

DEFENCE IF CHALLENGED FOR SIGNING THE PETITION, AS “HAVING BREACHED THE IHRA”

Worries from those who’ve signed about our being expelled are, I think, highly unlikely to come to pass; I have taken advice from an eminent QC specialising in human rights law, who knows the IHRA well and he says “It is simply false to say that criticism of Israel as a “racist endeavour ” is anti-Semitic according to the Labour party rulebook. .. Context is all and the IHRA document says merely that such a statement could be anti-Semitic in context, which seems to me entirely possible. Of course, the IHRA definition is poorly drafted and perhaps deliberately misleading but the test will be how the party deals with future complaints.” You may have seen letters he co-signed in the Guardian complaining about the full IHRA.

Despite its self-description as a “non-legally binding working definition of antisemitism”, the IHRA definition seems likely to come before the courts in one of the British jurisdictions sooner rather than later. The reasoned legal opinion of Hugh Tomlinson QC, one of the leading experts on media and freedom of expression law, is worth reading, if only to be prepared: "[IN THE MATTER OF THE ADOPTION AND POTENTIAL APPLICATION OF THE INTERNATIONAL HOLOCAUST REMEMBRANCE ALLIANCE WORKING DEFINITION OF ANTI-SEMITISM](#)"

Geoffrey Robinson QC’s more recent, legal opinion reaches a similar conclusion to Tomlinson but with references to “Labour anti-Semitism-Gate” and some useful background to the IHRA’s definition. "[ANTI-SEMITISM: THE IHRA DEFINITION AND ITS CONSEQUENCES FOR FREEDOM OF EXPRESSION](#)"

THE LABOUR PARTY RULE BOOK

How would I define conduct which would merit the expulsion of a member for “bad or rule-breaking behaviour”? For me what this describes is conduct which would “bring the Party into disrepute” and in this context I’d like to propose situations where our General Secretary should commence disciplinaries.

- 1) Being in another political party at the same time
- 2) Publicly denigrating the Labour Party or one of its democratically elected leaders (eg Corbyn or an MP) whilst indicating that I’m a Party member
- 3) Publicly slandering or aggressively maligning a named fellow Party member, whilst referring to the fact that both of us are Party members
- 4) Publishing explicitly racist material eg saying blacks are inferior
- 5) Physically assaulting a fellow Labourist
- 6) Abusing a member of the public whilst staffing a Party stall or when canvassing on behalf of Labour
- 7) convicted of a serious criminal offence, etc

I think you get the idea. [Note we haven’t carried out any of the above actions]

MEMBER’S PLEDGE

What guidance does the Party publish on the code of conduct? There is the [Members Pledge](#); on page 16, it states:

“No member of the Party shall engage in conduct which in the opinion of the NEC is prejudicial, or in any act which in the opinion of the NEC is grossly detrimental to the Party. The NEC shall take account of any codes of conduct currently in force and shall regard any incident which in their view might reasonably be seen to demonstrate hostility or prejudice based on age; disability; gender reassignment or identity; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation as conduct prejudicial to the Party: these shall include but not be limited to incidents involving racism, antisemitism, Islamophobia or otherwise racist language, sentiments, stereotypes or actions, sexual harassment, bullying or any form of intimidation towards another person on the basis of a protected characteristic as determined by the NEC, wherever it occurs, as conduct prejudicial to the Party.” ..

“The NCC shall not have regard to the mere holding or expression of beliefs and opinions except in any instance inconsistent with the Party’s aims and values, agreed codes of conduct, or involving prejudice towards any protected characteristic.”

Then on page 104 “2. Code of Conduct: Antisemitism and other forms of racism. The Labour Party is an anti-racist party, committed to combating and campaigning against all forms of racism, including antisemitism and Islamophobia. Labour will not tolerate racism in any form inside or outside the party. The Labour Party will ensure that the party is a welcoming home to members of all communities, with no place for any prejudice or discrimination based on race, ethnicity or religion.”

