



Palestinian Civil Society Call for a Comprehensive Military Embargo of Israel

A working paper of the Palestinian Boycott,
Divestment and Sanctions National Committee
(BNC)

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This background document accompanies the BNC's call for an immediate, comprehensive military Embargo on Israel, issued on 9 July 2011. It examines the legal framework in which the call is made, Israel's record of unlawful use of armed force, and the role of military cooperation with Israel, Israel's military industry and the academy in maintaining Israel's violations of international law and its system of apartheid, colonisation and occupation against the Palestinian people. The document concludes with an overview of international legal obligations to end Israel's unlawful use of armed force whose respect by governments, the UN and business corporations has yet to be ensured.

Lawful and unlawful use of armed force by states in international law

International law provides rules for the legitimate use of armed force by states on two levels: (i) it defines the circumstances whereby a state may legitimately use armed force against another state, also known as the rules on the use of force; and (ii) it specifies the rules governing the conduct of state and non-state actors during armed conflicts, including the rules designed to protect civilians and those no longer participating in conflict, also known as international humanitarian law.¹

Under international law, states are allowed to use armed force, including wars, invasions, blockades and occupation against another state, if this is required **for self-defence or authorized by the UN Security Council**. The use of armed force by one state against another state without these justifications contradicts the UN Charter and is unlawful. Also unlawful is the use of armed force for the commission or maintenance of breaches of international *peremptory norms*, i.e. principles which are binding for all UN member states. These norms include the right of peoples to self-determination, as well as prohibitions against racial discrimination and permanent acquisition of territory through military conquest or annexation. **Unlawful use of armed force by a state may amount to a threat or breach of peace, or aggression², which are strictly prohibited and defined as international crimes.³** Under international law, **a state cannot invoke self-defence to justify the use of armed force 'in defence' of an unlawful situation which it has created in the first place.**

The rules for the lawful conduct of state- and non-state actors during armed conflict, including occupation, are laid out in international humanitarian law (IHL), in particular the Hague Convention (1907) and the Geneva Conventions (1949) with its additional protocols of 1977. Geneva Convention III regulates the treatment of prisoners of war, and Geneva Convention IV defines rules for the protection of civilians during armed conflict and occupation. Parties to an armed conflict are limited in their choice of weapons and means and methods of warfare by the rules of international humanitarian law (IHL).⁴ **The cardinal rules of IHL applying to weapons prohibit the use of means and methods of warfare that may cause superfluous injury or unnecessary suffering or that are incapable of distinguishing between military targets and civilians or civilian objects.** In addition, particular treaties and international customary rules impose specific prohibitions or limitations on the use of certain weapons, for example anti-personnel mines and blinding laser weapons, in addition to the use of incendiary munitions, like white phosphorus, in densely populated civilian areas, as was done by Israel during its assault on Gaza in

¹ Brownlie, I (2008), Principles of Public International Law, See also, <http://www.icrc.org/eng/resources/documents/misc/5kzjid.htm>

² UN General Assembly Resolution 3314 (XXIX) of 14 December 1974.

³ On the crime of aggression in the Rome Statute, see: www.iccnw.org/?mod=aggression

⁴ Provisions in Art 36 of Additional Protocol I of 1977 (see for instance: <http://www.icrc.org/eng/resources/documents/article/review/review-864-p925.htm>).

December 2008-January 2009.⁵ **Violations of IHL and related human rights abuses may amount to war crimes and crimes against humanity.**⁶

Israel's record of unlawful use of armed force

Israel, like all states, is bound by customary international law and by the treaties it has signed to respect international law. However, Israel's record of unlawful use of armed force and prohibited weaponry against states, as well as against Palestinian and other Arab civilians, spans over more than six decades since its establishment through the ethnic cleansing of Palestine in 1948 (the *Nakba*). Israel uses military force to maintain a regime of occupation, colonialism and apartheid⁷, which it has put in place in order to control as much land with as few indigenous Palestinians as possible, and to prevent the Palestinian people from exercising its inalienable right to self-determination. Israel has repeatedly provoked or initiated armed conflicts in order to suppress and extinguish the Palestinian struggle for freedom and self-determination⁸, as well as to effect illegal territorial expansion through the annexation of occupied territory, for example Palestinian East Jerusalem and the Syrian Golan Heights.⁹ Israel's acquisition of territory through the use of armed force is a breach of international law that has been condemned repeatedly by the UN Security Council and, in the case of the Golan Heights, described by the UN General Assembly as an act of aggression.¹⁰ More recently, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 has been considering Israel's 2008/9 military attack on Gaza as a possible act of aggression and a crime against peace.¹¹ Israel's policy of invoking self-defence to justify all and any use of armed force 'in defence' of the unlawful situation which it has created has no foundation in international law and does not stand up to objective legal scrutiny.

