

FSOI Submission to Chakrabarti Inquiry



1. Who we are

Free Speech on Israel is an ad hoc group whose formation was sparked explicitly by the recent upsurge in accusations of antisemitism within the Labour Party, in suspensions arising out of these, and in what we regard as unbalanced media coverage of this issue. The group is almost entirely but not exclusively Jewish; all are Labour Party supporters and most Party members who are engaged locally and/or nationally. We share both an active concern for Palestinian rights, and support for the influx of new thinking and new members in the Labour Party over the last 9 months.

Free Speech on Israel came together over a concern about the one-sided media coverage, plus disbelief at the lack of due process in the Labour party over suspension of members. (It cannot be right, for example, for members to discover that they had been suspended via leaks to newspapers such as the *Daily Telegraph*.) The atmosphere created was that there has been a widespread, poisonous spread of antisemitism in the party. The factual basis, if any, on which this pyramid of assertions rested was almost entirely unavailable for public scrutiny. They were also completely contrary to our labour movement experience, decades long in many cases, that antisemitism is at most a marginal phenomenon. We are greatly concerned to see the restoration of some proportionality to the concern about antisemitism, specifically within the Labour Party.

The group has an active website <http://freespeechonisrael.org.uk/>, and is now active on the issue of antisemitism in branches and CLPs round the country.

A summary of our argument, and a set of recommendations, will be found at the end of this submission.

2. Free Speech

Our starting point is that free speech is of inestimable value to a civilised society. If certain voices and messages are selectively shut down or denied amplification,

we are all losers. Censorship and exclusion from participation in the full range of social forums, including in this case the Labour Party, should be undertaken reluctantly, and with extreme caution.

Timothy Garton Ash's recent *Free Speech: ten principles for a connected world* is very relevant here. He argues that Free Speech requires 'a mixture of openness and robust civility': "Openness without civility may lead to anarchy, but civility without openness is a recipe for unfreedom" (p.211). He explains what he means by robust civility: "we must be able to accommodate frank and even offensive description and articulation of differences within a broader framework of civic disagreement" (p.212) ¹.

Our group was formed and named before we were aware of his book. However our submission is entirely consistent with his formulation. We rely on your inquiry to defend the necessity and integrity of both parts of the robust civility composite.

3. Context

The collective experience of our group, spanning life experience running into thousands of person-years, includes only a very small number of experiences of overt antisemitism, and none of them in the Labour Party. Antisemitism has long-established roots in British culture and does undoubtedly still persist. Vigilance against its manifestations needs to be maintained. But the antisemitism identified needs to be genuine antisemitism, and the measures taken need to be proportionate, lest they exert a chilling effect on freedom of expression and discussion on related topics, in particular the Israel-Palestine conflict.

Our experience suggests strongly that there has been no recent upsurge of antisemitism within the party. So why the surge in allegations, often on very flimsy (or even fabricated) evidence? It is noteworthy that, as far as we are able to ascertain, most of the complaints that have led to suspension are related to the Israel-Palestine conflict, many of them dating to remarks made during the last war on Gaza in 2014. We think it is appropriate therefor to provide some background on the potential connection between this issue, and the claims of a crisis of antisemitism.

i) Israel's colonisation project

Central to the whole issue is the running sore of the illegal occupation of Palestinian territories and the repudiation by Israel of the Geneva conventions-attested rights both of those under occupation and of the Palestinian refugees. The 'matrix of control'² over all aspects of Palestinian life has been extended over the years by the most modern technology, drastically restricting not only their daily activities but also the functioning of their culture and community.

ii) Civil society reactions

¹ Chapter 5, p208 et seq, Atlantic Books 2016

² Jeff Halper 'The 94 percent solution: a matrix of control', Middle East Report 30:3, Fall 2000

In recent years Israel's reputation among the world's civil societies has been bumping along the bottom, in the company only of North Korea, Pakistan and Iran³. The BBC polls do not ask people for their reasons, but it seems probable that these include repeated military assaults, and a pervasive view that Israel is substantially responsible for obstructing the path to the peaceful achievement of Palestinian rights. In this context the failure of the UK government, along with the US and other European powers, to impose sanctions on Israel of the type they have been quite willing to apply to other countries, is seen as highly partial. It has resulted in a greatly expanded movement in civil society, in Britain and elsewhere, in support of Palestinian rights. One of its manifestation is the rapid growth of the non-violent movement from below, for Boycott Divestment and Sanctions (BDS).

