

Mishcon de Reya Solicitors

Our Ref: AJ/AD/28058.1

Your Ref:

Summit House
12 Red Lion Square
London WC1R 4QD
DX 37954 Kingsway

www.mishcon.com

Sally Hunt
General Secretary
UCU
Egmont House
25-31 Tavistock Place
London
WC1H 9UT
United Kingdom

3 June 2008

BY EMAIL AND POST: SHUNT@UCU.ORG.UK

Dear Ms Hunt

Motion 25

I act for certain groups of UCU members adversely affected in one or more ways by the passing of Motion 25, in respect of which they reserve their legal rights.

The purpose of this letter, however, is not to threaten legal proceedings. Such a letter, couched in more formal terms than the present one, may follow in due course. My clients' object here is to set out their concerns, in the hope that these concerns will be addressed when the NEC next meets.

Preliminary

On Wednesday 28 May 2008, UCU Congress passed Motion 25. Following a skewed and partial account of one aspect of the Israel – Palestinian conflict, and an affirmation that "criticism of Israel or Israeli policy are [*sic*] not, as such, anti-semitic," it resolved upon a course of boycott initiatives.

Prior to the vote, you announced, "the union will defend their right to debate this and other issues. Implementation of the motion within the law will now fall to the national executive committee." I understand that the NEC is meeting shortly for this purpose.

My clients consider Motion 25 to be both a "boycott motion" and anti-Semitic.

Motion 25 is a boycott motion

That the motion cowers in the shadow of an (unpublished) legal opinion regarding the illegality of last year's boycott motions does not mean it is not itself a boycott motion. It is merely a craven version of a boycott motion.

The invitation to "colleagues ... to consider the moral and political implications of educational links with Israeli institutions," the commitment to distribute material intended to promote "discussion by colleagues of the appropriateness of continued educational links with Israeli academic institutions," and the resolution to "investigate [Ariel College] under the formal Greylisting Procedure," comprise the opening stages of a campaign of boycott. It would be dishonest to suggest otherwise.

Motion 25 is anti-Semitic

Motion 25 is anti-Semitic because it is, in combination:

(i) *Irrational*, that is:

(a) It does not flow from any general principle, given general application. On the contrary. It is no different in character to a motion that resolved to boycott all Jewish-owned businesses considered delinquent, but no other businesses, though similarly or more delinquent. Its promoters could not give a non-anti-Semitic answer to the question: why just *those* businesses?

(b) It is contrary to the equality principles that the UCU itself embraces, and which it constitutionally binds itself to promote.

(c) It is incoherent on its face. The merely "*apparent* complicity of most of the Israeli academy" cannot furnish the justification for any sanction by the union. What is "apparent" may not be real. In addition, the "complicity" identified by the Motion is not related to any specified vice. It is enough, it would seem, for the promoters and supporters of the Motion that Israeli academics are "apparently" complicit in some or all of the things that the Motion lists in its opening section. This should not, however, be enough for any rational or fair-minded person.

(ii) *Continuous with episodes in anti-Semitism's history*, that is, in

(a) Its completely false claim that attempts were made "to prevent UCU debating boycott of Israeli academic institutions," which rehearses the anti-Semitic trope that Jews endeavour to stifle free expression in pursuit of their own nefarious interests.

(b) Its stipulation that Jews ("Israeli colleagues") submit to questioning on their views as a precondition to continued collaboration with UCU members, which revives the anti-Semitic programme that what others may enjoy as of right, Jews must work for.

(c) Its conceptualising of the Israel / Palestine conflict as a melodrama (pure villain confronting pure victim), which reproduces the anti-Semitic scenario of wicked Jews preying upon defenceless and innocent gentiles.

(d) Its proposed boycott of Jews, which has been a staple of anti-Semitic programmes for at least 800 years. Indeed, the history of anti-Semitism is in substantial part the history of boycotts of Jews.

(iii) *Frivolous (both intellectually, and morally)*, that is, it is

- (a) Indifferent to the pain it will cause Jewish members.
- (b) Indifferent to anti-Semitism, by implication treating the charge of anti-Semitism as made in bad faith.
- (c) Indifferent to the anti-Semitism it will foster.
- (d) Dismissive of the possibility that some "criticism" of Israel may indeed be anti-Semitic, and fails to consider whether its own proposals fall within that category.
- (e) Ignorant of / indifferent to the impact of a boycott campaign on Israeli society, and/or Palestinian society and/or research projects currently being undertaken by UCU members.

Causes of action

Of course, in the event that Motion 25 is not rescinded or otherwise treated as defunct by the NEC, litigation may well follow. The possible causes of action against the UCU and its trustees have been set out in detail in the unchallenged legal opinion obtained by Stop the Boycott (STB), and there is no need to repeat its contents here.

It is, however, worth elaborating the ambit of the likely claim against the UCU for harassment under s. 3A(1) of the Race Relations Act, that is, the creating of an intimidating, hostile, degrading, humiliating and / or offensive environment for Jewish members of the union and/or violating their dignity. Such a claim would rely upon, among other matters:

- (a) The conduct of the boycott debate, which (contrary to Standing Orders) was not balanced.
- (b) The moderating of the on-line forum for UCU members, known as the "Activists' List," which sanctions the open and incontinent expression of anti-Semitic opinion.
- (c) The penalising of anti-boycott activists, by exclusion from the Activists' List or by causing manifestly unfounded allegations of racism against them to proceed to formal inquiry.
- (d) The failure to engage adequately or at all with concern regarding the union's institutional anti-Semitism expressed by Jewish union members and by representative bodies of the Anglo-Jewish community.
- (e) The failure to respond adequately to the Report of the Parliamentary Committee against Anti-Semitism.

Mishcon de Reya Solicitors

(f) The rebuffing of Gert Weisskirchen, the OSCE's special representative on anti-Semitism.

(g) The failure to respond adequately to the steady stream of resignations by Jewish union members from the union.

Motion 25 is just the latest discreditable manifestation of the UCU's culpable indifference towards Jewish union members, and indeed, to the many Jewish and non-Jewish members who believe that unless an academic union is committed to academic freedom and the equal treatment of academics, it is nothing.

Yours sincerely



Anthony Julius

Direct Tel: +44 20 7440 7025

Direct Fax: +44 20 7404 8171

E-mail: anthony.julius@mishcon.com