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**EXPERT WITNESS STATEMENT OF DAVID HIRSH**

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## **Introduction**

1. I am a Lecturer in Sociology at Goldsmiths, University of London and have been since April 2003. I have a BSc (Hons) in Sociology (City University, UK), an MA in Philosophy and Social Theory (Warwick University, UK), a PhD in Sociology (Warwick University, UK) and I was a postdoctoral *Sociological Review Fellow* (Keele University, UK). My book *Law against Genocide: Cosmopolitan Trials*, was awarded the 2003 British Sociological Association Philip Abrams Prize for the best first book in Sociology. I have published scholarly peer reviewed journal articles and book chapters on antisemitism, as well as an extensive peer reviewed Yale University *Working Paper* on the relationship between antisemitism and anti-Zionism. I have participated in the Experts Fora at the OSCE Conference on Combatting Antisemitism at the German Parliament in Berlin (2008), The Israeli Ministry of Foreign Affairs in Jerusalem (2008), the London Conference for Combatting Antisemitism (2009), the Inter-parliamentary Conference on Combatting Antisemitism (Ottawa 2010). I was the co-convenor of the *European Sociological Association network on Racism, Antisemitism and Ethnic Relations*, 2009-11 and I was a Visiting Research Associate at Yale University in 2006-7. I acted as an expert witness in December 2012 in the case presided over by the Independent Communications Authority of South Africa between the South African Jewish Board of Deputies and the Islamic Unity Convention t/a Radio 786. A full copy of my curriculum vitae is attached to this summary.

## **2. How do we recognise racism in general?**

i. Racism is an objective social phenomenon, not a simply, or necessarily, a subjective feeling.

- ii. Racism can sometimes be recognised by the subjective feelings of hatred within people's heads, but it can also be recognised by the objective outcomes of things that people do or say.
- iii. Racist outcomes are not necessarily the result of racist feelings, but can result from racist ways of thinking, racist assumptions, racist exclusions, racist practices or racist institutions.
- iv. Spotting racism requires knowledge of racism and it requires judgment.
- v. Spotting racist speech requires an understanding of context; not only what is said, but to whom it is said, how it is said, how it may be heard.
- vi. Victims and victim communities of racism should be listened to with particular respect and seriousness when they report that they feel themselves to be subject to racism because their experiences and their perceptions may offer something important that may be useful in spotting racism.

### **3. Antisemitism**

- i. In my opinion it is right to think of antisemitism as racism against Jews, which is similar in many respects to other forms of racism.
- ii. Today's antisemitism has a long set of antecedents which go back a long way.
  - a. Christian antisemitism often regarded Jews as being guilty of rejecting and killing the universal God in their own tribal and selfish interests. The 'blood libel' comes from this root, the charge that Jews continually re-enact this profound evil, especially on the body of non-Jewish children; antisemitic conspiracy theory also comes from this root, the charge that

Jews are secretly only concerned with their own communal interest and that their tribal actions are corrosive of the universal good.

- b. Right wing or conservative antisemitism has often portrayed Jews as being racially, religiously or culturally inferior or as perpetual foreigners. These negative stereotypes often dovetail with ostensibly positive ones such as cunning, cleverness (too clever by half) and loyalty (but only to other Jews). As in most systems of racist stereotyping, gendered and sexualized images are also common
- c. There is a long history of antisemitism in radical political traditions, both of the right and of the left. Conspiracy theory has offered radical thinkers easy ways of picturing what is wrong with the world but also tempting routes to putting things right. Marx spent much effort arguing with antisemitic thinkers of the left; August Bebel later called antisemitism the 'socialism of fools'; Stalinists in the USSR and Eastern Europe made antisemitic propaganda and they pioneered left wing anti-Zionist and anti-imperialist rhetorics against Jews.
- d. Nazi antisemitism provided the impetus for a campaign to select and murder the Jews of Europe, and if possible, all the Jews.
- e. Antisemitism has been a significant phenomenon in Arab nationalist politics and also in Islamist politics in recent times. These antisemitisms sometimes manifest themselves as

propaganda against Israel or Zionism; sometimes the distinction between hostility to Israel and hostility to Jews is felt to be important; sometimes it is not.

These different forms of hostility to Jews often share stereotypes and images; elements of rhetoric often move from one to the other; alliances are made and broken between them; sometimes the distinction between one and the other is not clear.