Israel also has a documented track record of breaching international humanitarian and human rights law, including the commission of war crimes, during armed conflicts. These breaches have caused innumerable deaths and injuries, as well as the displacement of millions of people. During the systematic process of dispossessing and uprooting the majority of the indigenous people of Palestine in 1948, at least 15,000 Palestinians were killed, the large majority of them civilians, in dozens of documented massacres and

⁵Human Rights Watch (2009), Israel: Stop Unlawful Use of White Phosphorus in Gaza
<http://www.hrw.org/en/news/2009/01/10/israel-stop-unlawful-use-white-phosphorus-gaza>

⁶ Provisions of the Rome Statute listing grave breaches of the Geneva Conventions as war crimes. Similar provisions exist in the ICTY and ICTR Statutes and have been defined as such by the jurisprudence of national courts.

⁷ Tilley, V. (ed). (2009) Occupation, colonialism, apartheid?: a re-assessment of Israel's practices in the occupied Palestinian territories under international law.

http://www.hsrc.ac.za/Research_Publication-21366.phtml

Palestinian BDS National Committee (2008), United Against Apartheid, Colonialism and Occupation: Dignity & Justice for the Palestinian People

<http://www.bdsmovement.net/2008/palestinian-strategic-paper-222>

⁸ The right of the Palestinian people to resist foreign occupation and domination by all means permitted under international law is explicitly recognized in UN resolutions, including UN General Assembly Resolution 3236 of 1974.

⁹ See, for example, the official Israeli planning of territorial conquest in the lead-up to the 1967 war as described in: Tom Segev, 1967: Israel, the War, and the Year That Transformed the Middle East (2007, Metropolitan Books)

¹⁰ UN General Assembly Resolution ES-9/1 of 5 February 1982.

¹¹ <http://mondediplo.com/2009/03/03/warcrimes> and <http://www.reuters.com/article/2009/03/19/idUSLJ155314>

unjustifiable military attacks against civilian areas.¹² Israel committed several large-scale killings of Palestinian civilians (massacres) even after the establishment of the state in 1948, in the absence of any pretence of armed conflict.¹³ Since 1967, Israeli military and intelligence operations conducted in the context of the 44 year occupation have resulted in at least 750,000 cases of detention of Palestinians, including tens of thousands of children¹⁴, under conditions which violate international law.¹⁵ Between 2000 and 2010 alone, Israeli armed forces injured tens of thousands and killed at least 7,342 Palestinians¹⁶, mainly from the occupied West Bank and Gaza Strip, most of whom were civilians. These include the over 1,440 victims of Israel's illegal military assault on the Gaza Strip in 2008/9. Numerous independent fact finding missions, including the 2009 UN Fact Finding Mission on the Gaza Conflict adopted by the UN General Assembly in November 2009, found that Israel has used indiscriminate force and deliberately targeted civilians and civilian infrastructure in "a systematic attack aimed at punishing, humiliating, and terrorizing the Palestinian civilian population".¹⁷

No comprehensive and authoritative record exists of the civilian casualties of 63 years of Israeli unlawful and often criminal military violence. The above numbers do not cover the more than 20,000 Lebanese and Palestinian civilians killed during Israel's military invasions of Lebanon in the late 1970s and 1982, including the victims of the infamous massacre in the Palestinian refugee camps of Sabra and Shatilla in 1982, perpetrated by far-right Lebanese militias under the direct supervision of the occupying Israeli army then headed by Ariel Sharon.¹⁸ At least 1,110 additional people, most of them Lebanese civilians, were killed and large parts of the civilian infrastructure were destroyed during Israel's war of aggression on Lebanon in August 2006.¹⁹ A Human Rights Watch report condemned Israel's failure to distinguish between combatants and civilians and its illegal use of cluster munitions.²⁰

Israel's violent repression against civic protest and human rights defenders has risen drastically in the last few years. On May 15th, the 63rd anniversary of the Palestinian Nakba, for instance, and again, three weeks later, on the 44th anniversary of Israel's 1967 occupation of Palestinian and other Arab territories, Israeli soldiers, undercover units and snipers -- deployed in the occupied Golan Heights, along the border with Lebanon, along the Gaza border and at the Qalandia military checkpoint in occupied East Jerusalem -- intentionally killed or injured dozens of unarmed young people, most of them Palestinian refugees, with the objective of deterring future peaceful mass marches of Palestinian refugees. These young victims, who marched in protest against Israel's persistent denial of their UN-sanctioned right to return home, are descendants of the Palestinian victims of

¹² Palestinian Central Bureau of Statistics (PCBS), Special Statistical Bulletin on the 63rd anniversary of the Palestinian Nakba, 15 May 2011.

