

War on Want Submission to the Economic Activity of Public Bodies (Overseas Matters) Bill Committee

Summary

War on Want is an UK-based charity dedicated to ending global poverty and upholding human rights. We campaign in the UK to challenge human rights abuses and to hold those responsible for poverty to account, and work in partnership with grassroots social movements, trade unions and workers' organisations across the world.

War on Want believes that the Economic Activity of Public Bodies (Overseas Matters) Bill is a threat to human rights, local democracy, and freedom of expression. The bill would effectively limit and discourage public bodies from making investment and procurement decisions in line with their human rights and environmental responsibilities and obligations. It could have a profound negative impact on respect for human rights around the world, limiting the consequences for businesses that are involved in human rights abuses and contradicting the UK Government's National Action Plan for implementing the UN Guiding Principles on Business and Human Rights.

Boycott and divestment have been used historically and around the world to peacefully enact progressive change. These tactics are core to our right to freedom of expression. By clamping down on its use, the bill would curtail freedom of expression, which is central to our civil liberties in a healthy democracy.

War on Want firmly believes that there are no amendments that adequately address the damaging impact of this bill. The bill must be scrapped in its entirety, and should it proceed, War on Want calls on all MPs to vote against it.

The bill is a threat to freedom of expression

The bill intends to prevent public bodies from making spending or investment decisions in line with ethical considerations. Public bodies will not be permitted to express 'political or moral disapproval of foreign state conduct' without the express permission of the government. They must show not show 'regard to a territorial consideration' in their spending. Many people in this country care deeply about human rights and the planet and the anti-boycott bill threatens their ability to insist that public bodies reflect voters' entirely justified concerns over illegal and unethical practices.

Clause 4(1) in the bill forbids public body officials who are 'decision makers' from even stating that they would be in favour of taking a moral position, should it be legal to do so. Freedom of expression is protected under Article 10 of the European Convention of Human Rights which is ratified by the UK. This is a direct threat to freedom of speech that would interfere with the freedom of expression of public officials, and the right of the public to hear matters of public interest that would be denied under this clause. The wider chilling effect would also likely deter individuals from expressing any views that could constitute influence on a public body decision maker. There is no legitimate justification set out in the bill for interfering with the right to freedom of expression in this way.

Boycott and divestment initiatives are part of a thriving democracy. They are time honoured, peaceful tactics to campaign for justice. BDS is protected by human rights law and freedom of speech, including the International Convention on Civil and Political Rights. This bill threatens to breach the UK's responsibilities to uphold freedom of speech.

The bill is a threat to campaigns for human rights

During apartheid in South Africa, many local councils and millions of UK citizens took part in boycott, divestment and sanctions campaigns, hailed by Nelson Mandela as crucial for the fall of apartheid in South Africa. Initiatives included the boycott of Barclays Bank, and arms embargoes against South Africa. This legislation would have made the initiatives that helped end apartheid in South Africa illegal.

Whilst campaigns against Israel are the main stated aim of this legislation, it would in practice curtail a huge range of campaigns for human rights and environmental protections – for example, against child labour, forced labour and modern slavery, pollution, and exploitation. Divestment from fossil fuel companies and tobacco companies are all under threat.

The government has claimed that, under this legislation, the theoretical right to boycott would still be protected, as long as no particular country is targeted. However, in practice, it is almost impossible to disentangle abuses of human rights and violations of international law from the state in which the violations have taken place, as these violations necessarily implicate the state that has allowed them to take place. Public bodies would be inhibited from taking human rights abuses into consideration in so far as doing so could incur a legal challenge for reflecting ‘political or moral disapproval of foreign state conduct’. In real world situations, boycotts are targeted and specific, and this legislation would make it near impossible to exercise boycott in practice.

The bill disincentivises businesses from human rights considerations

The proposed legislation would effectively stop public bodies from taking action to rid their supply chains of companies involved in human rights abuses, as any attempt to do so could risk a legal challenge as ‘political or moral disapproval of foreign state conduct’. If public bodies are unable or unlikely to exclude human rights abusing companies, then these companies will face less consequence for their unethical practices, face less incentive to change their practices, and all businesses are disincentivised from ensuring that their own business practices are in line with international human rights standards.

The bill also undermines the UK government’s own National Action Plan for implementing the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs are a set of guidelines for states and companies to prevent and address human rights abuses in business. The first pillar of the UNGPs is the ‘state duty to protect human rights’. This includes in situations of public procurement, where public bodies and business interests intersect. The UK National Action Plan states that public procurement guidelines should allow for human rights to be taken into consideration. This bill runs contrary to that commitment.

The schedule of exceptions allows public bodies to consider elements of human rights, environmental protection and international law in their decision making. However, in practice, these exceptions have a burden of proof so high and difficult to prove that public bodies would be put at significant potential cost and risk in the case of a legal challenge – actively disincentivising public bodies from making such decisions.

The Bill singles out Israel as protected from boycott

The Government has implied through official statements that the purpose of the bill is to stifle the Palestinian led Boycott, Divestment, and Sanctions (BDS) campaign to hold Israel to account for its violations of Palestinian rights, until it complies with international law. It has erroneously stated that BDS is motivated by antisemitism. In reality, BDS campaigns are calling for the equal application of international law to all countries, including Israel, in response to international inaction and impunity for Israel’s violations of international law. BDS is a call from Palestinian civil society for a grassroots

citizen's response to make governments and companies around the world take action, supported by charities, trade unions, faith groups, and grassroots movements across the world. Its demands are nothing more than the demands of international law.

Clause 3(7) specifically singles out Israel, the 'Occupied Palestinian Territories', and the 'Occupied Golan Heights' as explicitly protected from public sector boycotts. At a time when Israel's violence and rhetoric towards Palestinians is escalating ever faster, it is deeply concerning to see the introduction of a bill that uniquely privileges Israel as protected from accountability and silences peaceful democratic campaigns for Palestinian rights.

The UK government has consistently, and correctly, affirmed the illegality of Israeli settlements under international law. However, this bill runs contrary to the UK's policy to differentiate between Israel and the territory it illegally occupies - which the UK does not recognise as part of Israel. By requiring Israel and its illegally occupied territories to be treated in the same way, as protected from boycott, this bill affirms the legitimacy of Israel's illegal settlement enterprise. It runs contrary to the UK's Government's own official business risk guidance, which does not 'encourage or support' business activity in illegal Israeli settlements.

Conclusion

The UK government should be doing all in its power to fulfil its legal obligations to hold human rights abusing countries to account, for example through military embargoes and ending trade with illegal settlements. The UK should be a world leader in upholding human rights and environmental protections, but this bill is a huge step backwards and actively undermines freedom of speech, local democracy and campaigns for justice. This bill would essentially prevent public bodies from seeking out and encouraging ethical business practices, which would in turn damage human rights around the world. It also singles out Israel as the only regime in the world absolutely protected from boycott (Clause 3(7)), and prevents the freedom of speech of public body officials (Clause 4). Whilst these clauses are particularly problematic, even if removed, it would not change the repressive character of this bill. In any form, this bill is a huge threat to freedom of expression and must in its entirety.

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