

LDB Commends MLA for Rejecting BDS

Washington, D.C., January 12: The Louis D. Brandeis Center for Human Rights Under Law (LDB) commends the Modern Language Association's (MLA) Delegate Assembly for voting down a resolution to boycott Israeli academic institutions. LDB had cautioned the MLA against this controversial anti-Israel BDS resolution in December, pointing out that it could subject the association to liability under Maryland law. (http://brandeiscenter.com/news/news_full/ldb_to_mla_drop_ultra_vires_boycott_resolution).

[LDB President Kenneth L. Marcus](#) commented, "We are glad that MLA members listened to our advice that the BDS resolution, apart from its anti-Semitism, would violate the association's charter. Since we filed our federal anti-BDS lawsuit against the American Studies Association, the word is getting out that tax-exempt corporations need to advance their missions rather than engaging in extraneous anti-Israel political advocacy. We are also grateful for the MLA scholars who have indicated that our work was helpful to them in resisting this anti-Semitic measure."

The MLA's delegate assembly discussed the legality of the resolution prior to the vote, and this appears to have helped swing opinion against the measure. A leading BDS advocate highlighted the Brandeis Center's role when he bemoaned that (<http://www.alternet.org/grayzone-project/modern-language-association-votes-down-boycott-resolution-palestinians-condemns#.WHPIKxvwLEE.twitter>), "Part of the reason the vote was so lopsided might be that the anti-boycott group was aided by the Brandeis Center's threat of a lawsuit (<http://www.ynetnews.com/articles/0,7340,L-4904499,00.html>) against the MLA if it let the vote go forward"

LDB's letter informed MLA leaders that the "boycott resolution is clearly unrelated to promotion of the study, criticism, and research of modern languages and literature. Indeed, it does not even purport to be intended to further the field of modern languages." LDB's letter further explained the potential illegality of such a resolution, stating:

A corporation, including an incorporated non-profit academic association, is only empowered to act in furtherance of its corporate mission. Where a corporation acts outside of its power or capacity, as set forth in the corporate mission, the act is ultra vires and subject to injunction, liability, or both under Maryland Code, Corporations & Associations § 1-403.

Marcus added, "If this was intended as a criticism, we are willing to take it. Obviously, it would be better for scholars to reject such anti-Semitic measures without our having to intervene. Nevertheless, it is better for them to do the right thing under threat of litigation than for them to break the law and face the consequences later."

The resolution was ultimately rejected with 79 in favor, and 113 against.

Significantly, a counter resolution for the MLA to *refrain* from endorsing an academic boycott of Israel passed the Delegate Assembly with 101 votes in favor to 93 against. This measure reflects the Brandeis Center's admonitions about the need to avoid *ultra vires* activities. This resolution emphasizes that that "endorsing the Palestinian Campaign for the Academic and Cultural Boycott of Israel contradicts the MLA's purpose to promote teaching and research on language and literature." The resolution will be reviewed by the MLA's executive council before it is presented to the entire MLA membership for a vote.

The MLA's failed BDS resolution was similar to a 2013 American Studies Association (ASA) resolution to boycott Israeli academic institutions. This past April, LDB, along with prominent litigators at Marcus & Auerbach and Barnes & Thornburg, filed a lawsuit (http://brandeiscenter.com/news/news_full/lawsuit_asas_boycott_of_israel_violates_law_professors_sue_american_studies) against the ASA on behalf of four distinguished American Studies professors, challenging this unlawful boycott of Israel.

The ASA lawsuit has been influential. Since its filing, the American Anthropological Association (http://brandeiscenter.com/publications/research_opinion_full/aaa_boycott_fails_ldb_law_suit_credited) and the Modern Language Association have both backed down from passing similar resolutions. LDB's advocacy has been credited in both cases.

This vote represents yet another blow to the anti-Semitic Boycotts, Divestment, and Sanctions (BDS) movement. Marcus commented, "We salute the courageous scholars at MLA and elsewhere who have stood up and fought against these discriminatory and unlawful measures, and we have been pleased to play our part as well."

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About the Louis D. Brandeis Center: The Louis D. Brandeis Center, Inc., or LDB, is an independent, nonprofit organization established to advance the civil and human rights of the Jewish people and promote justice for all. The Brandeis Center conducts research, education, and advocacy to combat the resurgence of anti-Semitism on college and university campuses. It is not affiliated with the Massachusetts university, the Kentucky law school, or any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice. For more information, contact Aviva Vogelstein at avogelst@brandeiscenter.com, or find us at [our website](#).