

# Fired School Employee Sues Over Israel Loyalty Oath

A Texas school employee has sued her school district because it fired her after she refused to sign a loyalty oath to Israel, as Marjorie Cohn reports.

**By Marjorie Cohn**

*Truthout*



**I**n a return to the bad old days of McCarthyism, Bahia Amawi, a U.S. citizen of Palestinian descent, lost her Texas elementary school job after refusing to pledge in writing that she would not participate in the Boycott, Divestment and Sanctions (BDS) movement. Earlier this month, Amawi sued the school district that fired her.

The BDS movement against Israel has become a hot button issue in the closing month of 2018. A bipartisan group of senators tried to attach the Israel Anti-Boycott Act to the unanimous spending bill that Trump almost signed to avoid the current government shutdown. Meanwhile, Donorbox, a US software company, blocked the BDS fundraising account at the behest of a pro-Israel group.

“The language of the affirmation Amawi was told she must sign reads like Orwellian – or McCarthyite – self-parody, the classic political loyalty oath that every American should instinctively shudder upon reading,” Glenn Greenwald wrote at *The Intercept*.

On Dec. 12, the Council on American-Islamic Relations filed a lawsuit on Amawi’s behalf in the US District Court for the

Western District of Texas against Pflugerville Independent School District, alleging that Texas' law requiring the oath violates the First Amendment. Amawi's complaint says the law constitutes an impermissible attempt "to impose an ideological litmus test or compel speech related to government contractors' political beliefs, associations, and expressions."

Amawi had contracted with the school district for nine years to work with students with autism and developmental disabilities in Austin. This fall, for the first time, Amawi was required to sign an oath that she would not boycott Israel. When she refused to sign it, she was fired.

"The point of boycotting any product that supports Israel is to put pressure on the Israeli government to change its treatment, the inhumane treatment, of the Palestinian people," Amawi explained. "Having grown up as a Palestinian, I know firsthand the oppression and the struggle that Palestinians face on a daily basis."

## **BDS**

The BDS movement was launched by representatives of Palestinian civil society in 2005, calling upon "international civil society organizations and people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the apartheid era ... [including] embargoes and sanctions against Israel."

This call specified that "these non-violent punitive measures" should last until Israel fully complies with international law by (1) ending its occupation and

colonization of all Arab lands and dismantling the barrier wall; (2) recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and (3) respecting, protecting and promoting the rights of Palestinian refugees to return to their land as stipulated in United Nations General Assembly Resolution 194.

Even though it is a nonviolent movement, Israel sees BDS as a threat to its hegemony over the Palestinians. Israel illegally occupies Palestinian territories, maintaining effective control over Gaza's land, airspace, seaport, electricity, water, telecommunications and population registry. Israel deprives Gazans of food, medicine, fuel and basic services, and continues to build illegal Jewish-only settlements in the occupied West Bank.

"There will not be progress toward a just peace without pressure on Israel to respect Palestinian rights," said Rebecca Vilkomerson, executive director of Jewish Voice for Peace. "Bringing about that pressure, through a global grassroots mobilization, is exactly what BDS is about."

After Amawi's firing, *The New York Times* editorial board wrote,

"It's not just Israel's adversaries who find the [BDS] movement appealing. Many devoted supporters of Israel, including many American Jews, oppose the occupation of the West Bank and refuse to buy products of the settlements in occupied territories. Their right to protest in this way must be vigorously defended."

Omar Barghouti, co-founder of BDS, said in an email to *The*

*New York Times*, “Having lost many battles for hearts and minds at the grass-roots level, Israel has adopted since 2014 a new strategy to criminalize support for BDS from the top” in order to “shield Israel from accountability.”

Barghouti called Shurat HaDin, the group behind the Donorbox action blocking the BDS account, a “repressive organization with clear connections to the far-right Israeli government” that is “engaging in McCarthyite ... tactics ... in a desperate attempt to undermine our ability to challenge Israel’s regime of apartheid and oppression.”

Twenty-six U.S. states have anti-BDS laws and 13 others are pending. The Israel Anti-Boycott Act, which would have to be reintroduced when the new Congress convenes in January, was supported by Senate Republican Majority Leader Mitch McConnell and Democratic Minority Leader Chuck Schumer. Senators Bernie Sanders (I-Vermont) and Dianne Feinstein (D-California) opposed the bill.

