the UK Labour Party adopted IHRA in September 2018. This did not end the controversy and the Equality and Human Right's Commission's October 2020 indictment of the Party for its failures in addressing antisemitism, drew attention to interference in complaints procedures, as well as the limitations of those procedures themselves. However, even if elements within the Labour Party leadership did engage in subversion of bureaucratic attempts to address antisemitism in the Party, it is far from clear the role that resistance to IHRA (intentional or otherwise) might have played in this after September 2018.[3]

It is possible – although, again, difficult to establish - that some institutions may have adopted IHRA without subversion in mind but without any clear intention of proactively using it as an integrated part of their bureaucratic processes. For some institutions at least, it might be easier to be part of the wave of other institutions adopting IHRA than to not be part of it. For an institution against which accusations of antisemitism are rare and in which pro-Palestinian activism has no significant presence, the judgement might be made that adoption of IHRA will have no practical impact at all. Certainly, adoption of IHRA requires no formal commitment to a programme of education or institutional self-scrutiny.

The possibility that IHRA or another definition of antisemitism might have been adopted by some institutions cynically, subverted through motivated readings, bureaucratically circumvented, or simply with the intention of leaving it on a shelf, has not be explored in systematic research. We have no shortage of anecdotes of instances where IHRA's adoption or non-adoption leads to the alienation or marginalisation of particular individuals or groups. We also have attempts to collate good practice in the adoption of IHRA (Federal Association of Departments for Research and Information on Antisemitism 2020). But we have little comparative knowledge of what adoption of IHRA actually leads to, what readings of it prevail or do not prevail and why it is adopted in the first place (the same also applies to alternative definitions).

This limitation in research is unsurprising given that the debate over defining antisemitism is so focused on what the definitions mean. That does not mean that the texts themselves do not deserve scrutiny or require serious debate as to their limitations and possibilities. But in the wider debate about adoption, both protagonists and opponents rarely consider *text as practice* and the myriad possibilities for manipulating the text/practice nexus.

It is striking that, while it is common to attribute cynical motivations to one's opponent – supporting IHRA in order to crush pro-Palestinian dissent, rejecting it in order to enable antisemitism – there seems to be little will to explore cynicism as a practice that may further one's own cause. For opponents of IHRA, when a campaign against its adoption by a particular institution is unsuccessful, campaigning shifts to overturning it rather than to influencing how it is applied. There seems to be little appetite, for example, for leveraging the gnomic 'may' in the list of examples in order to render particular kinds of anti-Zionism as outside the definition's scope. To do so may require a level of cynicism that is hard to adopt; to pretend that a text that one views as fundamentally 'closed' as actually 'open' might be impossible for some.

For proponents of IHRA, there also seems to be little appetite to acknowledge the possibility that IHRA might sometimes be adopted by some institutions with a reserved cynicism rather than a fierce commitment to fighting antisemitism. For example, the UK's Campaign Against Antisemitism regularly congratulates organisations that have adopted IHRA in its social media presence. The possibility that adoption might have occurred for self-serving purposes, or with little understanding of what is required to police antisemitism, cannot be easily recognised within this kind of discourse. Ullrich (2019, 16) suggests that:

> …decision processes that refer to the definition are subject merely to a fiction of intersubjective guidance that precludes arbitrariness. The use of the definition instead provides procedural legitimacy for decisions, which are in fact taken according to different criteria that remain implicit. The ongoing dissemination and institutional recognition of the definition objectifies its claim to validity and promises orientation for actors in the field although in fact this remains a mere promise.

This, of course, is only a possibility whose reality has yet to be empirically demonstrated. That we cannot demonstrate it as yet, is a reminder of the scale of the research challenge ahead.