¹³ See, for example, the 1953 Qibya massacre, at: <http://www.guardian.co.uk/world/2001/feb/04/israel>. See also the 1956 Kafr Qasim massacre: <http://avoicefrompalestine.wordpress.com/2009/11/07/kufr-qasem-massacre-29-october-1956/>

¹⁴ ibid

¹⁵ Violations include detention without charge or trial, torture, discriminatory treatment of Palestinian children in prison. For detail see: www.addameer.org and www.dci-palestine.org

¹⁶ See, for example, the 1953 Qibya massacre, at: <http://www.guardian.co.uk/world/2001/feb/04/israel>. See also the 1956 Kafr Qasim massacre: <http://avoicefrompalestine.wordpress.com/2009/11/07/kufr-qasem-massacre-29-october-1956/>

¹⁷ <http://unispal.un.org/UNISPAL.NSF/0/10E252495D71DE0A85257665004E6CD9>

¹⁸ 20,000 civilians killed is the most cited estimate for the 1982 Israeli invasion of Lebanon, while UNICEF reports had put civilian death toll at 23,000.

¹⁹ Human Rights Watch (2007), Why They Died Civilian Casualties in Lebanon during the 2006 War. www.hrw.org/en/node/10734/section/15

²⁰ Human Rights Watch (2007), Israel/Lebanon: Israeli Indiscriminate Attacks Killed Most Civilians <http://www.hrw.org/en/news/2007/09/05/israellebanon-israeli-indiscriminate-attacks-killed-most-civilians>

Israel's ethnic cleansing during the Nakba of 1948. Many Palestinians, as well as Israeli and international human rights defenders, have also been killed or injured in years of peaceful protests against Israel's illegal Wall and settlements in the occupied West Bank. Even human rights defenders and international human rights activists are not spared, as in the case of the 9 humanitarian activists on the Gaza Freedom Flotilla of 31 May 2010, who were killed by Israeli commandos in its unlawful military assault against the flotilla in international waters.²¹

Israel: armed force in the service of apartheid and colonialism

The state of Israel was established by the Zionist movement, with wide international support and complicity, 63 years ago with the intention and effect of permanently removing *en masse* the indigenous, predominantly Arab, population of Palestine, and subjugating those remaining, for the purpose of colonization and the development of an exclusionary "Jewish state." The *widespread and systematic* manner in which Israel has violated international human rights and humanitarian law and defied UN resolutions, as well as the manner in which it has *institutionalized and legalized* the racist policies of population transfer (ethnic cleansing) and colonization since the Nakba of 1948, explain why Israel's current regime over the Palestinian people has been characterized as a *system combining apartheid, colonialism and occupation*.²²

Colonialism is commonly defined as subjecting a nation to alien subjugation, domination and exploitation thereby preventing this nation from exercising its right to self-determination.²³ Apartheid is defined in the 2002 Rome Statute of the International Criminal Court (ICC) as inhumane acts "committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime".²⁴ Population transfer and apartheid are crimes under international law, including the Fourth Geneva Convention and the Rome Statute. Israel's regime over the Palestinian people conforms to the above definitions of colonialism and apartheid and includes occupation, as well; it is therefore unlawful under international law.

The backbone of Israel's apartheid is formed by a set of discriminatory laws,²⁵ including the 1950 *Law of Return* (1950), *Absentee Property Law* (1950), *Citizenship Law* (1952), *World*

²¹ Saul, B (2010), Israel's security cannot come at any price, ABC
<http://www.abc.net.au/unleashed/stories/s2915343.htm>

²² See: BNC Strategic Position Paper "United against Apartheid, Colonialism and Occupation – Dignity and Justice for the Palestinian People" (2008), including references to a variety of sources. http://www.bdsmovement.net/files/2011/02/English-BNC_Position_Paper-Durban_Review1.pdf

²³ See, for example, UN Declaration on the Granting of Independence to Colonial Countries and Peoples, UN General Assembly Resolution 1514 of 14 December 1960.