### **Boycotts’ 1st Amendment Protection**

The law that triggered Amawi’s firing prohibits the State of Texas from entering into government contracts with companies, including sole proprietorships, that boycott Israel. It defines “boycott Israel” to include “refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.”

Boycotts are a constitutionally protected form of speech, assembly and association. They have long been used to oppose

injustice and urge political change. The Supreme Court has held that “speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.” The high court ruled that advocating and supporting boycotts “to bring about political, social, and economic change” – like boycotts of Israel – are indisputably protected by the First Amendment.

The National Lawyers Guild, Palestine Legal and the Center for Constitutional Rights wrote in a legal memorandum challenging anti-BDS legislation in New York that such laws “harken back to the McCarthy era when the state sought to deny the right to earn a livelihood to those who express controversial political views.” The memo says, “The courts long ago found such McCarthy-era legislation to be at war with the First Amendment,” as they “unconstitutionally target core political speech activities and infringe on the freedom to express political beliefs.”

Even staff members at the right-wing Anti-Defamation League (ADL) opposed anti-BDS laws and admitted they are unconstitutional. Although the leadership officially favors outlawing BDS, ADL staff wrote in an internal 2016 memo that anti-BDS laws divert “community resources to an ineffective, unworkable, and unconstitutional endeavor.”

Greenwald cited the grave danger anti-BDS laws pose to freedom of speech, tweeting, “The proliferation of these laws – where US citizens are barred from work or contracts unless they vow not to boycott Israel – is the single greatest free speech threat in the US.”

Demonstrating the incongruity of allowing Amawi to boycott

any entity but Israel, Greenwald noted, “In order to continue to work, Amawi would be perfectly free to engage in any political activism against her own country, participate in an economic boycott of any state or city within the US, or work against the policies of any other government in the world – except Israel.”

The US government remains Israel’s lap dog on the world stage. On December 5 the United Nations General Assembly overwhelmingly passed a resolution calling for an end to Israel’s occupation of Palestinian territories. The United States opposed the resolution.

Meanwhile, the BDS movement continues to achieve victories. After more than 24,000 people complained to HSBC, the banking giant pulled out its investments in Israeli arms company Elbit Systems. Elbit sells military equipment, including drones, aircraft, artillery and weapon control systems to the Israeli army, US Air Force and British Royal Air Force. It also provides surveillance equipment to the US Customs and Border Protection agency.

On the legal front, the ACLU has mounted successful court challenges to anti-BDS laws in Kansas and Arizona and has filed litigation in Arkansas and Texas.

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recently published in an updated second edition.

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## Being Pro-Palestinian Doesn't Make Jeremy Corbyn an Anti-Semite

The Israelis' war on the leader of the Labour Party is really a war on free speech that's meant to silence critics of Israel in the U.K. and elsewhere, argues As'ad AbuKhalil.

**By As'ad AbuKhalil**

*Special to Consortium News*



In the last few decades, public opinion in the West has shifted from the early, post- World War II period. Support for Israel has declined while support for the Palestinians has increased. This shift has been particularly pronounced among youth, especially those who are liberals or leftists.

The view was much different when Israel established its occupation of Palestine in 1948. But Israel has committed too many massacres and perpetrated too many invasions to maintain the status quo. Its war crimes have been televised too often for the world not to notice and popular opinion not to change. Mainstream print media no longer can control the narrative and mold the coverage of Israel and its offenses like it once did.

Still, while the base of the Socialist Party in France or the Labour Party in the United Kingdom has shifted in a more pro-Palestinian direction, much of the leadership of those parties continues to uphold Israeli dogmas. These are the same dogmas to which all ruling parties of Europe and the U.S. and its establishment media have adhered to

since the occupation began.

The U.S. is a prime example. Although the Democratic base has become more sympathetic to the Palestinians (and less supportive of Israel), the leadership of the Democratic Party has not wavered in its support for military and economic aid to Israel and for its unconditional support for Israeli wars and invasions with the mantra that "Israel has a right to defend itself." This fact remains as true with Bernie Sanders as it is does with Nancy Pelosi and Hillary Clinton.

### **Defining Anti-Semitism**

British Labour Party leader Jeremy Corbyn is the exception. Unlike Francois Hollande of France, Corbyn represents the progressive, youthful base of the his party on domestic and foreign policies.

