

Written evidence from Mr Mike Joseph (FOE0120)

SUMMARY

This submission gives detailed evidence of an incident one year ago, when, on apparently tenuous grounds, Welsh Government [WG] sought and secured the cancellation of a public event to prevent me speaking. I show that Welsh Government was encouraged to act as a consequence of its adoption of the IHRA Code on antisemitism. I argue that this is direct evidence of the effect of the quasi-legal Code in suppressing freedom of speech, and more widely, in chilling valid and informed debate on matters of public concern.

While its proponents work for the Code to be observed as if it were law, the Code is indeed not law, and therefore has neither been subject to parliamentary scrutiny, nor can be tested in legal process. Those who are deemed to breach the Code have no means of recourse. Despite the Code not being law, this situation bears directly on the Committee's question, *Is greater clarity required to ensure the law is understood and fair?*

This narrative has evidential value as it is substantiated by papers now in the public domain as a result of my Freedom of Information [FoI] requests. Papers referred to here, and released by Welsh Government, can be accessed at <https://gov.wales/atisn13661>

Papers were also released under FoI by National Library of Wales and Holocaust Memorial Day Trust [HMDTrust].

INTRODUCTION

I am the Welsh-born son of German-Jewish refugees from the Holocaust, a broadcaster and historian of genocide. My father's family largely survived the war, finding refuge in Wales and Palestine. My mother's family were all killed in 1941 in occupied Ukraine by Nazi SS and their collaborators.

My mother's post-war collection of family papers, letters, legal verdicts etc form the core of my historical archive which I will bequeath to the National Library of Wales, one of the six UK legal deposit libraries. To welcome my bequest, the Library invited me to present a public event at the Library in 2020, narrating themes from my family archive. They decided to programme the event on Holocaust Memorial Day 2020.

In December 2019 Welsh Government raised concerns about the event with the Library, and the Library initially defended the event. Then following further government involvement, it suspended my event. It will most probably never happen.

My subsequent FoI requests revealed the process that led to this outcome, evidence which now informs my submission to the Joint Committee. I hope this will assist the Joint Committee's consideration of these questions in particular:

- Is greater clarity required to ensure the law is understood and fair?
- How has the situation changed in universities in the two years since the Committee's report on the issue?
- Does everyone have equal protection of their right to freedom of expression?

MY WORK

Professionally I am a broadcaster and historian. I am a member of the International Network of Genocide Scholars and an Honorary Research Associate at Swansea University.

Personally I am a member of the Association of Jewish Refugees, of the Jewish Second Generation Network and of Jews for Justice for Palestinians.

In 1999 my documentary investigating my Holocaust inheritance was broadcast in the UK by BBC Radio 4, worldwide by BBC World Service and continues to be hosted by BBC online¹. In 2010 S4C documented² my visit to Israel and Palestine to learn how my mother's murdered father is commemorated, and how my father's surviving relatives interacted with Palestine and Palestinians, both as refugees in the 1940s and in Israel and Palestine today.

My work on the Holocaust and other genocides is published in books³ and journals in the UK, Switzerland and Germany. I have addressed meetings at Wales' Temple of Peace, Senedd Cymru and the UK Parliament regarding UK recognition of the Armenian Genocide, and shared seminar platforms with the Archbishop of Wales and with my father's cousin, the late Bertha Leverton MBE, organiser of the Reunion of Kindertransport.

This summary indicates that I am personally and professionally highly engaged with Holocaust and genocide narratives, and that my work is well-known, accessible and respected.

I was therefore unprepared to discover in documents revealed through FoI enquiries that Welsh Government had acted in ignorance of the nature and content of my planned Library event, relying instead on an unquestioned allegation that I associate with a Holocaust denier. The documents also reveal what motivated their actions.

THE EVENT

The event at the National Library of Wales was entitled *A Family in war, Holocaust and Palestinian Nakba through a century of letters*. Event publicity added: *Drawing on inherited family correspondence, this is simultaneously a family saga, a history of recent times and a challenge in our own time*.

