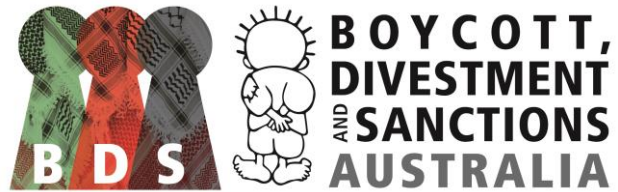


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International and Parliamentary Relations Office
Parliament House
Canberra ACT 2600

22 Nov 2022

To Whom it May Concern

Re: Parliamentary Friends of International Holocaust Remembrance Alliance

I write on behalf of BDS Australia to make a complaint and to raise the alarm over the recent launch of the Parliamentary Friends of International Holocaust Remembrance Alliance as a Friendship Group in the Australian Federal Parliament.

I understand that such groups are approved by the Presiding Officers and must conform to specific guidelines.

I note that these guidelines specify that they should “be apolitical” (item 2, line 2). The initiative for which the IHRA is best known is its Working Definition of Antisemitism (the IHRA WDA), which was adopted at its Bucharest Plenary Conference in 2016, including 11 examples that are said to illustrate antisemitism in practice.

Of these 11, seven pertain to Israel and to political debate about it. Two (numbers 7 and 8) are of particular concern:

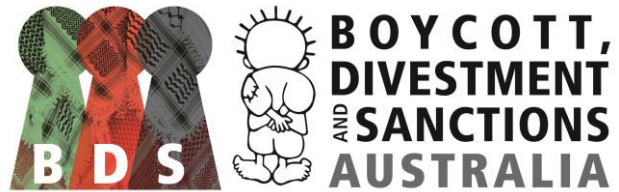
7. “Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour.
8. Applying double standards by requiring of it a behaviour not expected or demanded of any other democratic nation”¹.

Many countries are accused of being racist – in their origin, existence, conduct, forms of political, legal, social and economic organisation or in many other ways. They certainly include Australia. That does not make such accusations racist in themselves. They may strike us as excessive and unreasonable, but there is no requirement in human rights ethics or law that political speech must be reasonable, in order to be protected.

In practice, this example in the IHRA WDA has become politicised. As Dr Brian Klug, an Oxford University scholar who is an authority on antisemitism, put it in a submission last year to a European Union consultation: “Because... most of the examples attached to [the IHRA WDA] relate to Israel, one side in the debate over Zionism and Israel tends to promote the definition, while the other side tends to oppose it. The latter side sees it not as a tool for

¹ Source: International Holocaust Remembrance Alliance website
<https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

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fighting antisemitism, but as an instrument for advancing a partisan political agenda on Israel and Zionism”².

For an IHRA Friendship Group to be launched in the Federal Parliament, when the WDA is by far the best-known example of the Alliance’s work, risks placing the Group on one side of the debate over Zionism and therefore infringing the requirement for such groups to be apolitical.

The potential of the WDA to stifle legitimate public debate can be seen when considering responses in Australia to the series of recent reports, by respected monitoring groups such as Human Rights Watch and Amnesty International, finding that Israel is operating a system of apartheid towards the non-Jews who live under its political authority.

The Amnesty Report makes it clear that the second-class status of non-Jews was institutionalised in Israel from its inception as a state and has continued ever since:

“Since its creation, the Israeli state has enforced massive and cruel land seizures to dispossess and exclude Palestinians from their land and homes”, thus rendering them “a group with perpetual lesser rights”³.

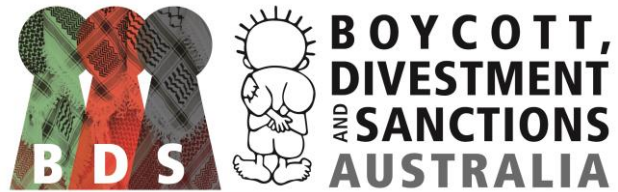
The publication of these findings and attempts by such groups to raise the alarm over them, do not constitute an attempt to require of Israel a standard of behaviour not expected of other democratic states, but instead to hold it to standards that are universally accepted. The issue is that Israel is accused of violating such standards with impunity – placing the onus on other states such as Australia, which support these standards, to take action to end the impunity.

This is a vital current public debate, on which there are many sides and many perspectives. But the effect of the WDA, if adopted as a set of rules for public debate in Australia, would risk excluding a significant set of these perspectives by labelling them as antisemitic. For this IHRA Friendship Group to operate in the Federal Parliament risks endorsing the WDA and therefore contributing to this chilling effect on free speech in this and other similar debates.

