



Corporate Human Rights Due Diligence: Submission to the United Nations Working Group on Business and Human Rights - May 30, 2018

Introduction

B'nai Brith is dedicated to improving the quality of life for people around the globe. It is a global leader in advancing human rights. It advocates on vital issues such as diversity education; improving communities and helping communities in crisis.

B'nai Brith Canada addresses the twin challenges of antisemitism and hate speech, linking them to the broader threat of discrimination and human rights, a universal issue that affects individuals everywhere. We regard antisemitism as but a visible portion of the dangers inherent generally in prejudice and discrimination. We see the eradication of antisemitism as part of a broader struggle – that of maintaining civil rights for all people whatever their colour or creed.

The League for Human Rights, an agency of B'nai Brith Canada, is dedicated to combating antisemitism and racism at home and around the world. The League advocates for the human rights of all Canadians by building inter-community relationships, conducting educational programs, and engaging in community action and legal/legislative interventions. The League also advocates for global human rights by working closely with international organizations and agencies, engaging government and policy makers at all levels in the combat of human rights abuses.

Corporate Responsibility to Respect Human Rights

A key responsibility for businesses in the human rights field is to avoid discriminatory practices grounded in race or religion. The essence of corporate due diligence is to put in place practices that facilitate identification of such discrimination, which can at times be subtly camouflaged, and to ensure policies are adopted that facilitate rejection of such discrimination.

We endorse the Working Group's conclusions regarding the second pillar of the Guiding Principles and the content of Guiding Principle 15. Business enterprises should have in place a human rights due diligence process to prevent, mitigate, and account for how they address their impact on human rights.

We believe that business enterprises should be given specific illustrations of discriminatory practices that affect the rights of others - whether at a government, corporate or individual level – based on religion, and that represent human rights abuse.

Boycott, Divestment Sanctions Targeting Israel is a Human Rights Abuse

B'nai Brith Canada believes that the boycott, divestment and sanctions (BDS) campaign directed at Israel represents religion-based and politically motivated discrimination; it is inherently antisemitic in nature.

The predominant drive of the BDS campaign and its leadership is not criticism of Israeli policies, but the demonization and delegitimization of Israel. BDS campaigns promote a biased and simplistic approach to the complex Israeli-Palestinian conflict, and present this dispute over territorial and nationalist claims as the fault of only one party – Israel. The BDS campaign does not support Israeli-Palestinian peace efforts, and rejects a two-state solution to the conflict.

Many of the founding goals of the BDS movement, including denying the Jewish people the universal right of self-determination – along with many of the strategies employed in BDS campaigns - are antisemitic. Many individuals involved in BDS campaigns are driven by opposition to Israel's very existence as a Jewish state. BDS advocates often employ antisemitic rhetoric and narratives to isolate and demonize Israel.

In order to adhere to ensure that business enterprises do not engage in discriminatory practices and, ipso facto, human rights abuses, it is recommended that the following principles should be adopted as guidelines in business operations, enshrining sound corporate due diligence:

- A business should, as a matter of principle, enshrine in its governance processes, that it will not engage in a discriminatory boycott of Israel or Israeli-owned or operated businesses;

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- A business must certify in writing, when a bid is submitted to or when a procurement contract is awarded by a government agency, that it is not engaging in a boycott of Israel and that it will, for the duration of its contractual obligations, refrain from a boycott of Israel;
- A businesses must accept that it may be denied a procurement contract with a government agency if it, as a vendor, is engaging in a boycott of Israel or Israeli-owned or operated businesses;
- A business must accept that it may have terminated by a government agency any procurement contract with it, as vendor, if it engages in a boycott of Israel or Israeli-owned or operated businesses during the term of the contract.
- A business should be prepared to accept that all competitive sealed bids and proposals issued for procurement contracts with government agencies can include the text of the following certification:

“By submitting a response to this solicitation, the bidder or proposer certifies and agrees that the following information is correct: In preparing its response, the bidder or proposer has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any subcontractor or supplier, refused to transact or terminated business activities, or taken other actions intended to limit commercial relations, with a person or entity that is engaging in commercial transactions in Israel or Israeli-controlled territories, with the specific intent to accomplish a boycott or divestment of Israel. The bidder also has not retaliated against any person or other entity for reporting such refusal, termination, or commercially limiting actions.”

Summary

B’nai Brith Canada believes that corporate rejection of discrimination based on the BDS campaign targeting Israel will, by rejecting antisemitism, strengthen human rights practices in the business community globally. We agree with the Working Group that, in parallel with this, the role of governments will also need to be addressed, as clarified in the first pillar of the Guiding Principles, that “states have a duty to protect human rights against business-related human rights impacts.... including.... taking appropriate steps to prevent, investigate, punish and redress business-related human rights abuse through effective policies, legislation, regulations and adjudication.”