Welsh Government did not seek any further information or clarification about the event before acting. Instead it relied on an allegation received on 6 December 2019 from the Holocaust Memorial Day Trust that I associate with a Holocaust denier. WG did not check if this claim was accurate, but repeated the allegation without caveat three days later in a Briefing to Ministers.⁴

The National Library initially insisted that the event would proceed as planned. Its Chief Executive acknowledged to a senior Welsh Government civil servant that "*Welsh Government may take a different view, and if it does, then I would have to review the position*" (Dec 6). Four days later the Chief Executive wrote that he was "*waiting for the First Minister's office response to our decision not to cancel the event*" (Dec 10).

Nine days later, following continued pressure, he cancelled the event. The National Library of Wales is wholly funded by Welsh Government, but is editorially independent of government. The Chief Executive states that the decision to cancel was his.

THE “HOLOCAUST DENIER” AND HER ASSOCIATE

The alleged Holocaust denier was Bristol University Professor Rebecca Gould. Her alleged associate is myself. We do indeed share one defining characteristic: we are both of Jewish descent. Plainly this requires some explanation.

In 2015 Lord Pickles was appointed as the UK Holocaust Envoy. Lord Pickles claims credit for persuading the IHRA to adopt a “*Working definition of antisemitism*” – the IHRA Code.

The Code has drawn criticism on several grounds, principally that seven of the 11 examples of antisemitism actually concern criticism of Israel.

The UK government was the first to adopt the Code, in 2016.

In 2017 Lord Pickles publicly attacked the work of Bristol Professor, Rebecca Gould, as “*one of the worst cases of Holocaust denial*”. He said she should “*consider her position*”.

In August 2018 I published an article in a Welsh journal, Planet magazine, How the IHRA antisemitism definition attacks Jews.⁵ I argued that the Code “achieves what generations of antisemitism have not, discrediting the very concept of antisemitism, by weaponising it in defence of the Israeli government.”

To support my case that the Code threatened the free speech of Jews, I quoted statements by notable Jews that would contravene the Code, including Jewish theologian Martin Buber, Minister in Israel’s first Cabinet, Aharon Zisling, renowned musician Daniel Barenboim, celebrated Auschwitz survivor and documenter of the Holocaust Primo Levi, and my own first Rabbi in Cardiff, Gerhard Graf.

A second article in Planet magazine in December 2018, Christians and Israel,⁶ explored the genesis of the IHRA Code, and contextualised it in the wider history of Christian support for Zionism. I investigated the article by Professor Gould that Lord Pickles complained about, concluding that while it criticises Israel, there is no trace of Holocaust denial. I also reported that Bristol University formally investigated Professor Gould and cleared her of the charge of antisemitism.

In 2019 the Holocaust Memorial Day Trust, established and funded by the UK Government, was informed about my event. Soon they found my Planet articles. On December 4 they wrote “*We’ve found a few quick links to more that the organiser has done which includes criticism of the IHRA definition and more - and he’s been associated with a Holocaust denier as well ... In one article he claims that supporters of Israel are ‘exploiting Western guilt over the Holocaust to delegitimise Western censure and particularly Jewish censure’*”.

The HMDTrust contacted Welsh Government to object to me as a speaker, repeating the claim that I associate with a Holocaust denier. On 10 December the Trust wrote to the First Minister strongly recommending “*that this event does not go ahead*”. They also lobbied the National Library directly. On December 19th the National Library withdrew the event.

Even though Bristol University investigated and cleared Rebecca Gould of the allegation, WG repeated this allegation in its 9 December Briefing to Ministers, as their evidence of my unsuitability as a speaker.

A remarkable feature of this episode is that at no point did either WG or HMDTrust seek information or clarification about the content and purpose of the event. They focussed solely on the allegation of my unsuitability as a speaker, for which my association with an alleged Holocaust denier was deemed suitable evidence.