#### **4. Criticism of Israel and antisemitism**

- i. Just as some kinds of criticism of South Africa are racist and some kinds of criticism of South Africa are entirely legitimate, so it is true with Israel. Some kinds of criticism of Israel are antisemitic while other kinds are not.
- ii. It requires knowledge, judgment and an appreciation of context to make the distinction between legitimate criticism and racist demonization.
- iii. In my opinion the EUMC (European Union Monitoring Commission) Working Definition of Antisemitism (See appendix to this document) provides a useful framework which may be of assistance in the making of a judgment concerning what kinds of hostility to Israel are antisemitic. It cannot, however, substitute for the work of making such a judgment.
- iv. Criticism of Israel may be antisemitic in motivation, if hostility to Israel is used to hide or to legitimize a pre-existing hostility to Jews.
- v. Criticism of Israel may be antisemitic in quality, if it takes forms which mirrors older antisemitic stereotypes.

- vi. Criticism of Israel may be antisemitic in quantity, if it portrays Israel as being essentially and uniquely evil, on a different scale to other evils in the world.
- vii. Sometimes things which are not 'criticism' are portrayed as criticism of Israel; for example campaigns of boycott, campaigns of exclusion, threats of violence; for example holding Jews or Jewish communities responsible for the actions of Israel; for example requiring Jews to take some kind of loyalty test in relation to Israel or Zionism before being accepted as part of a community.

#### **5. The allegation that charges of antisemitism are made in bad faith**

It is often said that a charge of antisemitism is made dishonestly against critics of Israel by people who don't really believe that the criticism is antisemitic but who mobilize the charge in bad faith in order to silence the criticism. Some antiracists have been taught to recognise an accusation of antisemitism as an indicator of a certain kind of cynical Zionist dishonesty. This counter-accusation of bad faith to an accusation of antisemitism is itself highly problematic; it substitutes a contemptuous charge of dishonesty for listening seriously and attentively to a person who says they feel that they are suffering racism. It fosters a culture in which a person who says they perceive antisemitism is likely to be treated with contempt. COSATU's response of 4 June 2009 to the charge made against Bongani Masuku by SAJBOD is consistent with this kind of response. Instead of listening carefully to the charge made by a significant institution of the South African Jewish Community, it bounces back a counter-charge that the complaint is 'frivolous', 'extremely tiresome', 'wasteful of

resources' and 'trivialising'; an 'attempt to silence and intimidate' critics of Israel.

6. I have read the excerpts of speeches and emails made by Bongani Masuku which are mentioned in the 'Affidavit in Support of Complaint'. The affidavit states that the complaint largely relates to these incidents:

7. Cited in 6.2.1, comment left on the blog 'It's Almost Supernatural' by Bongani Masuku, 6 February 2009:

*...as we struggle to liberate Palestine from the racists, fascists and zionists who belong to the era of their Friend Hitler! We must not apologise, every Zionist must be made to drink the bitter medicine they are feeding our brothers and sisters in Palestine. We must target them, expose them and do all that is needed to subject them to perpetual suffering until they withdraw from the land of others and stop their savage attacks on human dignity...*

8. In this passage, Bongani Masuku uses the word 'Zionist' to mean something very similar to 'racist' and 'fascist' and 'Hitlerite' and he advocates action against them; he advocates treating Zionists as though they were racists, fascists or Hitlerites. His defence against a charge of antisemitism is to say that hatred of 'Zionists' is legitimate and defensible and has nothing to do with hatred of Jews. He hates Zionism as a racist ideology but does not hate Jews; he is militantly anti-Zionist but not at all antisemitic.

## 9. **Zionism**

Many Jews today, both inside and outside of South Africa are comfortable thinking of themselves, in one way or another, as 'Zionists'. In the late Nineteenth and early Twentieth Centuries, radical Jews were split as to how

they should oppose the antisemitism. Some wanted to dissolve all religious and national characteristics into a universalistic socialism where everybody would treat each other with respect and where the distinction between Jew and non-Jew would eventually be forgotten. Others wanted Jews to organise themselves into culturally and politically Jewish Bunds which would defend them from antisemitism and which would construct Jewish identity in new, egalitarian and empowering ways. The Zionists thought that national self-determination was the key to guaranteeing people's individual rights, and they wanted Jews from all different places to forge themselves into a sovereign nation. In the 1940s the overwhelming majority of the Jewish Socialists, Bundists and Zionists were systematically murdered, alongside Jews who had no opinion. Having been taught that they couldn't rely on others to help them, many of the survivors and the refugees wanted Jewish national self-determination. They joined the Jews who had already moved to Palestine, they won independence from British rule and were subsequently joined by hundreds of thousands of Jews who were fleeing from hostile Arab, African, Russian and Islamic nationalisms. 'Zionist' Jews who think of themselves as belonging to this tradition have different views of the conflict which developed with the Palestinians; some believe that conflict was not inevitable but was the result of the political defeat of pro-peace forces; others believe that conflict was more forced upon Israel than created by it.