Such an effect has already been attributed to the WDA in a range of similar contexts in other countries. The submission to the European Union consultation on its Strategy for Countering Antisemitism and Fostering Jewish Life in the EU, referenced above, includes dozens of examples of where the WDA has been adduced in calls for action by governments, non-

² Source: Feedback to EU strategy for countering antisemitism and fostering Jewish life in the EU https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13068-Strategy-on-combating-antisemitism-and-fostering-Jewish-life-in-the-EU/F2661357_en

³ Source: Israel’s apartheid against Palestinians, Amnesty International report, p 22, download from: <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>



governmental organisations and inter-governmental organisations to be ruled out as antisemitic. It quotes a legal analysis of the two examples quoted above, commissioned by the Swiss government in 2020:

“Fears that example 7 could be misused to stifle political or academic speech are therefore not unfounded. For the purpose of freedom of expression, assessing the context is essential to prevent the example from being used to stigmatise criticism of certain Israeli policies linked to the issue of self-determination...

Due consideration should also be given to the fact that virulent speech and exaggeration, especially in political contexts, are also protected under freedom of expression. Even very strong statements claiming that the state of Israel is a ‘racist endeavour’, as in the example, are not in themselves antisemitic taken out of context...

In addition, the wording of example 8 provides little in the way of clarity and therefore limited predictability, which means that it is problematic when applied to freedom of expression. There is no homogeneous category of ‘democratic nations’ that can be used to determine whether higher standards have been applied to the State of Israel. Neither is there any one-size-fits-all notion of the behaviour expected or demanded of a democratic nation. In addition, freedom of expression and, in particular, press freedom, include the ability to choose topics for discussion. Certain nations and politicians generate more interest than others for a variety of reasons unconnected to racism...

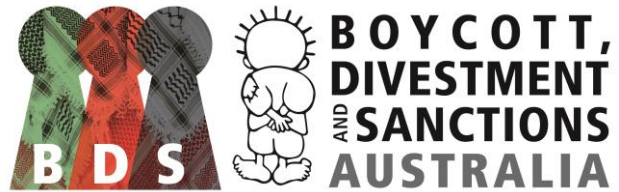
Freedom of expression therefore commonly involves selecting and simplifying material and using selective examples in journalism to illustrate a point. Applying example 8 in practice, however, presents huge challenges and is highly controversial, as evidenced by the criticism levelled at the UN Human Rights Council for employing double standards in its approach to the State of Israel... More fundamentally, the ‘double standards’ theory is particularly problematic in the context of the Israeli-Palestinian conflict and is itself likely to give rise to double standards”⁴.

The IHRA WDA is imprecise and open to interpretation and abuse. It has been used, and is being used, to stifle public debate by having a vital segment of opinions and viewpoints ‘ruled offside’ as antisemitic and therefore racist. For a PFG to be formed now in support of

⁴ Source: “The IHRA working definition of antisemitism: a legal analysis”, 6 November 2020 (published on 6 June 2021):

https://www.edi.admin.ch/dam/edi/en/dokumente/FRB/Neue%20Website%20FRB/Monitoring%20und%20Berichterstattung/Thematische%20Berichte/juristische_analyse_ihra-definition_antisemitismus.pdf.download.pdf/legal%20analysis%20IHRA%20working%20definition%20of%20antisemitism.pdf

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the IHRA, when it still promulgates this definition, with accompanying examples – for which it is, indeed, best known in the international community – risks appearing to endorse the definition and the uses made of it. It therefore risks placing the Australian Federal Parliament on one side of a vital public debate against the other, thereby politicising the Parliament; and risks implicating the Parliament in attempts to limit and stifle the free expression of a range of views that the Australian community rightly regards as its right and expectation in engaging with controversial issues of public policy.

I would also like to draw your attention to the [Jerusalem Declaration on Antisemitism](#) which was developed by a large number of highly regarded Jewish and other scholars of the Holocaust, Jewish studies, and Middle East studies in order to provide clear guidance to identify and fight antisemitism while protecting free expression. It was initially signed by 210 scholars, it has now around [350 signatories](#).

I believe that this is a far stronger and less problematic tool to use when combatting antisemitism.

I ask that action is taken to review the establishment of this Parliamentary Friends Group considering the arguments I have raised above.

Yours sincerely,

Secretary
BDS Australia