²⁴ Rome Statute of the International Criminal Court
<http://untreaty.un.org/cod/icc/statute/romefra.htm>

²⁵ Adalah – The Legal Center For Arab Minority Rights in Israel, The Palestinian Minority in the Israeli Legal System
<http://www.adalah.org/eng/backgroundlegalsystem.php>

Zionist Organization-Jewish Agency "Status" Law (1952), the Jewish National Fund Law (1953), and Basic Law: Israel Lands (1960), which reserve the full rights of 'nationals' in Israel to the state's Jewish citizens alone and confer public status on Zionist 'national' institutions which work for exclusive Jewish benefit. The same laws exclude the Palestinian refugees from 1948 from citizenship and prevent their return, confer second-class citizenship on Palestinians who have remained in Israel, facilitate confiscation of Palestinian land and its transfer to Jewish ownership, and bar Palestinian restitution claims. In the 1967 OPT, Israel has established a similar apartheid regime under the guise of military occupation. The apartheid character of Israel's regime in the OPT is amplified by the fact that Israeli civil law is applied to Jewish settlers and the (*de facto*) annexed colonies, whereas military law is applied to the occupied Palestinian population.

Armed force has been essential for Israel to enforce its apartheid laws and maintain its oppressive regime of apartheid, colonialism and occupation over the Palestinian people. Like South Africa in the past, Israeli governments invoke the right to self-defense and the 'need to protect public order', while in reality armed force is used to protect a criminal regime.

Israel's war economy and international support

Israel is one of the most heavily militarised states in the world, and its unlawful use of force is highly lucrative. Israel has consistently devoted 6-9% of its GDP to military expenditure over the past decade, and up to 12.3% of Israel's GDP is spent on security, including military, police, prisons, etc.²⁶ In 2010, total Israeli military expenditure reached \$13bn.²⁷ The annual turnover of the related homeland security industry is approximately \$4bn, according to official Israeli sources.²⁸ Sales from Israel's partially state owned military and security industry provide a revenue stream that is essential for the maintenance of Israel's oppression of the Palestinian people. Writer and social activist Naomi Klein, who has endorsed the Palestinian demand for a comprehensive military embargo of Israel as a means to end its impunity, describes Israel's security and military industries as "directly responsible for much of Israel's meteoric economic growth in recent years".²⁹

Israeli military exports

In 2010, approximately 80% of Israel's military production output was exported,³⁰ and exports by Israeli arms companies totalled \$7.2bn.³¹ Recent Israeli media reports have

²⁶ Wolfson, Tal (2009), "The Security Burden and the Israeli Economy; A Second Look at the Official Statistics, 2009," Paper, unpublished, December 2009 (Hebrew only).

²⁷ SIPRI Military Expenditure Database, Stockholm International Peace Research Institute
<http://milexdata.sipri.org/>

²⁸ Invest in Israel (2011), Homeland Security (HLS) & Public Safety in Israel
<http://www.investinIsrael.gov.il/NR/exeres/7C2F6937-A259-4A4A-9C29-DE351032B87A.htm>

²⁹ Klein, N. (2007), The Shock Doctrine: The Rise of Disaster Capitalism, Knopf Canada

³⁰ <http://www.defence.pk/forums/india-defence/101866-israel-arms-exports-topped-7-3b-2010-a.html>

described Israel as the world's fourth largest arms exporter, and the state has consistently ranked among the top ten arms exporting countries.

The Israeli military industry enjoys a competitive advantage, in terms of both marketing and development, as a result of Israel's continuous warfare against, and occupation and oppression of, Palestinian and other Arab civilians. Each Israeli military operation provides an opportunity to test new technology, allowing Israeli military companies to market their products as battle-tested.³² For example, Elbit Systems has built its business model on very close relations with the Israeli military, with deep ties to specific units in the army, ensuring that its systems are rigorously tested and used in armed conflict early in the development process.³³ Elbit's own promotional material boasts that its Skylark UAVs were used to great effect by the Israeli military in its 2006 war against Lebanon, while Elbit's Hermes 450 UAVs were widely employed in Gaza during Operation Cast Lead.³⁴ Countries that have procured UAVs from Elbit include Australia, Canada, Croatia, France, Georgia, Mexico, Singapore, Sweden, the UK, Brazil and USA.³⁵

