

Towards Ending EU Complicity in Maintaining Israel's Illegal Settlements and Other Serious Human Rights Violations

Omar Barghouti*

Despite Israel's descent into [unmasked, right-wing extremism](#), particularly with the current escalation of its [brutal military occupation and repression](#), and its rhetoric notwithstanding, the European Union (EU) has failed to uphold its legal obligations under international law vs. Israel's settlement enterprise and remains largely complicit in enabling and maintaining Israel's occupation and violations of Palestinian rights. Only effective European civil society pressure can bring this EU complicity to an end, thus contributing significantly to the pursuit of a just and comprehensive peace in our region.

Israel's serious breaches of international law trigger legal obligations for the EU, Israel's largest trade partner, and to its member states. As reiterated in the 2004 decision by the International Court of Justice, to ensure respect for international humanitarian law and for the right of the Palestinian people to exercise self-determination, states must refrain from any act that would entail recognition of Israel's settlement enterprise and from providing any form of assistance to maintaining the illegal situation arising from it.

By trading with Israel's illegal settlements and supporting companies that are involved in the settlement enterprise, as [defined by the OHCHR](#), the EU is violating both obligations of non-recognition and non-assistance.

The EU maintains a web of [military relations](#), [weapons research](#), [banking transactions](#) and [settlement trade](#) with Israeli companies, banks and institutions that are deeply [implicated](#) in human rights violations.

For instance, the EU [imports](#) goods from the Israeli settlements at an [estimated annual value of \\$300 million](#). This is more than 17 times the [average annual value](#) of Palestinian goods imported by the EU between 2004 and 2014.

Through its Horizon 2020 research program [the EU has approved more than 200 projects](#) with Israeli companies, such as Elbit Systems and Israel Aerospace Industries, that are accused of deep complicity in Israel's [war crimes](#) and possible [crimes against humanity](#). Another Israeli beneficiary of EU funding is Technion University, a [main hub for developing Israeli weapon systems used to perpetrate crimes against Palestinian civilians](#).

European banks [continue their business relations](#) with Israeli banks, despite the latter's pivotal role in financing, providing services to, or otherwise supporting Israel's illegal settlements. A recent [report by Human Rights Watch](#) concludes that "businesses cannot fulfill their human rights responsibilities if they continue carrying out activities inside or for the benefit of settlements."

Despite pressure by [hundreds of European civil society unions and NGOs](#) and more than [60 MEPs](#), the EU has obstinately refused to enforce the human rights clause in its Association Agreement with Israel. This has continued even after a legal report published last year by a UN agency found that Israel has [established a regime of apartheid](#) against the entire Palestinian people. Apartheid is the second most serious crime against humanity in international law, it is worth mentioning.

If Palestinian rights are seen today as the "litmus test for human rights," as described by [John Dugard](#), the prominent South African jurist, the EU has [failed](#) this test. Merely labeling *some of*

the illegal products of Israeli colonies instead of [banning](#) them all is considered by Palestinians as yet another EU [failure to uphold European and international law](#).

Although the EU still votes as a bloc in support of UN resolutions upholding basic Palestinian rights, including the [right of return for Palestine refugees](#), and still condemns [Israel's settlements](#) as illegal, these positions have not been translated into any effective measures of accountability against Israel.

In contrast, the EU swiftly adopted [sanctions against Russia](#) after its takeover of the Crimea, which pales in comparison to Israel's 50-year-old military occupation of Gaza and the West Bank, including East Jerusalem. Nothing can justify this hypocrisy.

Israel's Far-Right Government Drops the Mask

As Israel's regime becomes more overtly [associated with the global far-right](#), including white supremacist and [anti-Semitic groups](#) in the [United States](#) and [Europe](#), and as it becomes the model for Trump's xenophobic policies of [ethnic profiling](#), refugee and [Muslim ban](#), and the [racist wall](#) with Mexico, its popularity is sinking. A recent [BBC poll](#) shows that Israel has the fourth *lowest* popularity rating among many countries, with over 60% of the public in the UK, France and Spain viewing it negatively.

More and more people of conscience around the world -- including taxpayers in states that continue to arm Israel, such as the US, Germany, UK, Italy and France -- are recognizing and acting on their moral duty to end their governments' respective complicity in [Israel's crimes](#).