His political rise poses a real problem for Israel. Therefore Tel Aviv's latest target is Corbyn. Israel finds his stance worrisome because if he were to be elected prime minister, a real possibility, his views could influence a major shift in the foreign policies of other European ruling parties.

Various attempts therefore have been made to malign Corbyn and misconstrue his statements as racist. Corbyn obliged by giving a long interview to an Israeli publication in which he declared support for the occupation state.

But the more he gave in, the more the pressure increased. No matter what he had to say, it was not enough, and the accusation of anti-Semitism has been hurled in his face in an increasingly frenzied pace.

Corbyn's repeated denunciations of anti-Semitism haven't been sufficient because this is not really about anti-Semitism and its repugnance. The beef that British Zionists (and other Zionists especially in Israel) have with Corbyn is with his views on Palestine. He was asked to accept—without hesitation or equivocation—an Israeli definition of anti-Semitism, which was provided by the International Holocaust Remembrance Alliance (IHRA).

Insistence on accepting this definition is an attempt to force Corbyn



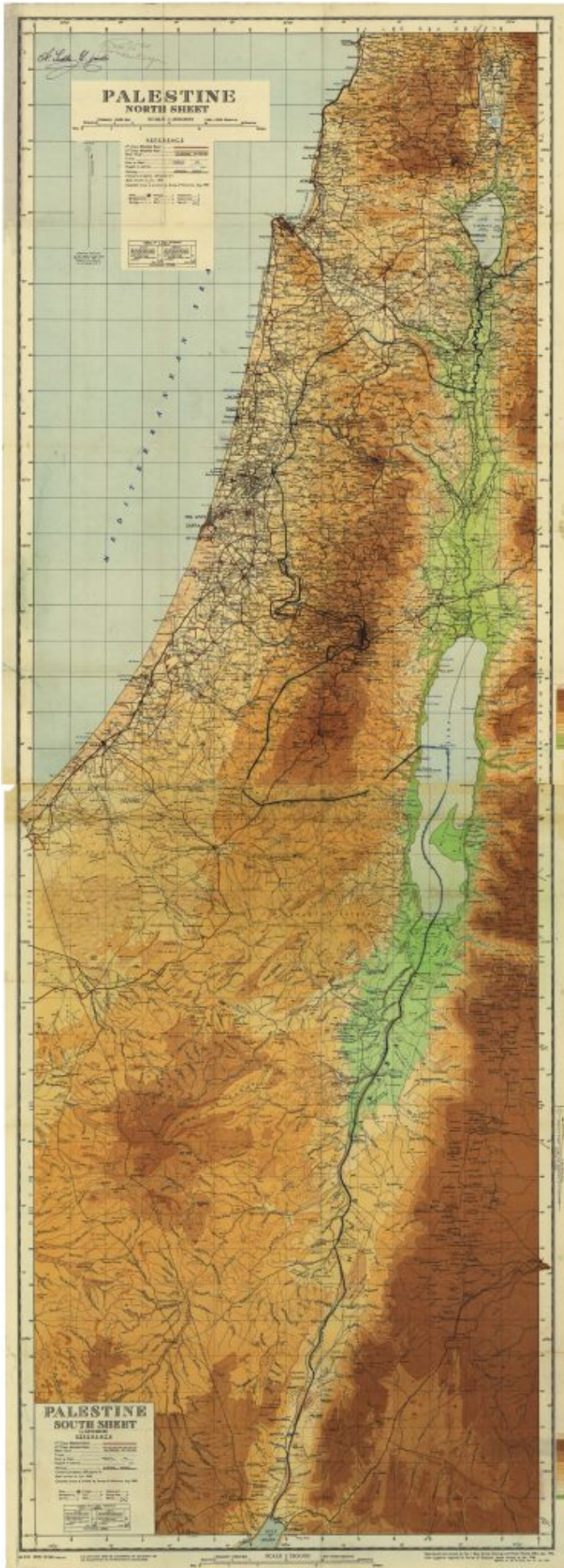
to tailor his statements and beliefs on the Arab-Israeli question to the Israeli position. The Israeli establishment wants to prevent grass-roots views on Palestine among British progressives from being reflected in the stances of party leaders.

The “working” definition of the IHRA in many ways is quite accurate: “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.” This statement is indisputable and sums up the various forms of hatred of Jewish people.