10. My own understanding of the term 'Zionism' is that it refers more comfortably to the pre-1948 movement for a Jewish state than it does to anything after Israeli independence. The controversy amongst Jews about Zionism and how to resist antisemitism was not won by force of argument but by the sweep of history in

Europe and in the Middle East Israel is now a nation state, fundamentally analogous to other nation states; its governments and its electorates follow what they perceive to be their national interests. Israel is no longer an '-ism' – a movement for something, it is a state, like other states.

#### **11. Who has the power to define the term 'Zionism'?**

But this discussion of how Jews feel and understand their own 'Zionism', how they define their own identities, is in danger of being made academic by those who employ the term 'Zionism' as a weapon, a label of evil and as a synonym for racist, Nazi, or fascist. In general, racism constructs racist categories and it defines people, by force and from outside, according to these hostile categories. In this sense it is wrong to ask what Zionism 'really is' or what Zionists mean by 'Zionism'; the relevant question is what does Bongani Masuku mean by 'Zionism' as he strives to force the identity of 'Zionist' upon his enemies.

12. The danger is that Jews find themselves being forced into a stark choice: either explicitly disavow any connection to Israel or be defined as a supporter of Israel and therefore as a racist and as a fascist and as a 'friend of Hitler'. It is true that this sort of anti-Zionism offers Jews a way of opting out of the hostility but it is a way which the overwhelming majority of Jews are not really able to accept.

#### **13. Jews and their connection to Israel**

- i. Some Jews have a religious connection to the land of Israel.  
Weekly, religious Jews read stories about their ancestors which are often situated in the land of Israel, they feel a mystical connection to the land, they feel that it is their spiritual home.
- ii. Most Jews in South Africa and in the world are descended from people who sought refuge from antisemitism a very few

generations ago; whether those asylum seekers found refuge in Israel, in Europe, in the Americas or in Africa was largely a matter of chance. Many Jews feel that it is only a matter of chance that they themselves are not Israeli; many of them have family in Israel.

- iii. Some Jews outside of Israel feel that the existence of a Jewish state acts as a guarantee that they will not find themselves powerless in the way that many Jews did during the Holocaust.
- iv. Some Jews feel that Zionism and its culmination in Israel was their national liberation struggle.
- v. The overwhelming majority of living Jews are Zionists if what is meant by the term is that they do not support campaigns to delegitimize Israel and to disband it against the will of most Israelis.

For a very large number of Jews, some kind of attachment to Israel is an aspect of their Jewish identity. It is non-contingent, meaning that it is profoundly related to that identity and it is rationally intelligible, meaning that there are solid and logical reasons why Israel tends to be connected to Jewish identities in these ways; it cannot be written off as simply irrational.

#### **14. Survey data Jews and their connection to Israel**

A report published by the Institute for Jewish Policy Research in 1999 showed the following results relating to South African Jews and their attachment to Israel. Asked 'Can you say whether you have any special feelings of attachment (or otherwise) towards Israel?' four choices were given: Strong attachment, moderate attachment, no special attachment and negative feelings. 54 per cent felt a strong attachment and 33 per cent a moderate attachment to Israel. While 87 per cent expressed special feelings of

attachment to Israel, just under 1 per cent expressed negative feelings. These figures are similar to those found in the UK in 1995 and in the USA in 1990. 59 per cent of the South African sample had visited Israel at least once in the previous ten years. The Kaplan Centre for Jewish Studies and Research at the University of Cape Town published figures for the same questions asked in 2005. In 2005, 86 per cent of South African Jews expressed either a strong or a moderate attachment to Israel while 55% reported having visited Israel during the previous ten years.

15. The Institute of Jewish Policy Research reported survey data in July 2010 relating to British Jews and their relationships to Israel. For 82% of respondents, Israel played a 'central' or 'important but not central' role in their Jewish identities. 90% believed that Israel was the 'ancestral homeland' of the Jewish people. 95% had visited Israel at some point in the past. 72% categorized themselves as Zionists while 21% did not see themselves as Zionists, % were unsure.