In the field of homeland security, Israel's checkpoints and Wall provide its military companies, present at the heart of the system that controls the Palestinian population, with their own competitive advantage. The high-tech equipment developed in the service of Israel's occupation of Palestinian territories is deployed by states all over the world. Elbit Systems, who also provide surveillance equipment to Israel's illegal Wall³⁶, are part of a consortium that was awarded a \$2bn contract to secure the USA's border with Mexico, with Elbit being described as having relevant experience.³⁷ Companies such as Verint and Magal Security Systems, that provide key equipment and services in support of Israeli occupation of Palestinian territory and control of the civilian population, are regularly awarded contracts by international governments. Israel's repression of Palestinian civil resistance to Israel's illegal Wall has proved a testing ground for violent crowd control measures, including the use of highly toxic and deadly gas.³⁸

Israel also exports the knowledge and skills of repression it has developed during its subjugation of the Palestinian people, with Israeli security forces providing training and consultancy services to police forces and homeland security personnel all over the world. During the trial of the London police force over the shooting and killing of the innocent Jean Charles de Menezes, a senior British police officer told the court that the force had received training from Israeli security forces.³⁹ In Ecuador the Israeli embassy facilitates a number of

³¹ Globes (2011), Israel's big four arms cos had \$7.2b export sales in 2010

<http://www.globes.co.il/serveen/globes/docview.asp?did=1000654864>

³² Russell Tribunal on Palestine (2010), London session findings, 2010

<http://www.russelltribunalonpalestine.com/en/sessions/london-session/findings>

³³ Russell Tribunal on Palestine (2010), testimonies of John Hillary and Shir Hever

³⁴ 'Elbit Systems to supply Skylark 1 UAV to France's Special Forces', Elbit Systems press release, 24 March 2008

³⁵ Russell Tribunal on Palestine (2010), testimonies of John Hillary and Shir Hever

³⁶ Council on Ethics (2009), Norwegian Finance Ministry, Recommendation on the exclusion of the company Elbit Systems Ltd

http://www.regjeringen.no/pages/2236685/Elbit_engelsk.pdf

³⁷ Goldman, R (2006), Israel21c, Israeli technology to keep US borders safe

<http://www.israel21c.org/technology/israeli-technology-to-keep-us-borders-safe>

³⁸ Corporate Watch (2011), Deadly experiments: Israel's murderous testing ground for 'less-lethal' weapons

<http://www.corporatewatch.org/?lid=3866>

³⁹ Socialist Worker (2007), Jean Charles de Menezes: Israel advised Met Police on suicide bombings

<http://www.socialistworker.co.uk/art.php?id=13189>

police training courses by Israeli security personnel.⁴⁰ Similar programs have taken place in North America.

Military imports, an aid to Israel

While Israel's huge domestic military and security industry supplies large volumes of munitions and other equipment to the state, Israel is also dependent on military aid and imports, particularly from the United States and European Union member states.

Of absolutely vital importance to Israel's continued use of force is its exorbitant military relationship with the United States. From 2000 to 2009, the United States gave to Israel \$24.1bn in military aid. Using this public money, the United States delivered weapons and related equipment valued at \$18.9bn during the same period.⁴¹

European countries also export large quantities of arms to Israel. From 2003 to 2008, European Union member states approved licences worth over 1 billion euros in arms sales to Israel. France accounted for more than half of the total value of sales licensed during this period, with the UK, Germany, Belgium, Romania and the Czech Republic also being among the largest European exporters to Israel.⁴²

Multinational homeland security companies also support Israel's apartheid regime, acting as subcontractors that enable Israeli violations of international law and profit from them. One of the highest profile examples concerns Group4securicor, a Danish-British firm whose subsidiary G4S Israel (Hashmira) provides equipment and services to Israeli prisons, to the West Bank Israeli Police headquarters and to various businesses in illegal Israeli colonial settlements in the occupied West Bank, including East Jerusalem.⁴³ One G4S Israel client, Ofer Prison, is an Israeli military prison in the occupied territory for Palestinian political prisoners.

When states provide military aid or licences for arms export to Israel, they often do so in violation of their own legal obligations and binding regulatory frameworks that prevent exporting weapons to "conflict zones" or to states that persistently violate human rights. By providing military aid and munitions to Israel and allowing their homeland security companies to operate in support of Israel's repression of Palestinian rights and in violation of international law, states with military relations with Israel are deeply and actively complicit in the maintenance of Israel's system of apartheid, colonisation and occupation.

Research cooperation

Israel and Israeli military and security companies also enjoy participation in a large range of bilateral and multilateral research and development projects. Israeli military companies participate more than any other non-EU country in EU funded research projects.

⁴⁰ Stop the Wall (2011), Entre la Paz y la Guerra, Algunos ejemplos de relaciones entre Israel y Ecuador

⁴¹ US Campaign to End the Israeli Occupation, How Many Weapons to Israel?