“The Labour Party welcomes all who share our aims and values, and encourages political debate and campaigns around the vital issues, policies and injustices of our time. Any behaviour or use of language which targets or intimidates members of ethnic or religious communities, or incites racism, including antisemitism and Islamophobia, or undermines Labour’s ability to campaign against any form of racism, is unacceptable conduct within the Labour Party.”

I don’t believe any of us have broken these rules.

[Skwawkbox noted on the 5th Sept](#), the day after the full IHRA was adopted, that “Senior Labour insiders had confirmed that the protections of the *existing* Code of Conduct still apply and govern the application of the additional [IHRA](#) examples that were [adopted](#) yesterday by the party’s National Executive Committee (NEC)”

THE ADDITIONAL FOUR EXAMPLES THAT GETS US IN THE FIRING LINE

If the Party formally adopts the NEC ruling that includes all the IHRA examples of what constitutes anti-Semitism, then we may find ourselves in the dock. The 4th September NEC vote on the IHRA approved the four examples of anti-Semitism that they had previously omitted –:

- 1) Accusing Jewish citizens of being more loyal to Israel;
- 2) Drawing comparisons of contemporary Israeli policy to that of the Nazis;
- 3) Applying double standards to Israel by requiring of it a behaviour not expected or demanded of any other democratic nation; and
- 4) 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.

So, we are all guilty of point 4.

There is the statement of page 16 of the Members Pledge that “No member of the Party shall engage in conduct which in the opinion of the NEC is prejudicial, or in any act which in the opinion of the NEC is grossly detrimental to the Party.”

My position is that the NEC, by outlawing members from indicating that another country is a racist endeavour, are the ones who are guilty on this point.

DEFENCE

Whilst our QC thinks we have little to worry about, just to be on the safe side, when challenged, our defence should be that

- a) Labour, being the Party of social justice, must surely see justice for Palestinians as its prime responsibility, rather than those who have stolen their homes and land. The Nakba is a perfect example of ethnic cleansing in action; to deny it as such is patently ridiculous. Furthermore, with over [50 laws discriminating](#) against non-Jews, along with the lack of democracy in Israel for Palestinians, the reality is that Arabs suffer legislation which denies them equal rights. Racism is vile and Ms Formby needs to understand that failing to call it out as such is most offensive to its victims.
- b) The Labour Party ought to be supporting United Nations General Assembly [Resolution 194](#) resolving that “Palestinian refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return...” . All we are doing is seeking to further that aim
- c) Labour must surely reflect upon why those who will be accusing us of anti-Semitism, the Zionist [Jewish Labour Movement](#), are permitted to be affiliate members, given that they are primarily concerned with garnering uncritical support for Israel, a country which manifestly denies equal rights; their continued membership whilst promoting racism must surely be at odds with Labour’s founding platform as being the party of social justice.
- d) For our part, to defend our action, we refer to the Universal Declaration of Human Rights Articles 18–21, which sanctions the so-called "constitutional liberties", with spiritual, public, and political freedoms, such as freedom of [thought](#), opinion, religion and [conscience](#), word, and [peaceful association](#) of the individual. Surely Labour cannot deny these rights?
- e) The [Human Rights Act of 1998- Article 10](#) protects our right to hold our own opinions and to express them freely without government interference. We appreciate that the Labour Party is not a public authority so is not bound by this

legislation. But if it has adopted the full IHRA because it believes it should do so because public authorities have, then why seek to excuse itself in this instance by this defence?

Those accusing us may then claim that "An authority may be allowed to restrict your freedom of expression if, for example, you express views that encourage racial or religious hatred." - but I think that would be a case that needed to be proven by this petition. Indeed, one might ask, in return, that the Jewish Chronicle, Jewish News and Jewish Telegraph ponder on whether they themselves have been complicit in encouraging the very anti-Semitism they seek to oppose.

I'm happy to represent you all; anyone who gets a call from Ms Formby about having signed this petition can just refer her onto me, who will gratefully act as your legal representative

Pete Gregson, 17th Sept 2018