Crucially, support for holding Israel to account is growing among [Jewish Americans](#) and the broader US public. A 2014 poll by J Street showed that [46 percent](#) of non-Orthodox Jewish American men under forty support a *full* boycott of Israel to end its occupation, while a 2016 [Brookings Institution](#) survey reveals that almost half of all Americans support imposing sanctions on Israel to stop its illegal settlements.

With the unparalleled loyalty to its fanatic policies in the Trump White House and in Congress, Israel's regime of [occupation, settler-colonialism and apartheid](#) has become so drunk with power that it is dropping its thin, worn-out mask of democracy, [shedding the veneer of supporting a "two-state solution"](#) and cheering Trump's rise to power as a rare opportunity to [bury](#) the Palestinian right to self-determination.

Israel's government, the "[most racist](#)" in its history, is perpetrating serious crimes against the indigenous people of Palestine with unprecedented hubris and impunity, [alienating the liberal western mainstream](#), which has for decades formed the backbone of its support base in the West shielding it from accountability to international law.

Israel is intensifying its [land-grabbing](#) construction of its [illegal](#) settlements and wall in the occupied West Bank, especially in East Jerusalem.

It is tightening its fatal, decade-long siege of two million Palestinians [in Gaza](#), denying them basic necessities, even crayons and musical instruments, while [counting the per-capita calories](#) that are allowed in to keep them at the edge of starvation, or to put them "on a diet," as a senior Israeli official once admitted. As a result, the UN predicts that Gaza will be [unlivable](#) by 2020.

It is entrenching what even the [US Department of State](#) once characterized as a system of "institutional, legal, and societal discrimination" against Palestinian citizens of present-day Israel, enforced by more than [sixty five racist laws](#). Last year, Israeli armed forces demolished the

Bedouin village of [Umm al-Hiran](#) in the Naqab (Negev) to build on its ruins a [new](#), Jewish-only settlement, eerily called “Hiran.”

It also continues to deny the internationally-recognized rights of Palestinians in exile, predominantly refugees, who account for [50 percent](#) of all Palestinians.

In light of this [ongoing Nakba](#), and given the failure of the international community under the US-EU hegemony to uphold Palestinian rights under international law, the [BDS](#) movement for Palestinian rights was launched in 2005 by the [broadest coalition](#) in Palestinian civil society. It calls for ending Israel’s 1967 occupation, ending its system of legalized racial discrimination, and upholding the UN-stipulated [right of Palestinian refugees to return](#) to the homes and lands from which they were uprooted and dispossessed since the [1948 Nakba](#).

These three basic rights correspond to the three main components of the Palestinian people: those in the occupied Gaza Strip and the West Bank, including East Jerusalem (38 percent of the Palestinian people, according to 2016 [statistics](#)); Palestinian citizens of Israel (12%); and those in exile (50%). More than two thirds of Palestinians are refugees or internally displaced persons.

Anchored in the Universal Declaration of Human Rights, BDS has [consistently and categorically opposed all forms of racism and racial discrimination](#), including [anti-Semitism](#), anti-Black racism and Islamophobia. One’s identity, the movement upholds, should never diminish one’s entitlement to rights. BDS, as a result, targets complicity, not identity.

Arguing that boycotting Israel is intrinsically anti-Jewish is not only false, but it also presumes that Israel and “the Jews” are one and the same. This is as absurd and [bigoted](#) as claiming that a boycott of a self-defined Islamic state like Saudi Arabia, say, because of its horrific human rights record, its legalized discrimination against women, or its war crimes in Yemen, would of necessity be Islamophobic.

Since there is nothing Jewish about Israel’s regime of siege, [ethnic cleansing](#) and oppression, there is nothing inherently anti-Jewish, then, about a nonviolent, morally consistent human rights struggle to end this system of injustice. Support for BDS is growing substantially among [Jewish millennials](#) worldwide, in fact, with [Jewish-Israeli BDS activists](#) playing an increasingly significant role in the movement.

BDS draws a lot of inspiration from intersectional relations with movements defending the rights of refugees, immigrants, women, workers, [Blacks](#), Muslims, [indigenous](#) nations and the [LGBTQI](#) communities as well as with the climate justice movement.