<http://www.weaponstoisrael.org/section.php?id=360>

⁴² Quaker Council of European Affairs (2010), 'The Arms Trade Between EU Member States and Israel'

<http://www.quaker.org/qcea/middle%20east/Arms%20Trade%20EU%20Israelv2.pdf>

⁴³ Who Profits, G4S Israel (Hashmira)

<http://whoprofits.org/Company%20Info.php?id=595>

Collaborative research initiatives make up a large proportion of the US military aid package, with the US funding and collaborating in projects such as the Iron Dome missile system.⁴⁴

Israeli companies and universities that are at the forefront of the Israeli military and security industry receive millions of Euros of research grants at the expense of EU taxpayers.⁴⁵ Israel also engages in joint military projects with emerging powers such as India and Brazil.⁴⁶ Research collaboration with Israel allows for the two-way transfer of knowledge relating to the development of deadly munitions and oppression of civilian populations: international governments gain the knowledge Israel has had to develop in order to maintain its apartheid system while Israel is provided with the funding and access to other research bodies required to develop this knowledge further and, therefore, to maintain and normalize its system of oppression.

Nuclear weapons

Although aware of Israel's persistent and gross abuse of military force, governments and the United Nations have constantly tolerated its undeclared nuclear arsenal of between 80 and 400 nuclear warheads⁴⁷ - which makes Israel the only nuclear power in the Middle East. Whereas France provided the necessary nuclear weapons technology in the past to Israel⁴⁸, Germany continues to provide it with submarines with nuclear capabilities⁴⁹.

The collusion of the Israeli academy in apartheid, colonialism and occupation

The deep partnership between the academy and the military-security establishment is emblematic of the widely militarized nature of Israeli society. The Israeli academy is deeply involved in developing military technology and planning, promoting and justifying Israel's colonial and apartheid policies. An Alternative Information Center briefing on the Israeli academy found that all major Israeli academic institutions "provide unquestionable support to Israel's occupation" and actively partake in systematic discrimination against Palestinian citizens of Israel. The report goes on to detail research and development in Israeli academic institutions in the service of the Israeli armed forces, the support and training provided to

⁴⁴ US Campaign to End the Israeli Occupation (2010), URGENT: Vote Today on Even More Military Aid to Israel! <http://www.endtheoccupation.org/article.php?id=2641>

⁴⁵ Quaker Council of European Affairs (2011), Security Co-operation between the EU and Israel , <http://www.quaker.org/qcea/middle%20east/bp-mideast-secresearch-en-mar-2011.pdf>

⁴⁶ For example, see Stop the Wall (2010), Brazil's military relations with Israel http://www.bdsmovement.net/files/2011/03/brazilian_military_ties_with_israel.pdf

⁴⁷ SIPRI estimates the Israeli nuclear warheads at 80 (<http://www.sipri.org/yearbook/2011/07>) ; for other estimates see: <http://www.globalsecurity.org/wmd/world/israel/nuke-stockpile.htm>

⁴⁸ <http://www.wisconsinproject.org/countries/israel/nuke.html>

⁴⁹ <http://www.defenseindustrydaily.com/germany-may-sell-2-more-dolphin-subs-to-israel-for-117b-01528/>

Israeli military personnel and the revolving door between the leaderships of the military industry and establishment and the Israeli academy.⁵⁰

Some Israeli academic institutions, such as the Hebrew University, Ariel College and the handful of other academic institutions in Israel's illegal colonies, are partially or fully built and operate on occupied Palestinian territory in blatant violation of the Fourth Geneva Convention.

One other form of this entrenched complicity is the earlier classic colonial model of scholars serving interchangeably in the academy and as advisors and administrators in the military-security establishment. Acquiescing to, even encouraging, service in the reserve military forces by academics within a specific age group is another important aspect of that complicity. Yet another has been the tradition of the integration of army personnel and institutions within the universities, such as in the Talpiot and Psagot schemes of the "academic reserve" program at several major universities. The most critical arena where this collusion is manifest is the robust cooperation between research universities and the weapons industry, which directly implicates academics and academic administrations who knowingly support the commission of war crimes and other grave violations of international law. Some of these facets of integration are analyzed in two excellent reports by the Alternative Information Center in Jerusalem and the SOAS Palestine Society.⁵¹