<http://www.jpr.org.uk/documents/Committed,%20concerned%20and%20conciliatory:%20The%20attitudes%20of%20Jews%20in%20Britain%20towards%20Israel.pdf>

16. It should be clear that Israelis, or Jews for whom some kind of attachment to Israel is a key part of their Jewish identity, or Jews who consider themselves to be Zionist, or anybody who supports the right of Israel to exist, are by no means guilty of the crimes that Bongani Masuku assigns to 'Zionists' or 'supporters of Israel'. Of course, there may be racists in any collective of people, but most Jews, most Zionists, most people who think Israel has the right to exist, are by no means racist; very many are actively and explicitly antiracist; many have spent

decades struggling for and arguing for and forging peace between Israel and the Palestinians.

#### **17. The Zionism is Racism claim**

The argument is that there is a profound contradiction between the claim that Israel is a democratic state for all its people on the one hand and that it is a Jewish state, a state for the Jews, on the other. The argument is that Israel is really a state which prioritizes Jews and is not really a democratic state for all its citizens. While Jews from anywhere in the world have the 'right to return' to Israel, even when they have no other connection to it, Palestinians who were born there but who fled or who were driven out in 1948, are not allowed to return. Hence, far from being a national liberation struggle, Israel is portrayed as a racist colonialist enterprise.

#### **18. UN General Assembly Resolution 3379**

Adopted on November 10, 1975 by a vote of 72 to 35 (with 32 abstentions), the resolution determined that 'Zionism is a form of racism and racial discrimination'. The resolution was passed with the support of the Soviet bloc and other then Soviet-aligned states, in addition to the Arab and Islamic majority states. Before the vote, Daniel Patrick Moynihan, the United States ambassador to the United Nations, warned that, 'The United Nations is about to make anti-Semitism international law.' He delivered a speech against the resolution, saying that the United States 'does not acknowledge, it will not abide by it, will never acquiesce in this infamous act ... A great evil has been loosed upon the world.' Resolution 3379 was revoked in December 1991 after Israel had made the revocation a condition of its participation in the Madrid Peace Conference of 1991.

19. The kind of anti-Zionism which declares that Israel is uniquely, definitionally and essentially a racist state gives great explanatory weight to a partial and one-sided reading of a particular idea. It portrays decades of ongoing life, conflict, peace processes, successes and failures as little more than the manifestation of a single idea in the world. In reality, the contradictions within the history, practice and practicalities of the Israeli state are not so different from those in other states. This kind of anti-Zionism tends to understand Israeli nationalism in a spirit that diverges from standard social scientific approaches to nationalism and to comparative methodology.
20. In this case, treating Zionism as though it were a form of racism, fascism or Hitlerism, allowed Bongani Masuku to relate to the overwhelming majority of Jews, for whom some kind of attachment to Israel is a non-contingent and rationally intelligible aspect of their Jewish identities, as though they were enemy aliens in South Africa. He may say that he was not referring to Jews but the people from whom he seeks to 'liberate Palestine', those who he refers to as 'racists, fascists and Zionists who belong to the era of their Friend Hitler', are really Jewish Israelis; and much of his audience, South African Jews, will certainly have heard these words as referring to them, as people who would be defined, perhaps against their own will, as 'supporters of Israel'. Bongani Masuku advocates making them 'drink the bitter medicine', targeting them, exposing them, doing all that is needed to subject them to perpetual suffering, etc. How does he propose, practically, making the distinction between these 'Zionists' who are to be punished, and Jews in general? And further, irrespective of what he might have meant, he will have been heard by those Jews in South Africa who were aware of his rhetoric, as referring to them.

## 21. **The analogy between Zionists and Nazis**

Nazism has come to symbolise radical evil; it is remembered in particular for its campaigns of mass murder; of the disabled, of gays, of Roma; it had a particular and central hatred of Jews and it planned to hunt down the Jews of the world and murder them all. It succeeded in murdering six million Jews from all over Europe; it progressively rationalized the process necessary to carry this plan out, starting with mass shootings and burnings and moving towards industrialized transports, gassings and cremations. There is an attempt to make Israel symbolic of radical evil too. But Israel has never dreamed of, planned or carried out campaigns of mass murder; it has not done this because nobody in Israel wants to do this; not even the most racist right wing extremists in Israel talk about doing anything like this. To invert the Holocaust such that the Jews who survived it are the same as the Nazis who perpetrated it is deeply problematic. To say to 'Zionists', IE to the overwhelming majority of Jews, that they are friends of Hitler, could have no other effect than to bait them; such rhetoric is Jew-baiting.