Exaggerating Jewish power in society and believing in a global Jewish conspiracy (or promoting grotesque fakes, such as the Protocols of the Elders of Zion) are also manifestations of anti-Semitism. These ideas are not included in the IHRA definition (although some examples in the document later cover those forms).

Other examples the IHRA cites—such as “calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist religion”—cannot be debated. These vile sentiments are anti-Semitic and indeed represent a repugnant form of hatred. Of course anti-Semitism includes “accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group.” (This same blanket denouncement of a group of people applies to Islamophobia today, incidentally.)

## **Prejudice vs. Propaganda**



The IHRA's definition of anti-Semitism falters in its "guiding" examples and "illustrations" of anti-Semitism. In this regard, political considerations have been inserted into the definition. Combatting anti-Semitism always is—or should be—a humanitarian concern that goes beyond any political consideration. However, the IHRA reveals a political agenda: "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."

This is where we enter into the realm of Israeli propaganda. If one is to declare support for the rights of all religious groups to self-determination except the Jewish people, that would be anti-Semitism. But not every denial of religious rights of self-determination is anti-Semitic. What if one is opposed to the rights of self-determination for all religious groups without exception because one believes that the right of self-determination should be a political, and not religious, right?

Self-determination is tied to nationalist attachment to a piece of land. One has to ensure that a right of self-determination of one people does not impede or obstruct the right of self-determination of another people on the same piece of land. Maxime Rodinson, the French historian and sociologist, once observed, sarcastically, that there is no reason for one to oppose the establishment of a Jewish state, say, on the moon.

To support the right of Jews to self-determination when this self-determination has become bound up with Palestine—and only Palestine, when it wasn't before the First Zionist Congress in 1897—is to deprive the native population of Palestine from their own right to self-determination.

Opposing the right of self-determination to Jews is not anti-Semitic if one is a) concerned about the right of the native population who were the original inhabitants of the lands or b) opposed to religious rights of self-determination as a matter of secular principle. If I am opposed to Muslim right of self-determination in California, can that be considered Islamophobic, if we follow the same Israeli logic?

As far as declaring Israel a racist state, that is hardly anti-Semitic. Remember, a majority of nations (75 to 35) in the world voted in the General Assembly of the United Nations in November 1975 (long before the U.S. imposed its will on the U.N. after the demise of the Soviet bloc) for the “Zionism-is-racism” resolution (which then was repealed in 1991). That is not in itself anti-Semitic.

Similarly, to accuse the Iranian regime or the Saudi regime of sexism or of repression is not Islamophobic. To criticize a state, or even to

work for the dismantlement of its political institution, is not an act of hostility against the people of the state, even if that state—be it Israel, Saudi Arabia or Iran—may speak on behalf of the entire members of a particular religion in the world. (Just last week, the Saudi regime adopted the Israeli playbook and declared that any criticism of the regime is an insult to Islam and to Muslims).

Laws and practices in Israel are racist. Labeling them as such does not malign all Jewish people because all Jewish people should not be held responsible for the actions and crimes of the state of Israel. just as criticizing the misogyny of the Saudi regime is not Islamophobic. (There are, of course, critics of Israel who are anti-Semitic just as there are critics of Saudi Arabia or Iran who are Islamophobic, but the criticism in itself is not necessarily a form of prejudice ).

On the contrary, to blame all Jews around the world collectively for the crimes and racism of Israel is anti-Semitism. And the Alliance concedes this last point, although it does not fit with the last example provided above.

### **Weaponizing the Holocaust**

In recent years, Israel has resorted to classic manipulation tactics, perfected over decades, that conflate legitimate criticism about Israel with anti-Semitism. From early on in the history of Israeli immigration to Palestine, Israel attributed Palestinian opposition to its virtual invasion of Palestine to anti-Semitism—as if Palestinians would have been less opposed if Christians, Buddhist, or even other Muslims, were the ones taking over their homeland.

That Israel's establishment took place in the wake of the horrors of the Holocaust made it easier for the Israeli occupation state to present the takeover of Palestine as a tribute to Holocaust victims. Palestine was not the only place where a haven for Jewish refugees could be found. The takeover treated the native inhabitants of Palestine as though they didn't exist.