As I have demonstrated elsewhere (2020), there has been a significant growth in empirical research on antisemitism in the last couple of decades. Much of this growth can be attributed to monitoring antisemitic incidents and discussing antisemitic events, individuals and organisations. Research on how organisations tackle

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[3] There have also been counter-accusations that sections of the party bureaucracy opposed to the Labour leadership deliberately subverted attempts to address antisemitism, as a way of damaging the leadership.

antisemitism is barely developed though.[4] Indeed, even though IHRA is widely used as a way of framing research criteria by Jewish-led organisations that monitor antisemitic incidents in particular countries, the subtle differences in *how* IHRA is applied have never been fully collated and compared.[5] That even organisations that wholeheartedly support IHRA cannot definitively be said to understand and apply it the same way underscores the seriousness of the issue.

The challenge then is to engender the growth of empirically-grounded and comparative attempts to investigate processes of adoption and application of IHRA, as well as other definitions, within particular institutions. There are many obstacles to this kind of research; it is time-consuming and depends on a degree of access to institutions that is difficult to achieve. In the absence of the development of such a body of research, it would be wise for those weighing in on debates about IHRA, particularly scholarly experts, to explicitly mention what we do *not* know. Definitive statements about the impact of IHRA, whether positive or negative, should be avoided for now. The partial exception to this is statements about the wider discourse and controversy about IHRA. We can certainly point to multiple examples about how the adoption or non-adoption of IHRA has been received by multiple groups and individuals, Jewish and otherwise. This kind of discourse about IHRA should not be confused with the IHRA itself.

Of course, one might argue that IHRA has yet to establish itself as a dominant and ubiquitous definition of antisemitism. In which case, one might also argue that it is unsurprising that attention has focused on the definition in and of itself and the wider controversy is focused on adoption and non-adoption. According to that view, it is only when IHRA is fully established that attention will switch to its application.[6] The problem with this perspective is twofold: First, IHRA does seem to have become established in some countries and institutional sectors and attention does not seem to have shifted concomitantly in those contexts. Second, the debate about adoption of IHRA frequently involves the making of quasi-empirical claims about what adoption will lead to, usually without solid evidence. Antisemitism is a multi-dimensional phenomenon that extends across time and space, embedding itself in multiple kinds of institutions and practices in multiple contexts. Serious experts in antisemitism – including proponents of both IHRA and JDA – accept the scope of the challenge in both understanding the phenomenon and fighting it. I do not know of any experts who believe that adopting or non-adopting IHRA or JDA or any other definition is the end, rather than the beginning of a process within an institution.

Yet the wider controversy over IHRA and alternative definitions has frequently led to the elision of these complexities. In such a polarised context, there seems to have been a kind of narrowing of the activist imagination. Such a narrowing would seem to exclude experimenting with cynical ways of both fighting and absolving antisemitism as activists. That lack of imagination leaves institutions potentially free to manipulate definitions of antisemitism for their own purposes, with little scrutiny. Whether such manipulation is, in fact, occurring deserves urgent investigation. That investigation is unlikely to come from activist circles but from researchers who are alive to the complexities of how institutions work and how they assimilate and transform texts.

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[4] A partial exception to this is comparative research on legal attempts to deal with antisemitism. See, for example, Gliszczyńska-Grabias (2020).

[5] This should not be taken to mean that there are no attempts to coordinate such organisations. Indeed, there are now multiple formal and informal networks to do just that. However, the autonomy of national efforts to combat antisemitism inevitably limits the degree to which a single, unfied structure for monitoring antisemitism can exist.

[6] I am grateful to the anonymous reviewer who suggested this argument.

[7] Note that an update to the website of the *Jewish Chronicle* in late 2021 has removed all dates from archived articles. I have been informed that they are working to restore dates and it is possible that they will appear by the time this article is published.

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The author:

Dr Keith Kahn-Harris is a sociologist and writer, based in London. He is a senior lecturer at Leo Baeck College, an associate lecturer in the Department of Psycho-Social Studies, Birkbeck College and honorary research fellow in the Birkbeck Institute for the Study of Antisemitism, the project director of the European Jewish Research Archive at the Institute for Jewish Policy Research, and visiting fellow at the Centre for the Study of Jewish Culture, Society and Politics, Durham University. He is the author of seven books and editor of several collections, including *Strange Hate: Antisemitism, Racism and the Limits of Diversity* (Repeater 2019).

Contact: via website http://www.kahn-harris.org