The BDS movement is supported by a [near consensus](#) in Palestinian society. Last month, the Palestine Liberation Organization (PLO), the sole, legitimate representative of the Palestinian people, [declared](#) its support for BDS and called for sanctions against Israel.

Impact of BDS

The [strategic impact](#) of the nonviolent BDS movement for Palestinian rights is now well recognized by the Israeli establishment.

Last December, Lorde, the famous New Zealand singer, cancelled a scheduled gig in Tel Aviv, becoming the most prominent and [courageous artist of her generation](#) to respect the Palestinian cultural boycott picket line. In response to an ugly smear campaign against her by Israel lobby figures in the US, over [one hundred prominent artists](#), including Hollywood stars, signed a letter in the Guardian supporting her.

Of the [twenty-six Oscar nominees](#) in 2016 who were offered expensive propaganda trips paid by the Israeli government none has taken the offer to date.

Some of the largest churches in the US, including the [United Methodist Church](#), the [Presbyterian Church](#) and the [United Church of Christ](#), have divested from Israeli banks or complicit international corporations, like Caterpillar, HP, and G4S, because of their involvement in the Israeli occupation.

Even before the UN publishes its list of companies involved in Israel's illegal settlement enterprise, major multinational corporations, like [Veolia](#), [Orange](#), [CRH](#) and [G4S](#), have suffered major [financial](#) and/or [reputational](#) losses in the last few years, due to effective BDS campaigning across Europe, the US, the Arab world, or Latin America. As a result, they have ended all or most of their involvement in Israel's violations of international law. Hewlett Packard (HP) is facing a snowballing global BDS campaign, with [many US churches](#) and the National Union of Teachers ([NUT](#)) in the UK announcing themselves HP-free.

Leading global investment funds in [Norway](#), the [Netherlands](#), [Denmark](#) and elsewhere have withdrawn their investments from Israeli banks or international corporations implicated in Israel's human rights violations.

The municipality of [Barcelona](#) announced in 2017 measures to end complicity in Israel's occupation, following [dozens](#) of local councils across the Spanish state that have declared themselves "Israeli Apartheid Free Zones" in the last two years.

Major international trade union federations, like the [Norwegian LO](#), joined the BDS movement in 2017.

[Academic associations](#) and [tens of student governments](#) in the U.S., UK, Chile, South Africa, Canada, among others, have voted for various BDS measures.

The prestigious [Catholic University of Leuven](#) in Belgium has recently announced its withdrawal from *Law Train*, a particularly disturbing EU-funded research project aimed at developing common prisoner interrogation techniques with the partnership of the Israeli police and the Israeli Ministry of Public Security. Both Israeli entities have been accused by human rights advocates of deep involvement in [extrajudicial killings](#) and the [torture](#) of Palestinian prisoners, including children, among other serious violations of international law.

The Portuguese Justice Ministry was the first to [withdraw](#) from this project in July 2016. Twenty five prominent legal scholars have published a legal opinion confirming the [illegality of the Law Train project](#) due to the Israeli entities' involvement in serious violations of international law.

Israel's New McCarthyism

Having lost many battles for the hearts and minds at the grassroots level, Israel adopted a [new top-down strategy](#) in 2014 to fight BDS, replacing its previous, unsuccessful strategy of fighting the movement through "[branding](#)" and [extensive propaganda](#) alone.

Evoking memories of [McCarthyism](#), the new Israeli strategy employs [legal warfare](#) and [espionage](#) with massive budgets to undermine, or even outlaw, peaceful BDS advocacy. Israel has even hired a large law firm to intimidate and silence BDS activists in North America, Europe and beyond, crossing "criminal lines," as a whistleblowing Israeli lawyer has [warned](#)."

A desperate Israeli government minister has established a "[tarnishing unit](#)" to smear Palestinian, Israeli and international human rights defenders in the BDS movement, while another has publicly

[threatened](#) us with “targeted civil assassination.” [Amnesty International](#) has condemned these threats.