Successive Palestinian and Arab leaders resisting this takeover have

been compared to Adolf Hitler. Amos Oz and Elie Wiesel never hesitated to equate the Palestinian national movement with Nazism. Benjamin Netanyahu recently decided to absolve Hitler of responsibility for the Holocaust and to instead blame Haj Amin Husseini, the grand mufti of Jerusalem from 1921-1948, for the designs and execution of Nazi war crimes. The more Israel finds itself in an untenable position, given the changes in world public opinion in favor of Palestinians and their rights, the more Israel and Israelis worldwide invoke the memory of the Holocaust and anti-Semitism to silence critics.

The question of comparing Israeli policies and actions with those of the Nazis is not a simple one. There is indeed a uniqueness to the horrors of the Holocaust that require special respect for its victims. To throw around the word "rape" in situations where there is no rape, is offensive to victims of rape. Similarly, one should not use the word "holocaust" casually because it connotes one of the worst crimes of the last century.

But Israelis can't have it both ways. If the reason for their rejection of a comparison between Israel and the Nazi regime is out of respect for the victims of the Holocaust, then why did most—if not all—Israeli organizations (in the U.S. and elsewhere) popularize the comparison between the Syrian regime and the Nazi regime over the last few years of the Syrian war? Why do Israelis compare the Palestinian national movement to Nazism?

The Holocaust Museum in Washington, D.C. took a leading role in the propaganda production about Syria. Shouldn't that be considered anti-Semitic, if a comparison between Israel and the Nazi regime is anti-Semitic? Either we reject any analogy between the Nazi regime and any other regime regardless of how criminal it is, or we accept it as part of the propaganda of war. Israelis can't ban others from what they themselves permit themselves to do.

### **True Lies and False Virtue**

Propaganda is how Israel still manages to find new and different ways to silence debate and ostracize dissent. Israel has campaigned to deny tenure to professors who are critical of its abuses (see Norman

Finkelstein, Joseph Massad, Steven Salaita and others). Israelis say the Boycott, Divestment, Sanctions (BDS) movement should be legally banned and have lobbied state governments in the United States to ban boycotting Israel, which the ACLU among others see as a violation of the First Amendment. Israel has also launched an app that directs users to make negative social media comments. In general, Israel wants to impose a rigid uniformity of discourse and terms about the Arab-Israeli conflict.

Israelis fight—and kill—Arabs all over the world (Israel has not been shy about murdering Arab scientists, and U.S. media casually report on those assassinations without comments or repudiation). Arabs and non-Arabs cannot speak and write uncensored thoughts about the Arab-Israeli conflict without risking severe repression from the Israeli occupation state, including censorship on social media.

The war on Corbyn is a prominent part of Israel's war on free speech in the U.K. and elsewhere.

Corbyn and other politicians should be expected to never resort to anti-Semitic expressions. But so far only evidence of his pro-Palestinian statements have been found and that should never be confused with the scourge of genuine anti-Semitism.

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## The Faulty Logic Behind the Attack on

# BDS

Defenders of Israel are using flawed logic in trying to tar supporters of the age-old tactic of boycotts as anti-semitic, argues Lawrence Davidson.

**By Lawrence Davidson**



If you search the topic boycotts on Google you immediately realize how historically common they are. There are a lot to choose from, and one of the first listed is the 1769 boycott instituted by the First Continental Congress against Great Britain over the issue of “taxation without representation.” That makes a boycott against a perceived oppressive power an integral part of American heritage.

As you move into the modern era, a reaction against racism also becomes a noticeable motivating factor for many boycotts. The Chinese instituted a boycott against the United States over the Chinese Exclusion Act of 1892 and 1904. Then, in 1933, the American Jewish Congress declared a boycott of Nazi Germany in protest to its racially motivated oppression of the German Jewish community. In the 1940s, Ghandi would encourage Indians to boycott imperial Britain. In the 1950s and 1960s, African Americans would boycott segregated institutions in the U.S. South. In the 1960s through the 1990s, much of the world would boycott South Africa over the issue of apartheid. And this is but a short list.

In 2005, 170 Palestinian civil society organizations, including unions, refugee networks, women’s organizations, and political parties, put out a call for a boycott of Israel. This was to be a non-violent effort to pressure the Zionist state to conform to international law and cease its oppression of the Palestinians. The call was also for divestment from Israel and all entities that assisted and profited from its behavior, as well as for eventual sanctions. This is known as the Boycott, Divestment and Sanctions campaign, or BDS for short.