iii) Israel's attacks on BDS and its supporters

President Rivlin has identified BDS (and especially the academic boycott campaign) as one of two strategic threats to Israel (the other being a possible Iranian nuclear weapon)⁴. The Netanyahu government has recently dramatically ramped up its diplomatic and legal efforts to close off these developments, with ever larger budgets devoted to these activities.⁵ Israel's strategy has evolved over time. Emphases have included claiming that critics are 'delegitimising' Israel; supporting legal challenges (including the disastrous attempt by UK academic Ronnie Fraser to sue his own union UCU for institutional antisemitism) and promoting bills in many foreign legislatures aimed at criminalising BDS activities. Throughout there has been an undertow of allegations that BDS supporters and critics of Israel are antisemitic or, if Jewish, 'self-hating Jews'. Within Israel BDS supporters are now subject to legal reprisals, and even (according to an Israeli minister) the threat of 'targeted civil elimination' - 'targeted elimination' is the euphemistic Hebrew phrase for targeted assassinations.⁶

iv) Jews in Britain

There are many organisations in the UK that are Jewish in character and a wide range of opinion, including about Israel government policies. Yet those that claim to speak for an entity called 'the Jewish community' almost without exception take a solidly Zionist perspective, with a strong tendency to defend Israel from all criticism. Predominant among these are the Board of Deputies of British Jews, the Jewish Leadership Council, the Community Security Trust and the Zionist Federation as well as a range of advocacy organisations such as the Campaign Against Antisemitism and BICOM, which have the same committed position.

These groups are generally well resourced, and find it relatively easy to get their views amplified in the mass media. The result is that the diversity of opinion about

³ <http://www.bbc.co.uk/mediacentre/latestnews/2014/world-service-country-poll>

⁴ <http://mfa.gov.il/MFA/PressRoom/2015/Pages/President-Rivlin-holds-discussion-on-international-academic-boycott-against-Israel-28-May-2015.aspx>

⁵ <http://www.theguardian.com/world/2015/jun/03/israel-brands-palestinian-boycott-strategic-threat-netanyahu>

⁶ <http://www.amnestyusa.org/news/press-releases/israeli-government-must-cease-intimidation-of-human-rights-defenders-protect-them-from-attacks>

Israel among British Jews is seriously under-represented. Organisations such as Independent Jewish Voices, Jews for Justice for Palestinians, the Jewish Socialist Group, Jews for Boycotting Israeli Goods, and others operate on a shoe-string but have significant reach and influence.

A decline in Jewish support for Israel is clearly evident in the United States. For example a report (in Hebrew) published in February found that Jewish American students have an increasingly negative image of Israel:

- Just 42% believe Israel wants peace.
- Just 38% believe "Israel is civilized and Western".
- Just 31% believe Israel is a democracy.
- No less than 21% believe The US should side with the Palestinians.⁷

A survey carried out for the liberal Zionist group Yachad in 2015 found a similar pattern among British Jews⁸. 31% of those surveyed self-identified as 'No, not a Zionist'. Twenty four percent would be prepared to support some sanctions against Israel if they thought it would encourage the Israeli government to engage in the peace process, a figure which rose to 41 percent among the under 30s. So although there remains a strong identification among sections of the British Jewish community with Israel, it is paralleled by a deep disquiet at Israeli occupation policies and the evident growth and encouragement of racism by many Israeli government ministers.

This diversity of opinion among British Jews is nowhere reflected in media coverage of assertions that anti-Zionism is indistinguishable from antisemitism.

v) The election of Jeremy Corbyn as leader of the Labour Party.

Jeremy Corbyn's unexpected election as Labour Party leader in September 2015 was undoubtedly unwelcome to many people, including the Israeli government. No previous leader of a major UK political party has ever stood up for Palestinian rights. The arrival of a patron of the Palestine Solidarity Campaign and uncompromising supporter of these rights at the head of the Labour Party threatened to end the effective consensus across the mainstream UK political parties that however critical they might be of Israel's policies, no effective action would follow.

Corbyn's election was also unwelcome, but for different reasons, to a considerable swathe of sitting Labour MPs, some of whom have engaged in public and highly disloyal criticisms in an apparent attempt to destabilise him. Some of these, up to a very high level within the Party, adopted and promoted the idea that antisemitism was rife among (new, Corbyn-supporting) Labour activists. Corbyn, it

⁷http://m.nrg.co.il/online/1/ART2/756/389.html?hp=1&cat=404&loc=1&mob_referrer=http://www.nrg.co.il/online/1/ART2/756/389.html?hp=1&cat=404&loc=1

⁸ <http://yachad.org.uk/wp-content/uploads/2015/11/British-Jewish-Attitudes-Towards-Israel-Yachad-Ipsos-Mori-Nov-2015.pdf> The survey, *The Attitudes of British Jews towards Israel*, was carried out by Prof Stephen Miller et al of the Department of Sociology, City University, London.

was claimed, was allowing this to happen. Many newspaper columnists, politically well to the right of Corbyn and generally supportive of Israel, joined in.