22. Cited in 6.2.2, at a Palestine Solidarity Committee rally on the at Witswatersrand University, Bongani Masuku said, on 5 March 2009:

*COSATU has got members here even on this campus; we can make sure that for that side it will be hell...*

23. Bongani Masuku here is making a clear, practical and immediate threat; this is clear because of his reference to the people that COSATU has on campus. Many Jews on campus would certainly and rationally have understood this as a threat against anybody who was said to have been speaking up in support of Israel. It is not a threat against 'Zionists' or 'supporters of Israel'; it is a threat

against those who are designated as such by Masuku's 'members'. Who would trust such a process to carry out a delicate distinction between those who deserve to have their lives made hell on the one hand and those who just happen to be Jewish, but unwilling to disavow Israel, on the other.

24. Cited in 6.2.3, Bongani Masuku also said at the same rally at Wits:

*...the following things are going to apply: any South African family, I want to repeat so that it is clear for anyone, any South African family who sends its son or daughter to be part of the Israeli Defence Force must not blame us when something happens to them with immediate effect...*

25. Even if one was to accept Bongani Masuku's claim that Zionism is distinct from Jews because it is a racist political movement which one chooses to join, the distinction breaks down under this kind of use. Even in this usage, families are not Zionist, families are Jewish. If a South African 'Zionist' individual chooses to live in Israel and is therefore obligated to serve in the army, that is their own responsibility. But to target that person's family back in South Africa, 'with immediate effect' is an antisemitic threat; it holds whole Jewish families accountable for the actions of their members. In any case, Zionism is not a racist political movement and serving in the Israel Defence Force is not a disgraceful act; it is an ordinary act in Israel, which is surrounded by states and by political movements which would like to see it wiped off the map.

26. Cited in 6.2.4, Bongani Masuku also said at the same rally at Wits:

*...COSATU is with you, we will do everything to make sure that whether it's at Wits University, whether its at Orange Grove, anyone who does not support equality and dignity, who does not support the rights of other*

*people must face the consequences even if it means that we will do something that may necessarily cause what is regarded as harm ...*

27. Again here, there is the now familiar slippage from a rhetoric which ostensibly targets those who don't 'support equality and dignity', who don't support the 'rights of other people' to a rhetoric which in fact, in effect, targets Jews. I am not an expert in the demography of Johannesburg neighbourhoods, but I believe that the significance of the mention of 'Orange Grove' is that this refers to a neighbourhood which is thought of as being symbolic of the Jewish Community, and so constitutes further evidence of a slippage between targeting political enemies and targeting Jews.

28. I have read the excerpt in the complaint made by SAJBOD to the SAHRC in May 2009, in which Bongani Masuku wrote the following in an email on 13 February 2009:

...all who have not accepted or woken up to the reality that we now live in a democratic South Africa where racism or promotion of it is a crime, are free to leave the country. I repeat, whether Jew or whosoever does so, must not just be encouraged but forced to leave, for such a crime is so heinous it cant be tolerated...

29. Also in the complaint made by SAJBOD to the SAHRC in May 2009, Bongani Masuku is quoted as writing the following, also in an email sent on 13 February 2009:

"...all who deny that occupation is wrong must be encouraged to leave South Africa before they infect our society with much more racism...

30. These are curious passages. It is no part of any ordinary antiracist politics of which I am aware to campaign for the expulsion of racists from a country. No

antiracist in the UK calls for the expulsion of British racists from Britain as a punishment or as a strategy for fighting racism. The threat of expulsion from the country of South Africa is only intelligible as one which relates to Jews in particular, based on the assumption that they are not authentically South African and so may be subject to deportation. This is true in spite of the explicit denial within the first passage. In these passages, the claim that Bongani Masuku's rhetoric was only against a certain kind of racist politics and not at all against Jews starts openly to unravel.

## WORKING DEFINITION OF ANTISEMITISM

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The purpose of this document is to provide a practical guide for identifying incidents, collecting data, and supporting the implementation and enforcement of legislation dealing with antisemitism.

Working definition: **“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”**

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

Examples of the ways in which antisemitism manifests itself with regard to the State of Israel taking into account the overall context could include:

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.