## **Redefining Anti-Semitism**

Even though Jews had suffered in the Holocaust during World War II and had used boycott as a weapon against their oppressors, the Israelis and their Zionist supporters have taken great umbrage at the call for boycott by the Palestinians. They see it as “anti-Semitic.”

For instance, in the U.S. the Zionist Anti-Defamation League has this to say about the BDS campaign on its website:

“Many of the founding goals of the BDS movement, including denying the Jewish people the universal right of self-determination ... are anti-Semitic. Many individuals involved in BDS campaigns are driven by opposition to Israel’s very

existence as a Jewish state. ... And, all too often, BDS advocates employ anti-Semitic rhetoric and narratives to isolate and demonize Israel.”

This statement expresses the “official” Israeli/Zionist position, and at its core is a purposeful conflation of the Jewish people and the Israeli state. By insisting on this identification of Israel and all Jews, the Zionists are able to redefine anti-Semitism. Indeed, they take a very old and well-understood phenomenon and give it a radically new, and quite suspect, definition.

The traditional definition of anti-Semitism is a dislike of or bias against Jews by virtue of their imagined inherent “Jewishness.” Note that this is very different from objecting to, say, the criminal behavior of someone or some group that just happens to be Jewish. In the first case, it is “Jewishness” that you object to. That is anti-Semitism. In the second case, it is criminal behavior that you object to, regardless of whether the criminal is Jewish. That is not anti-Semitism.

However, by arbitrarily conflating all Jews with the Israeli state, the Zionists tell us that criticism or opposition to Israeli state behavior—even if that behavior is criminal—is anti-Semitic. This is because Israel stands in for all Jews. Thus, they redefine anti-Semitism in a way that allows Israel to sidestep all moral responsibility by turning the argument around and pointing fingers at their critics. For instance, do you object to Israel’s ethnic cleansing of Palestinians? Well, for the Zionists the issue is no longer the criminal nature of ethnic cleansing, but the alleged anti-Semitism of those criticizing that behavior.

Let’s consider this Zionist maneuver against the following background:

- In June, 2018, the General Assembly of the Presbyterian Church (USA), representing 1.5 million Americans, “voted unanimously” to support the BDS campaign.
- In July, 2018, the General Convention of the Episcopal Church USA voted to support BDS by screening suspect companies that might be aiding Israel in the violation of Palestinian human rights and divest from them if this proves to be the case. The Episcopal Church USA represents 3 million Americans.
- There are, in fact, dozens of Jewish organizations worldwide supporting the BDS campaign. These have thousands of members.
- All together we are talking about millions of people, both Christian and Jewish, a good percentage of whom support, or at least are in sympathy with BDS. Are they all anti-Semitic? According to the Zionist’s novel definition—the one that conflates Jews with the Israeli state—the answer is yes. But clearly this assertion can’t be right.



## **Logical Fallacies and Erroneous Thinking**

The Zionist gambit is actually an act of obfuscation using a logical fallacy called the "straw man." It is "based on giving the impression of refuting an opponent's argument, while actually refuting an argument that was not presented by that opponent. One who engages in this fallacy is said to be attacking a straw man."

Thus, as suggested above, every time someone charges that the state of Israel's treatment of the Palestinians is, say, in violation of international law, the issue of the validity of this charge is replaced by "straw man," which in this case is alleged anti-Semitism of the critic. It is to be noted that in most of these confrontations only one side has any real evidence.

The critic might point to evidence of ethnic cleansing, property destruction and land theft, and various policies that have, according to David Harel, the vice-president of the Israel Academy of Science and Humanities, turned Israel into an "apartheid" state. On the other side, however, those using the straw man fallacy often have no objective evidence at all. Their claim of anti-Semitism is based on their own idiosyncratic definition of this prejudice. Making a case in this way also involves "begging the question" or "circular reasoning," which are also erroneous ways of arguing. This occurs when a person "assumes as evidence for their argument the very conclusion they are attempting to prove."

The great 18th-century Scottish philosopher David Hume once remarked (referring to the subject of miracles) that "those with strong religious beliefs are often prepared to give evidence that they know is false, with the best intentions in the world, for the sake of promoting so holy a cause." We can ascribe this sentiment to the true believer of just about any belief system deemed "holy" in one sense or another. Certainly those with strong Zionist beliefs would qualify—though I am pretty sure theirs are not "the best intentions in the world."