It is not necessary to be a conspiracy theorist to recognise a commonality of interest in this area between Israel's friends and Corbyn's foes (see Shlaim and Daniel⁹). And in at least one of the allegations of Labour Party antisemitism there is evidence of connections with a pro-Israel advocacy organisation¹⁰.

4. Antisemitism and Anti-Zionism

The claims that there is an antisemitism problem in the Labour Party depend crucially on those cases where complaints have been made and individuals suspended from membership. A steady drip-drip of cases, from the Oxford University Labour Club onwards, gripped the media and little effort was made to analyse the basis of these allegations before concluding that the Labour party was a hotbed of antisemitism. Clearly any case for making substantial changes to anti-racism training, disciplinary procedures and the like rests crucially on whether this evidence is reliable, doubtful, or concocted, and indeed whether it is relevant to a charge of antisemitism.

The disciplinary procedures invoked so far have been extraordinarily opaque, with even those suspended often not informed what their alleged offences are. But in the great majority of cases where we have information (handily summarised in an article in *Open Democracy*¹¹) the allegation is that the antisemitic content lay in remarks critical of Israel. Indeed the Jewish Labour Movement's rationale for a proposed rule change to make antisemitism a specific disciplinary offence, is explicitly linked to Zionism, which it defines as "no single concept other than the basic expression of the national identity of the Jewish people, a right to which all people are entitled". Yet as we have shown in section 3iv), much of the UK's Jewish population do not define themselves as Zionists.

When people criticise 'Zionism' today their understanding of the term is overwhelmingly conditioned, not by a theoretical vision advanced in the late 19th century, but by an occupation now rapidly approaching its fiftieth year, an always intensifying colonial-style expropriation of Palestinians on the West Bank, a brutal siege of Gaza, Israeli troops who seem to have impunity in their ill-treatment and even murder of Palestinian civilians, and a widespread disregard - and contempt - for international humanitarian law. There are claims, especially from those with an emotional commitment to Israel, that people who campaign against a regime that supports itself by these extreme measures are 'demonising' and 'delegitimising' Israel, very possibly with antisemitic motives. It is perhaps more the case, as Jewish Voice for Peace in the United States has put it, that "Israel delegitimises itself".

⁹ <https://www.opendemocracy.net/avi-shlaim-gwyn-daniel/labour-party-israel-and-antisemitism>

¹⁰ <https://www.opendemocracy.net/uk/jamie-stern-weiner/jeremy-corbyn-hasn-t-got-antisemitism-problem-his-opponents-do>

¹¹ <https://www.opendemocracy.net/uk/jamie-stern-weiner/jeremy-corbyn-hasn-t-got-antisemitism-problem-his-opponents-do>

5. Defining antisemitism

Brian Klug, a noted scholar of antisemitism, has suggested a simple working definition: “antisemitism is a form of hostility to Jews as Jews, where Jews are perceived as something other than what they are”¹². However since the 1970s, and with growing intensity over the past 10 years, there has been an attempt to develop a broader concept, often called ‘the new antisemitism’. More recently it has even been re-packaged as ‘antisemitic anti-zionism’¹³.

This attempted blurring of the edges of a well-established, and socially important, concept can be seen in clear focus in the development of the (so called) ‘EUMC working definition of antisemitism’.¹⁴ (We use the qualifier ‘so-called’ because its original parent body - the EU Monitoring Centre on Racism and Xenophobia - was disbanded and its successor body the Fundamental Rights Agency has disowned it.) The history of how this definition was developed by US and European Zionist organisations is a classic case study in organisational capture¹⁵.

The EUMC definition takes more than a page, over 500 words, to do what Brian Klug manages in 20. The surplus verbiage consists largely of examples of things which if said about Israel should be taken as prima facie evidence of antisemitism. It was of course taken up by the All Party Parliamentary Group on Antisemitism¹⁶ in 2006, chaired by the (now ex-) MP Dennis McShane. Its principal recommendation was that “the EUMC Working Definition of antisemitism is adopted and promoted by the Government and law enforcement agencies”.

In 2015 under its new chair John Mann MP the group brought out a further report which did not repeat this call¹⁷. John Mann has been one of the MPs most vocal in his criticisms of Jeremy Corbyn’s leadership. Feldman¹⁸ has pointed out that as a result of its deliberate emphasis on Israel as a touchstone the EUMC definition has become a source of controversy rather than consensus and has fallen out of favour.