An Israeli [anti-BDS law now denies entry](#) to organizations that endorse BDS or merely advocate for selective boycotts targeting Israeli settlements. The anti-BDS Israeli Ministry of Strategic Affairs is working on a “[blacklist](#)” of Israelis who are active in any form of BDS activity.

[Glenn Greenwald](#) has described attempts by Israel and its lobby groups to criminalize Palestine solidarity, especially in the most effective form of BDS, as “the greatest threat to free speech in the West.”

The BDS movement is winning some remarkable battles against this Israeli McCarthyism, however. The [European Union](#), the governments of [Sweden, Ireland and Netherlands](#), the parliaments of [Switzerland and Spain](#), [Amnesty International](#), the International Federation for Human Rights ([FIDH](#)), [Human Rights Watch](#), the [Socialist International](#), the American Civil Liberties Union ([ACLU](#)), among others, have all defended the right to boycott Israel as a matter of freedom of speech.

ACLU, which has condemned the application of anti-BDS legislation in [Texas](#) as “an egregious violation of the First Amendment [of the US Constitution], reminiscent of McCarthy-era loyalty oaths,” has recently scored a precedent-setting legal victory in a federal court against the Kansas state’s anti-BDS legislation.

In 2016, [Federica Mogherini](#), the chief of EU diplomacy, said:

“The EU stands firm in protecting freedom of expression and freedom of association in line with the Charter of Fundamental Rights of the European Union, which is applicable on EU Member States’ territory, including with regard to BDS actions carried out on this territory.”

In the same vein, the [Dutch government](#) confirmed that BDS advocacy is protected free speech, “enshrined in the Dutch Constitution and the European Convention on Human Rights.” It also [rejected](#) calls for punishing BDS on the grounds that it involved “discrimination” against Israel, affirming that “human rights, including the prohibition of discrimination, aim to explicitly protect individuals [and] groups of individuals. On the basis of freedom of speech it is allowed to call on a government to take sanctions against another country.”

Also in 2016, in a major blow to Israel’s repressive legal war on the BDS movement, a [groundbreaking statement by more than 200 legal scholars](#) from 15 European countries, including former international courts’ judges, defended the right to BDS saying:

“States that outlaw BDS are undermining this basic human right and threatening the credibility of human rights by exempting a particular state from the advocacy of peaceful measures designed to achieve its compliance with international law.”

Conclusion

While Palestinians appreciate European support for our steadfastness in our homeland, Palestinians do not seek charity but solidarity. At the very least, we expect the EU to do no harm.

The average of 300 million euros that the EU gives to the Palestinians annually largely subsidize the Israeli occupation and serves to cover up the EU’s ongoing complicity in maintaining it. Furthermore, it pales in comparison to the occupation’s [cost](#) for the Palestinian economy, which in 2010 alone reached approximately \$7 billion – almost 85% of the total estimated Palestinian GDP.

Palestinians are calling on progressive members of the European Parliament as well as national parliaments across Europe and European civil society to intensify pressure on the EU to fulfill its obligations under international law vs. the Palestinian people by, at the very least:

- 1) Banning the import of products of Israeli and other companies that illegally operate in the occupied territories.
- 2) Suspending the EU-Israel Association Agreement until Israel abides by its second clause which requires respect for human rights.
- 3) Implementing the recommendation of the European Council on Foreign Relations to halt all financial transactions with Israeli banks that finance Israel's occupation, including the wall and settlements.
- 4) Stop considering the import of Israeli natural gas or electric power given Israel's pillage of Palestinian energy resources and the serious legal, financial and security risks involved in such an undertaking.
- 5) Imposing a two-way military embargo on Israel, as was done against apartheid South Africa, including cutting funding to all Israeli companies and universities involved in military research that enables the commission of Israel's war crimes.

Former South African anti-apartheid leader Archbishop [Desmond Tutu](#) once said, "If you are neutral in situations of injustice, you have chosen the side of the oppressor." Far from being "neutral," the EU is enabling the oppressor to carry on its injustices. It is high time to end that complicity to keep our hope alive that one day we can live in dignity, freedom, justice and true peace.

** Omar Barghouti is a Palestinian human rights defender and co-founder of the Boycott, Divestment and Sanctions (BDS) movement. He is a co-recipient of the 2017 Gandhi Peace Award.*