Hume goes on to say that "people are often too credulous when faced with such witnesses, whose apparent honesty and eloquence ... may overcome normal skepticism." Thus, the faulty logic of the Zionist attack on the BDS campaign has not prevented partial success. This is particularly true in the halls of power where faulty logic is combined with Zionist lobby power that can help or hinder the politician's reelection. Here Zionist power and influence are being used to actually outlaw BDS. To date some twenty-five U.S. states have tried to do this even though, as an infringement of free speech, their efforts are clearly unconstitutional. In this case lobby power proves more compelling than

either the U.S. constitution or logic.

Let's end by quoting George Orwell. His experiences with the pervasive propaganda used by all sides just before and during World War II gave him "the feeling that the very concept of objective truth is fading out of the world. Lies will pass into history." Such efforts have not stopped.

*This piece first appeared on Lawrence Davidson's blog.*

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## Reverberations from Trump's Jerusalem Move

One ironic benefit from Donald Trump's presidency is that the world is showing more independence against U.S. edicts, such as the recent rebuff of Trump's decision to move the U.S. embassy in Israel to Jerusalem, as Dennis J Bernstein reports.

By Dennis J Bernstein

The U.N. General Assembly's rebuff of overt threats of economic retaliation from President Trump – in the overwhelming repudiation of his decision to move the U.S. embassy in Israel to Jerusalem – marked a rare show of independence from Washington. Despite President Trump's threats, the vote against the U.S. position was 128 to 9, with 35 abstentions.

I spoke about the significance of the vote with Professor Francis Boyle, a scholar and long-time pro-Palestinian activist, who has been deeply engaged in the Mideast peace process and various negotiations over the last 30 years. Boyle is a professor of international law at the University of Illinois' College of Law. He served as a legal advisor to the Palestinian Liberation Organization.

Dennis Bernstein: Before we jump into this, I would like people to know a little bit more about your background, because you're the perfect person to hit

this subject at this time. Just say a little bit more about your work with the Palestinians.

Francis Boyle: Right. Well, starting in 1987, at [the Palestinians] request, I made a speech at the United Nations on the 20th anniversary of the Six-Day War. And, in this speech, I outlined to them an agenda for establishing their statehood, including, at some point, invoking the Uniting for Peace Resolution.

So, they liked what I had to say and asked me to write it up in a memo, which I did. You can read it in my book "Palestine, Palestinians and International Law." And they then carried out my recommendation in their Declaration of Independence of 15 November, 1988. And I was their legal advisor on all of that. My memorandum became their position paper. And I've worked with them since then.

Today, the State of Palestine is recognized du jour by 136 states, the last time I looked. And it also has U.N. observer state status now at the United Nations along the lines that Switzerland had before it became a full-fledged U.N. member state.

[...] And certainly the Palestinians have publicly stated that they can, at some point in the future, invoke the Uniting for Peace Resolution to obtain their admission to the United Nations as a full-fledged U.N. member state. They said that's next on the agenda. I guess we have to see what happens here. I really can't say, but they said they're renewing that struggle in January [2018], after the dust settles here.

DB: Okay, now let's talk about the significance of the vote today [Dec. 21], which has a lot to do with Jerusalem. And, talk about it, if you will, in the context of the Uniting for Peace procedure because this gives it more power or more of a focus.

FB: Well, that is correct. When Uniting for Peace started out, back during the days of the Korean War, the Soviet Union proceeded to exercise a veto. And the United States under Secretary of State Dean Acheson – back in those days we controlled the General Assembly – put forward the Uniting for Peace Resolution in the General Assembly to circumvent the Soviet veto. And then [the US] used it to impose fairly terrible economic sanctions against North Korea that continue until today.

And, over the years, the Uniting for Peace procedure was approved by the International Court of Justice in the [Unclear 05:48] advisory opinion in 1962. And I did, I was the one who informed the Palestinians about the Uniting for Peace procedure and that we need to go forward and use it. And they have used it.

And [the vote on Dec. 21] was yet another example. The mainstream news media is dismissing this as nothing more than symbolic. You know, Dennis, if it were nothing more than symbolic then why did Nikki Haley get up there and threaten to break the legs of everyone in the world, if they voted for it, and likewise, Trump make his thuggish threat, as well, at his last cabinet meetings? So it's far more than symbolic.