¹² <http://www.jmberlin.de/antisemitism-today/Klug.pdf>

¹³ <http://fathomjournal.org/the-left-and-the-jews-time-for-a-rethink/>

¹⁴ See Tony Lerman, “The Farcical Attack on the UCU For Voting Against Use of the EUMC ‘Working Definition’ of Antisemitism”, june 2011, at <https://antonylerman.com/2011/06/02/the-farcical-attack-on-the-ucu-for-voting-against-use-of-the-eumc-working-definition-of-antisemitism/>

¹⁵ Richard Kuper, Hue and cry over the UCU at www.opendemocracy.net/richard-kuper/hue-and-cry-over-ucu

¹⁶ <http://www.antisemitism.org.uk/wp-content/uploads/All-Party-Parliamentary-Inquiry-into-Antisemitism-REPORT.pdf>

¹⁷ http://www.antisemitism.org.uk/wp-content/themes/PCAA/images/4189_PCAA_Antisemitism%20Report_spreads_v9%20REPRO-DPS_FOR%20WEB_v3.pdf

¹⁸ <http://www.antisemitism.org.uk/wp-content/themes/PCAA/images/DAVID-FELDMAN-SUBREPORT.pdf>

Feldman has proposed that it is appropriate to work with two distinct but complementary definitions of antisemitism, concerning, respectively, antisemitic *discourse* and antisemitic *discrimination*¹⁹. To our knowledge only two of the recent cases within the labour movement have involved allegations of discriminatory behaviour, one in the UCU, the other in OULC. In neither case was there found to be such discrimination - the first was resolved by an Employment Tribunal, the second by Baroness Royall's inquiry. We assume therefore that it is the question of antisemitic discourse that is the primary focus of your Inquiry. For this purpose Feldman recommends the use of Klug's definition, cited above.

The Klug definition effectively excludes attitudes to or even language used to describe Israel and its policies as direct evidence supporting a charge of antisemitism. The principal exception to this is where, as Feldman points out, the word Jews or Jewish is used instead of Israel or Israelis. That transposition may be evidence of, or constitute, an antisemitic statement. Alternatively it may represent an accidental slippage (eg in quick-fire contributions to social media). At most such evidence might signal a possible investigation, but not provide in itself the basis for a conclusive finding.

We would go further. The claim is often made that when people use the term "Zionists" they really mean "Jews". This claim is associated with a tendency to assert that criticism of Israel is really antisemitic *unless proved otherwise*. However in practice those groups critical of Israel's policies are acutely aware of the political, not ethnic or religious, basis of their critique. It is, rather, the loose use of the word Zionist within the *Zionist* community that promotes an elision between Jew/Israeli/Zionist. When Netanyahu calls for all Jews to emigrate to Israel because it is not safe for them in other countries, the failure of official bodies in the Jewish community to disavow this sentiment cements the general identification of Jews and Israel. When Chief Rabbi Mirvis says "one can no more separate it [Zionism] from Judaism than separate the City of London from Great Britain" it becomes harder to convince non-Jews that Jews are not complicit in what Israel does.²⁰

6. Historical parallels

The use of historical parallels is inevitable and illuminating as a source of perspective on current experience. Supporters of Israel's policies routinely reference the Holocaust in this way. However in the recent accusations about antisemitism in the Labour Party it has been implied that drawing parallels between Israel and its actions on the one hand, and particular historical events, eras or movements on the other, can be taken as evidence of antisemitic intent.

¹⁹ <http://www.antisemitism.org.uk/wp-content/themes/PCAA/images/DAVID-FELDMAN-SUBREPORT.pdf>

²⁰ See Robert Cohen's distressed analysis of the Chief Rabbi's intervention "Thank you Chief Rabbi. Now I know. Judaism is to blame for the Palestinian Nakba" at <http://www.patheos.com/blogs/writingfromtheedge/2016/05/thank-you-chief-rabbi-now-i-know-judaism-is-to-blame-for-the-palestinian-nakba/>

(See Stern-Weiner's summary²¹). The two parallels that draw most fire are those with Hitler and the Nazi regime, and with apartheid South Africa. (Our discussion here is of the use of such analogies in a polemical context, rather than in the context of serious academic analysis.)

Deploying analogies between Hitler and the Nazis, on the one hand, and Israeli actions on the other as a rhetorical device in an argument about contemporary politics shows at the very least an absence of balance, and indeed of human sensitivity. Atrocious though Israel's behaviour towards the Palestinians is, it is of a quite different order to the attempt by the Nazi regime to eliminate a whole category ("race") of people through mass slaughter. The policies of successive Israeli governments, not only the current one, in our view amount to an attempt to destroy Palestinian society and national identity - amounting to 'politicide' in Baruch Kimmerling's felicitous term.²² Dreadful crimes have been committed along the way, with associated fatalities running into many thousands, but they are of a quite different order from those of the Nazi genocide.