It is clear from their email discussions that Welsh Government officers were well aware that they lacked information about the event:

“... From what I have read, it does not appear (clear) that the individual concerned is a holocaust denier – he appears to be tackling a very difficult issue ...”
5 December 08:52

“Without knowing the full detail of the content of the play, it’s not clear to see whether any of the points around Israel or contemporary Israeli policy would apply here.” 5 December 09:48

“Given we don’t really know the content of what Dr Joseph will talk about/the play would cover it its entirety, it is difficult to determine whether there is a definite need for Welsh Government or Ministers to intervene ...” 6 December 14:45

Welsh Government could not even determine the nature of the event, describing it variously as:

a lecture 4 December 14:32

a play 5 December 9:48

a talk 6 December 13:58

what Dr Joseph will talk about/the play 6 December 14:45

the event 9 December 10:35

a presentation Note for Ministers

the play Note for Ministers

Considering this uncertainty, what overcame caution and moved WG to seek suppression of an event being staged by an independent public body?

The FoI papers reveal the source of WG sensitivity: On 5 December 2019 a Welsh government officer warned: *“I just wanted to flag the potential for criticism of Welsh Government, given we’ve adopted the IHRA definition of anti-Semitism”*

This was just one week before the 2019 General Election.

DISCUSSION

There are several disturbing matters in this account.

Bristol University concluded that the antisemitism alleged by Lord Pickles did not exist, and exonerated Professor Gould. As this was reported in my December 2018 article, which HMDTrust brought to the attention of WG on 4 December, both parties were informed from the outset that the claims of Holocaust denial and of my association with a Holocaust denier were without merit. This did not stop both parties repeating the claims throughout this episode. How does it serve good governance to promote a course of action with untruth?

On 19 December when the Library informed me of the proposed cancellation, seeking my consent, I noted that the Library's event date, Holocaust Memorial Day, was not of my choosing, and was unnecessary to the event's purpose. If the event was reprogrammed, I would consent to cancellation.

On 29 December WG noted "*The event planned for Holocaust Memorial Day is going to be cancelled but I think there is an intention to invite the speaker to the Library again on a different date.*" Does the record imply that HMDTrust and WG would have been content to ignore a rescheduled event? We cannot know, as the pandemic then closed all live venues.

The WG civil servant warning, "*I just wanted to flag the potential for criticism of Welsh Government, given we've adopted the IHRA definition of anti-Semitism*" reveals a perhaps natural concern to protect government, rather than to protect free speech. That may be unremarkable. But the concern in this case is that WG had to calibrate its position under the guidance of a non-legal Code. The IHRA Code would need to deliver the clarity and authority of law that has been debated, amended and passed by Parliament and tested in court. It cannot do so.

Does the National Library's programming my event on Holocaust Memorial Day account for and justify the position of WG, without recourse to the IHRA Code?

Put another way, can discourse on Holocaust Memorial Day be either legitimate or illegitimate, with boundaries set by HMDTrust and other public bodies?

Clearly denial of the Holocaust has no place on Holocaust Memorial Day or any other day. But as the suppression of my event in light of my association with an alleged Holocaust denier is without merit, this ground is not engaged.

Evidently what aroused HMDTrust and WG concern over my event was the inclusion of the Nakba in the event promotion. Without any knowledge of what I might say, and to what end, the inclusion of that context was sufficient offense.

But what can and cannot be remembered on Holocaust Memorial Day? The answer is by no means obvious, as these examples show:

Other histories of state-promoted genocide?

Yes ... Rwanda, Cambodia are recognised by HMDTrust

Histories of mass expulsions with violence?

Yes – Rohingya Muslims, likewise recognised by HMDTrust

State persecution and cultural repression?

Yes - Uyghur Muslims, likewise recognised by HMDTrust

How survivors of Holocaust and genocides lived subsequently

Yes -

Torn from Home was the 2019 HMD theme

How can life go on was the 2017 HMD theme

Perpetration of cruelty and killings by Jewish actors?