There has been no palpable protest in Israel against the collusion of the academy with the army and related institutions, even after the massive assault on the Gaza Strip in the winter of 2008-2009, when the Israeli army unleashed the full force of its lethal arsenal upon the civilian population and infrastructure of Gaza, destroying scores of schools and university buildings, among other civilian "targets" as part of its "Dahiya Doctrine" of disproportionate force developed by Tel Aviv University's Institute for National Security Studies (INSS).⁵² While this criminal assault galvanized many international solidarity groups and invigorated the movement for BDS around the world, especially among conscientious artists and academics, it seems to have had the opposite effect in Israeli academia: business as usual, or worse. One particularly telling and representative example is that of Haifa University, long falsely marketed as a "liberal" institution that promotes "coexistence," which at the height of Operation Cast Lead displayed a huge Israeli flag on its 30-story tower, almost literally "wrapping itself with the flag," as a sign of support for Israel's war on Gaza and to show that the University "stands behind the soldiers," as stated by its president.

The ubiquitous presence of the military on campus does not cause controversy among the absolute majority of university administrators, academics or even students. In a highly militarized country, raising concerns about the militarization of the educational system goes against the grain, against the national consensus which views the overbearing military presence as a natural, even necessary, part of the fabric of 'civic' life.

⁵⁰ Alternative Information Center (2009), The Economy of the Occupation: Academic Boycott of Israel, http://www.alternativenews.org/images/stories/downloads/Economy_of_the_occupation_23-24.pdf

⁵¹ Alternative Information Center (2009), The Economy of the Occupation: Academic Boycott of Israel, http://www.alternativenews.org/images/stories/downloads/Economy_of_the_occupation_23-24.pdf
SOAS Palestine Society (2009), "Urgent Briefing Paper: Tel Aviv University-a Leading Israeli Military Research Centre." <http://www.electronicintifada.net/downloads/pdf/090708-soas-palestine-society.pdf>.

⁵² Ibid.

The international community's responsibility to act

A comprehensive military embargo on Israel is not only long overdue; it is a necessity for world peace and an obligation of states under international law – just like the mandatory and comprehensive military embargo imposed by the UN Security Council against the apartheid regime in South Africa in 1977.⁵³

Common article 1 in the Geneva Conventions of 1949 requires signatory states (High Contracting Parties) to *ensure respect* of international humanitarian law as specified by these conventions. According to the International Court of Justice, in the context of Palestine, this means that all states are under an obligation “not to render aid or assistance” in maintaining the situation created by Israel’s violations of international law and to “ensure compliance by Israel with international humanitarian law as embodied in [the Fourth Geneva] Convention.”⁵⁴

Moreover, customary international law, as reflected in the International Law Commission’s Articles on Responsibility of States for Internationally Wrongful Acts⁵⁵, binds all states to refrain from abetting an unlawful act committed by another state. Article 16 states: “A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State.” In situations where a state violates a *peremptory* international norm --like Israel has done through its regime of colonialism, apartheid and occupation-- all states and intergovernmental organizations, such as the United Nations, have a legal obligation to: (a) abstain from recognizing and rendering aid or assistance to the commission or maintenance of the unlawful situation, and, (b) cooperate in order to end it.⁵⁶

Moreover, foreign corporations that aid and abet Israeli violations of international law, in particular international crimes, may be liable to civil suits and their chief executives subject to criminal prosecutions in their respective countries for breach of domestic law and commission of international crimes.⁵⁷

⁵³ UN Security Council Resolution 418 available from <http://www.un.org/documents/sc/res/1977/scres77.htm>

⁵⁴ Paragraph 146 of the Advisory Opinion of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

⁵⁵ International Law Commission, Articles on the Responsibility of States for Internationally Wrongful Acts; UNGA Resolution 56/83, 12 December 2001; Chapter II, Article 16. http://untreaty.un.org/ilc/texts/9_6.htm

⁵⁶ *Ibid.* Chapter III, Articles 40-41.

⁵⁷ Prosecutor v Blagojevic and Jokic (IT-02-60-A), Appeals Chamber, 9 May 2007, para. 189. The necessary legal nexus between the accused and the crime has been shaped by the jurisprudence on joint commission, co-perpetration and aiding and abetting.; Hans Vest, 'Business leaders and the modes of individual criminal responsibility under international law', 8 *Journal of International Criminal Justice* 851 (2010). Conduct that substantially contributes to a crime may not necessarily be direct in terms of the causal chain. A contribution need not be direct or criminal per se and can encompass what may otherwise be considered normal business transactions; Norman Farrel, 'Attributing criminal liability to corporate actors', 8 *Journal of International Criminal Justice* 873 (2010), 890, 893.