Use of this distasteful analogy is fortunately liable to rebound on the user. However it has no necessary connection to antisemitism. It can be deeply distressing to Jews (and many others); it may even be used by antisemites for this reason; but in itself it does not constitute "a form of hostility to Jews as Jews". A similar offence against human decency occurs when supporters of Israel routinely deploy the Holocaust as a debating ploy in an attempt to protect Israel from criticism (the long-standing description of Israel's green line with the West Bank as "Auschwitz borders" is a case in point). Both usages are offences against common sense, decency and good taste, but cannot in themselves convict either party of antisemitism.

The use of 'fascism' or 'fascist' to describe aspects of Israel's current identity and politics might appear to fall in the same category. However fascism is a political concept and practice which does not refer, sadly, to a single country and time-frame. Neither is the identification of fascist elements within Israeli society limited to the British left. On May 20th ex-Israeli Prime Minister Ehud Barak described the current Israeli government as "infected by the shoots of fascism"²³. Two weeks earlier the Deputy Chief of Staff of the Israel Defence Forces, in a speech on Holocaust Remembrance Day, professed himself frightened to recognise "the revolting processes that occurred in Europe in general, and particularly in Germany, back then and finding signs of them here among us today in 2016."²⁴

The rhetorical use of 'apartheid' in commentary on Israel is still less problematic. It is resisted fiercely by Israel's supporters both because of the near universal

²¹ <https://www.opendemocracy.net/uk/jamie-stern-weiner/jeremy-corbyn-hasn-t-got-antisemitism-problem-his-opponents-do>

²² Baruch Kimmerling, *Politicide: The Real Legacy of Ariel Sharon*, Verso, 2006

²³ i <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Netanyahu-Liberman-government-showing-signs-of-fascism-Ehud-Barak-says-454557>

²⁴ <http://www.haaretz.com/israel-news/1.717948>

excoriation of the South African racist and repressive system, and because the analogy also suggests that boycott could be a factor in the ending of Israel's equivalent. However since the term 'apartheid' is applied to Israel and its system, not to Jews individually or collectively, its use cannot support a charge of antisemitism.

No-one is suggesting that the systems of apartheid are "the same" in the two countries. However the wider definition of the term in the International Convention on the Suppression and Punishment of the Crime of Apartheid²⁵ adopted by the United Nations fits Israel's racially-based policies closely. The extraordinary similarity between Israel and South Africa in this respect has been commented on by numerous South African visitors, from Archbishop Tutu and Ronnie Kasrils (a Jewish ex-Minister in the ANC government) through to a twelve-strong delegation of South African church leaders in 2012²⁶. Generally they have found the Israeli experience far worse than South African apartheid; for example, freedom of movement is far more restrictive under Israeli occupation than it ever was in South Africa.

We believe that your Inquiry should clarify that historical parallels of this kind, though they should be used with appropriate sensitivity, cannot of themselves contribute to any finding of antisemitism. In all cases the question of the context and intent of the remarks are important rather than there being 'no go' areas where there is a default assumption of a finding of antisemitism.

7. Boycott and 'singling out' as hate speech

It has been claimed that anti-Zionism in general and the call for Boycott Divestment and Sanctions (BDS) in particular are, in themselves, antisemitic. The argument advanced is that this form of negative treatment is not advocated for other countries whose record is arguably worse than Israel's, and that this 'singling out', vis-à-vis other countries whose populations are not predominantly Jewish, is motivated by antisemitism.

One simple explanation of why Israel is subject to boycott while other countries are not, is that the organisations of Palestinian civil society have overwhelmingly requested it. It is hardly surprising if people outraged by the sufferings that Israel imposes on the Palestinians actually take up the non-violent tactic that has been asked for. One does not need to impute some malign intent.

But in any case the claims of antisemitic singling out do not stand up. It is indeed possible that an antisemite might call for BDS against Israel out of Jew-hatred, or oppose a Jewish state on antisemitic grounds. (Paradoxically, though, most right-wing formations such as the English Defence League are very supportive of Israel; their Islamophobia trumps even their antisemitic sentiments.) But this does not

²⁵ <https://treaties.un.org/doc/Publication/UNTS/Volume%201015/volume-1015-I-14861-English.pdf>

²⁶ <http://www.bdssouthafrica.com/church-boycott/south-african-church-delegation-returns-from-occupied-palestine/>

make the call itself antisemitic. A counter-example will serve. It is very probable that there were Islamophobes among those who voted against Sadiq Khan for the London mayoralty. However that does not convict all those who campaigned for Zak Goldsmith of Islamophobia.