The camp Kapos, up to 10% of Jewish inmates of Nazi concentration camps, existed in a twilight world between victim and perpetrator. They were tasked with enforcing SS orders, issuing violent discipline to the point of killing. They enabled camps to function with a minimum of SS personnel. SS created equivalent roles for selected Jews throughout the ghettos – the Judenrat. This sadistic component of the Nazi order is intrinsic to the perpetration of the Holocaust.

There is however a significant exclusion from the wide HMD spectrum: The Armenian Genocide. This is achieved by the simple formulation, “*the Holocaust and ... subsequent genocides*”. The caveat ‘subsequent’ was added later to the remit of HMD, purporting to explain the exclusion of the Armenian Genocide.⁷

The reality is that British Governments joined France and Russia in 1915 to condemn the Ottomans’ “*Crimes against humanity ... the crime was deliberate ... to destroy the Armenian race*”⁸. Britain reversed its position in 1923, when the government dropped the Armenian cause and recognised the new Turkish republic rather than go to war with it. It maintains that position to this day.

The Armenian case implies that genocides and mass state violence can be commemorated unless doing so conflicts with state policy.

How is this relevant to the Nakba? On what grounds could the Nakba ever be considered for inclusion in the constellation of remembrance authorised on Holocaust Memorial Day?

The history of the mass clearing of Palestinians in 1947-8 and subsequently is acknowledged by Israeli historians to be a history of *mass expulsions with violence* – comparable to the Rohingya Muslims?

State persecution and cultural repression are argued by Israeli and international human rights observers as entailed in Israel’s occupation regime in the West Bank, East Jerusalem and Gaza.

How survivors of Holocaust lived subsequently – one in three of the soldiers who fought to establish Israel were Holocaust survivors.⁹ By any measure, this is a major topic in the post-Holocaust experience.

Perpetration of cruelty and killings by Jewish actors – the authoritative work of Israeli historians – Benny Morris, Ilan Pappé, Avi Shlaim, Tom Segev and many more – has established beyond doubt the extent of Jewish violence and killing in the ethnic cleansing of Palestine.

Whether or not such comparisons are valid, the Nakba remains excluded for the same reason as the exclusion of the Armenian Genocide: Genocide and mass state violence can be commemorated unless doing so conflicts with state policy. It is UK policy to support Israel and to constrain criticism of Israel's relations with Palestine and Palestinians.

The IHRA Code is a useful tool towards this end. The price is paid by limiting freedom of expression.

DEDICATION

This evidence is offered on 27 January, Holocaust Memorial Day 2021, in memory of my mother's family, 46 of the 12,000 Jews killed at Batorego Cemetery, Stanisławów, on 12 October 1941, by railway and municipal police and Ukrainian militia, commanded by Gestapo Chief Hans Krüger; and in memory of the Palestinians killed and expelled at Burayr and nearby Gaza region villages, on 12-14 May 1948, by Jewish fighters of the 2nd and 8th Battalions, Negev Brigade, one third of whom, my uncle included, were Holocaust survivors.

These barbarities cannot be compared, but neither can they be forgotten. To remember both losses challenges our empathy. Perhaps we are not ready for that challenge.

27/01/2021

¹ <https://www.bbc.co.uk/sounds/play/p03kc8vr>

² S4C, Ein Dinas Sanctaidd Ni, November 2010

³ For example: Handbuch der völkischen Wissenschaften, 2017, De Gruyter Reference, Ed. Fahlbusch, Haar, Pinwinkler

⁴ See <https://gov.wales/atisn13661> for this and other WG documents quoted here

⁵ <https://www.planetmagazine.org.uk/planet-extra/how-ihra-antisemitism-definition-attacks-jews>

⁶ <https://www.planetmagazine.org.uk/planet-extra/christians-and-israel>

⁷ Note that the Armenian Genocide and the Holocaust both pre-date Raphael Lemkin's coining of the term 'genocide'.

⁸ *Parliamentary Debates etc.* Volume LXXV. Eighth Volume of Session 1914-15. Columns 1773-1776 16 November 1915

⁹ Tom Segev, *The Seventh Million: The Israelis and the Holocaust*; English translation 1993