In light of Israel’s long and widely publicized record of unlawful use of armed force, commission of international crimes and human rights abuses, all military cooperation with Israel is tantamount to complicity in the commission of such crimes.

Already in 1982, in response to Israel’s illegal annexation of the occupied Syrian Golan Heights and the paralysis of the Security Council -- induced by the United States which, as always in the case of its ally Israel, had threatened to veto effective UN action -- the UN General Assembly convened in an Emergency Special Session and passed Resolution ES-9/1 stating that “Israel’s record and actions confirm that it is not a peace-loving Member State.” The Resolution called upon all UN member states to implement a series of *economic, diplomatic and cultural sanctions*, and,

“(a) to refrain from supplying Israel with any weapons and related equipment and to suspend any military assistance with Israel receives from them; and,
(b) to refrain from acquiring any weapons or military equipment from Israel.”⁵⁸

Following Israel's assault on Gaza, several human rights organizations – most importantly Amnesty International⁵⁹ - called for an arms embargo. Some sporadic government action has been taken as well. For instance, Kristin Halvorsen, head of the Socialist Left party forming part of the Norwegian government has called on everyone to “follow the Norwegian position which excludes trading arms with Israel.”⁶⁰ Norway has also excluded the Israeli arms company Elbit from its public pension investment portfolio and banned Germany from testing submarines destined for the Israeli Navy in its waters.⁶¹ In Belgium, ministers initially welcomed a ban on arms exports to Israel⁶², while the UK has revoked some arms export licences.⁶³ Ireland has cancelled a 10 million deal with Israeli Military Industries for bullets⁶⁴.

Yet, twenty nine years after the UN General Assembly’s call for a military embargo against Israel, military cooperation continues to expand. As powerful states, foremost the United States, continue to block effective UN sanctions, Israel continues to be treated as a state above the law. Israeli governments and the military are granted impunity for acts of aggression and the unlawful use of weapons and armed force to maintain the brutal regime of apartheid, colonialism and occupation, and to kill, injure, imprison, torture, displace, racially discriminate against and dispossess the Palestinian people, as well as other Arab peoples.

⁵⁸ UN General Assembly Resolution ES-9/1 of 5 February 1982

⁵⁹ Amnesty International (2009), Israel/OPT:Fuelling Conflict

[http://www.amnesty.org/en/library/asset/MDE15/012/2009/en/5be86fc2-994e-4eeb-a6e8-3ddf68c28b31/mde150122009en.html#0.16.International obligations regarding conventional arms transfers|outline](http://www.amnesty.org/en/library/asset/MDE15/012/2009/en/5be86fc2-994e-4eeb-a6e8-3ddf68c28b31/mde150122009en.html#0.16.International%20obligations%20regarding%20conventional%20arms%20transfers%20outline)

⁶⁰ AFP (2010), Norway calls for boycott on arms to Israel

<http://www.swedishwire.com/nordic/4809-norway-calls-for-boycott-on-arms-to-israel>

⁶¹ Palestinian BDS National Committee (2010), Norwegian government pension fund excludes more Israeli companies

<http://www.bdsmovement.net/2010/norway-excludes-more-israeli-companies-2551>

HSNW (2010), Norway bans testing of Israel-bound submarines

<http://www.homelandsecuritynewswire.com/norway-bans-testing-israel-bound-submarines>

⁶² Liphishiz, C. (2009), Belgium to stop exporting 'arms that bolster the IDF' to Israel, Haaretz

<http://www.haaretz.com/print-edition/news/belgium-to-stop-exporting-arms-that-bolster-the-idf-to-israel-1.267030>

⁶³ Teibel, A (2009), Israel Arms Licenses Revoked By Britain, Huffington Post

http://www.huffingtonpost.com/2009/07/13/israel-arms-licenses-revo_n_230769.html

⁶⁴ IPSC (2010), Victory as Palestine campaigners welcome Government scrapping of 'Israeli bullets' deal, warn against future deals

<http://cosmos.ucc.ie/cs1064/jabowen/IPSC/ipsc/displayRelease.php?releaseID=412>

In 2005, Palestinian civil society issued its historic call for Boycotts, Divestment and Sanctions against Israel⁶⁵, calling for sustained and globally coordinated campaigns, including pressure on governments to impose sanctions, until Israel complies with international law and respects the human rights of the Palestinian people. The call for a comprehensive embargo on military cooperation with Israel is issued by the Palestinian BDS National Committee (BNC) and forms a critical and urgent component of this campaign.

⁶⁵ Palestinian civil society call for BDS
<http://www.bdsmovement.net/call>