Why then is Israel, in particular, a target for BDS when, say, North Korea is not? We can quote Nelson Mandela on this: “In some cases it might be correct to boycott, and in others it might be unwise and dangerous. In still other cases another weapon of political struggle might be preferred. A demonstration, a protest march, a strike, or civil disobedience might be resorted to, all depending on the actual conditions at the given time.”²⁷ So boycott is not a moralistic duty, but a non-violent tactic which can be deployed when other more conventional methods are unavailable, and when it seems to have a chance of succeeding. South Africa was such a case. So is Israel. In both cases indigenous inhabitants have been systematically denied their full human rights. In both cases the interconnectedness of our social and economic systems gives boycott potential traction.

In fact North Korea is subject to wide-ranging sanctions. (So, for example, are Zimbabwe and Russia.) It can be argued that Israel is exceptional not for being ‘picked on’ by world civil society, but for having suffered no international sanctions despite its multiple violations of international humanitarian law.

8. False accusations of antisemitism

Regrettably we believe that your Inquiry needs to have regard in its findings of the need to protect against mischievous or false charges of antisemitism. There is unfortunately a track record of such politically-motivated accusations being made in the arena of debate on Israel/Palestine. The calculation seems to be either that *ad hominem* attacks will reduce the impact of a critical statement; or that they may deflect discussion away from Israel and towards the *bona fides* of the critic. The question marks over the origins of the accusations made against the Oxford University Labour Club add an extra dimension to this tactic.

Tony Klug (writing in the Jewish Chronicle) put it like this: “*If we are to distinguish between real and fabricated or exaggerated cases, we must have regard to the evidence and be healthily suspicious of other possible reasons for levelling the claim - whether political, ideological, emotional, careless, malicious, or simply born of confusion, fear or anxiety*”²⁸.

The most notorious recent case of the politically motivated deployment of a charge of antisemitism is the lengthy legal action mounted against the trade union UCU in 2012/3 by one of its members Ronnie Fraser, claiming that the UCU was institutionally antisemitic owing to motions passed in favour of a boycott of Israel. He claimed, for instance, that ‘the tone of several debates at the UCU’s annual congress “violated his dignity”, thereby constituting harassment’. Some 30

²⁷ Nelson Mandela *Long Walk to Freedom*, Back Bay Books, 1995

²⁸ <http://www.thejc.com/comment-and-debate/comment/157790/the-problem-real-also-exaggerated>

witnesses for Fraser were called. The hearing at an Employment Tribunal produced an excoriating judgement of brutal frankness, which dismissed all the multiple claims. Its overall conclusion was *“We greatly regret that the case was ever brought. At heart, it represents an impermissible attempt to achieve a political end by litigious means. It would be very unfortunate if an exercise of this sort were ever repeated.”*

Paragraph 148 of the judgement referred to evidence given by several of Fraser’s witnesses, some of whom we have occasion to refer to in this submission. Both Dennis McShane and John Mann “gave glib evidence, appearing supremely confident of the rightness of their positions..... Neither seemed at ease with the idea of being required to answer a question not to his liking.” But the more serious criticisms were of Jeremy Newmark, then Chief Executive of the Jewish Leadership Council (referred to in para 2 iv) above). Some excerpts will give the flavour:

One painfully ill-judged example of playing to the gallery was Mr Newmark’s preposterous claim, in answer to the suggestion in crossexamination that he had attempted to push his way into the 2008 meeting, that a ‘pushy Jew’ stereotype was being applied to him....

The opinions of witnesses were not, of course, our concern and in most instances they were in any event unremarkable and certainly not unreasonable. One exception was a remark of Mr Newmark in the context of the academic boycott controversy in 2007 that the union was “no longer a fit arena for free speech”, a comment which we found not only extraordinarily arrogant but also disturbing....

We regret to say that we have rejected as untrue the evidence of Ms Ashworth and Mr Newmark [about an incident at the 2008 UCU Congress]Evidence given to us about booing, jeering and harassing of Jewish speakers at Congress debates was also false, as truthful witnesses on the Claimant’s side accepted.

We feel it important that you should be aware of this for two reasons. One is that, given the evidence of bad faith in highly publicised accusations of antisemitism, it is clearly necessary that any anti-racism procedures that the Labour Party may adopt should provide safeguards against the automatic acceptance of such assertions. To do otherwise would give carte blanche to those who, it would seem, are willing to bend the truth to get the outcomes they seek.

More worrying still is the light it sheds on Mr Newmark’s current position as National Chair of the Jewish Labour Movement, and the mooted proposal that JLM might be given a structural role in the Labour Party’s arrangements around antisemitism. We will return to this below.

9. The Macpherson Report

It has been suggested that the MacPherson report makes the identification of antisemitism a subjective matter. That report recommended that the definition of a racist incident should be one "which is perceived to be racist by the victim or any other person." The Executive Summary of the report by Baroness Royall into allegations of antisemitism at Oxford University Labour Club (all that is currently in the public domain) raises the question of whether it might be appropriate for the Labour Party to adopt a similar formulation for identifying those incidents that should be investigated for possible antisemitism.

The All Party Parliamentary Inquiry into Antisemitism (APPIA)²⁹ said something rather different: "We take into account the view expressed in the Macpherson report of the Stephen Lawrence Inquiry that a racist act is defined by its victim." This goes well beyond Lady Royall's floated suggestion, in that it suggests that an accusation of antisemitism is enough *in itself* to establish its status as such, without need for investigation. That must surely be several bridges too far.

David Feldman in his Sub-Report³⁰ written for the APPIA held that "it is unambiguously clear that Macpherson intended to propose that such racist incidents require investigation. He did not mean to imply that such incidents are necessarily racist". But he goes beyond that to argue that "if we rest our definitions of racism on the perceptions of minority groups then we open the way to conceptual and political chaos". His views on what constitutes an appropriate, non-subjective basis for a definition of antisemitism have been summarised in paragraphs 4 and 5 above.

There is an additional reason for doubting the adequacy and appropriateness of the purely subjective approach. This is that this particular definitional question is being deployed in a deeply political environment. There are undoubtedly people who would make political use of accusations of antisemitism if they were not subject to challenge - i.e. if their reported sense of offence were sufficient evidence for conviction. We say 'undoubtedly' since it is clear (see paragraph 8 above) that such misuse has already occurred.

In these circumstances we would go further than simply arguing against the extreme subjectivist interpretation of the Macpherson principle. Our view is strongly that the simple fact of an accusation of antisemitism should not trigger automatic suspension (which seems to be what has happened in the last few months). Suspension should only follow *after* an initial investigation has identified whether the alleged incident falls within the established definition, and if it were upheld would be of sufficient gravity. These initial procedures need to be streamlined, to avoid trial by media establishing the "fact" of antisemitism, as in so many recent cases. Without this safeguard there would be a temptation for tactical use of accusations (for example to disqualify candidates for elective office from contention; or to smear political opponents) that not everyone would resist.

²⁹ http://www.antisemitism.org.uk/wp-content/themes/PCAA/images/4189_PCAA_Antisemitism%20Report_spreads_v9%20REPRO-DPS_FOR%20WEB_v3.pdf

³⁰ <http://www.antisemitism.org.uk/wp-content/themes/PCAA/images/DAVID-FELDMAN-SUBREPORT.pdf>

The case of Rhea Wolfson, a member of the left-wing CLPD slate for the forthcoming NEC elections, illustrates dramatically the potential and actual misuse of antisemitism accusations within the Labour Party. She was added to the slate when Ken Livingstone was disqualified by his suspension for supposed antisemitic remarks. Wolfson is Jewish. At the time of writing she has also been disqualified from standing by the refusal of her own CLP to endorse her nomination. Reportedly³¹ this was due to an intervention by former MP Jim Murphy, saying that Wolfson should not be supported because she was backed by Momentum, an organisation which has a ‘problem with antisemitism’. Such tactical use of false allegations would proliferate under the JLM's proposed rule-change.

There are undoubtedly people who are deeply offended by incidents that might fail any reasonable objective test of antisemitism. We have witnessed situations where an emotional commitment to Israel makes *any* criticism uncomfortable. But feeling uncomfortable is *not* the same as being subjected to antisemitism. To allow in this definitional creep would in principle give any aggrieved, upset or offended person what Timothy Garton Ash refers to in his new book³² as the “I am offended veto” on free speech.

SUMMARY

S.1 *Free Speech on Israel* is a recently formed largely Jewish group of Labour Party supporters. We welcome the establishment of this inquiry and its terms of reference.

S.2 Any principles and procedures established to guide behaviour and language and to regulate compliance must protect free speech in the sense of Timothy Garton Ash's *robust civility*.

S.3 The experience of the members of our group does not support the existence of an upsurge of antisemitic behaviour within the Labour Party. The disproportionate public pronouncements on this subject have the hallmarks of a moral panic.

S.4 Most of the alleged antisemitic statements about which details are publicly available relate to remarks concerning Israel. The context of Israel's serious and protracted violations of human rights needs to be taken into account in assessing these statements.

S.5 The Jewish population of Britain is far from united in its support for the policies of the state of Israel. The monolithic pro-Zionist face presented by established community organisations fails to represent this diversity.

S.6 The issue of supposedly rampant antisemitism within the Labour Party appears to have been deliberately exploited and inflamed by opponents of the current Labour leader.

³¹ New Statesman, 2nd June 2016. <http://www.newstatesman.com/politics/staggers/2016/06/momentum-backed-rhea-wolfsons-nec-failure-could-damage-labour-right-long>

³² Timothy Garton Ash *Free Speech: ten principles for a connected world*, Atlantic Books, 2016

S.7 There is no case for incorporating aspects of discourse on Israel into the definition of antisemitism. The formulation “Antisemitism is a form of hostility to Jews as Jews, where Jews are perceived as something other than what they are” is concise and functional.

S.8 Zionism is a political not a racial or religious term.

S.9 Historical analogies have a valuable potential role in public discourse, but their use should acknowledge sensitivities. In particular, analogies between Israel and South African apartheid have a solid foundation.

S.10 Boycott is a non-violent civil society tactic which is attuned to Israel’s particular circumstances. It does not ‘single out’ Israel; but Israel does receive uniquely favourable treatment from the international community.

S.11 Some manifestly unfounded and indeed fabricated allegations have been made about antisemitism in the Labour movement. This needs to be recognised by your Inquiry; and the danger of future repetition needs to be accommodated in your recommendations.

S.12 The Macpherson principle does not validate a finding of a racist or specifically an antisemitic incident based solely on the subjective impressions of the offended person or other interested party.

RECOMMENDATIONS

These recommendations are based on the evidence and analysis presented in the earlier sections of this submission.

R.1 Since there is no evidence that antisemitism is either endemic or on the rise in the Labour Party it should not be given a different status and procedures from those applying to other forms of racism, some of which seem to be more prevalent.

R.2 As in finding S.12 above, the evidence for racist (including antisemitic) behaviour or utterances needs to be objective.

R.3 Compliance procedures need to be both clear and transparent, and conform to ideas of natural justice. Those under investigation should be given full details about what they are accused of without delay. Such information must be kept confidential. Should information be leaked to the public domain the official in charge of that investigation should be asked to justify why s/he should not be suspended.

R.4 Any change in the rules concerning conduct which is ‘grossly detrimental to the Party’ needs to be based on clear evidence, not on evidence-less assertions, that

the current arrangements are inadequate. In accordance with Recommendation 1 they should apply *pari passu* to all forms of racism. No such changes should be brought in, eg by the motion to this year's Annual Conference currently being promoted by the Jewish Labour Movement, ahead of informed debate about your inquiry's findings.

R.5 Progress and the Jewish Labour Movement have proposed that a Jewish community representative be appointed a vice-chair of the NEC equalities committee. No case has been made out that antisemitism should be given this sort of pre-eminent status vis-à-vis other forms of racism. (See Recommendation 1).

R.6 Imposing a lifetime ban should be a rare, not an automatic, outcome reserved for the most serious instances of racist behaviour, including antisemitism.

R.7 Knowingly making false allegations of antisemitism undermines the fight against actual manifestations of antisemitism, and should be treated as a disciplinary offence of similar gravity.

R.8 In assessing how to proceed with regard to postings on social media with possible racist (including antisemitic) content the inherently spontaneous rapid-fire nature of this medium may be considered as a mitigating factor.

R.9 Baroness Royall's recommendation (in the case of Oxford University Labour Club) that there should be a safe space within which discussion and debate can take place without discrimination is problematic. The 'safe space' formulation has usually been demanded in terms of arrangements whereby Jewish students who support Israel are not exposed to debate contributions critical of Israel. Any such arrangements would constrain free speech - an example of the 'I am offended' veto.

R.10 Baroness Royall proposes that the Jewish Labour Movement should undertake antisemitism training for the officers of all university Labour Clubs. JLM does not represent the diversity of views within the UK Jewish community; in particular a high proportion of younger British Jews believe that Israel's policies could justify sanctions against it (see paragraph 3 iv) above. JLM is affiliated to the World Zionist Organisation whose settlement division is deeply implicated in illegal construction in the Occupied Palestinian Territories - not only an illegal but also a racist endeavour, since these homes are reserved only for Jews. JLM's National Chair was until very recently the Chief Executive of one of the principal British Zionist organisations. His evidence in a court of law on the specific issue of antisemitism was excoriated by the judge. To give JLM such a training role would undermine the Labour Party's undoubted commitment to anti-racism.