Under Uniting for Peace the General Assembly cannot require states to do anything. But they can certainly authorize them. And what happens here with this resolution under Uniting for Peace is that it really solidified the international consensus on Jerusalem. As you note, we discussed this before, when Trump announced his new policy, and invited other states to follow moving the U.S. embassy to Jerusalem and recognizing Jerusalem as the capital of Israel, which it definitely is not, whether west Jerusalem or east Jerusalem.

And, this vote today really solidifies that international consensus. So that is a positive thing, but, obviously it's going to have to be followed up by more steps by the Palestinians. Again, my advice is the next stage here is to use United for Peace to have Palestine admitted to the U.N. itself. But, that's under consideration. We'll have to see what they do.

DB: And what, exactly, did that resolution say? It was reinforcing earlier Security Council resolutions. What exactly are we talking about here?

FB: Well, the way the United States government set it up under Secretary of State Dean Acheson, was that in the event there is a matter affecting international peace and security, and at least one of the permanent members at the Security Council exercises a veto power over a resolution on that matter, when the resolution is introduced in the Security Council, the matter is then turned over to the United Nations General Assembly for action, for the General Assembly to decide what to do about it, in accordance with a two-thirds vote. So, the United States government originally introduced this. We conceived it and we applied it, regretfully, to North Korea.

And those economic sanctions are still strangling North Korea today, as we talk. And Trump is trying to escalate them. But in any event, sauce for the goose is sauce for the gander. I think it's only history, sort of cosmic blowback here, that a generation later the Palestinians and most of the rest of the world are using Uniting for Peace against the United States. This is our baby, as it were, and they are sticking it back to us.

DB: Alright, now let's just talk a little bit about Jerusalem and what's at stake here. Last we spoke, one of the things you said, and it's very concerning and absolutely true, is that you were now fearing the deaths again of more

Palestinians in this fight for liberation.

FB: And, it's true, Dennis, [...] in fairness, that Jews might die too.

DB: Yes. And things have been happening, clearly Palestinians have been dying. There have been attacks in the Gaza Strip. There have been some incidents from Palestinians coming at Jews, that's a fact as well. But, always, it's the Palestinians that lead the dying. And what I want you to talk about here is, because people still do not get it: What is at stake in Jerusalem here? What exactly is this about? And why will this be the line of resistance?

FB: Because, as you know, Jerusalem is the headquarters for the three great monotheistic faiths: Islam, Judaism, Christianity. And, especially, for the Muslims the Haram al-Sharif, the Noble Sanctuary, it's the plateau over there. And that plateau is considered to be sacred. They have on there the Al-Aqsa Mosque, where Muslims used to direct their prayers before Mecca Medina. There is the Dome of the Rock where it is said Mohammed ascended into Heaven. And then you have the El Burka, which is the sort of "stand on the side" where Mohammed is said to have tied up his horse, when he miraculously flew from Arabia to Jerusalem, to make his ascent into Heaven.

So, on the Jewish side, you have the Wailing Wall. And, despite when everything is said, this is still Palestinian. It is protected under the Geneva Conventions, and also there's a 1953 convention to which Israel is a party, protecting cultural religious sites in times of war. Although, I believe, that could easily be negotiated by simply setting up an easement so that Jews could go worship at the Wailing Wall. I don't think Palestinians have any great desire to stop that, one way or the other. And then Christianity, of course, you have all the holy sites there, the Nativity, the Church of the Nativity, the Holy Sepulchre, etc.

So, it's really the flashpoint for these three religions. Although, again, I did devise a proposal for the Palestinians that was approved by the PLO, on sharing Jerusalem as a capital between both Israel and Palestine, the two states. That would have to be subject to approval by the Security Council because Jerusalem still has a separate status under international laws of *corpus separatum*. But that would probably be approved.

And you can read that proposal that did have the approval of the PLO in my book "Palestine, Palestinians and International Law" along with the original memorandum I did for them going back to 1987. And then the Chair of the Palestinian delegation to the Middle East peace negotiations, my client and friend, the late, great Dr. Haidar Abdel-Shafi, instructed me to draw up the counter offer to Israel's Oslo Bantustan [the Oslo Accords of 1993], which I did

do. And that is published in there with Dr. Abdel-Shafi's permission.

It was clear at the beginning that Oslo was pretty much a Bantustan, and so I advised all the Palestinians to that effect. And Abdel-Shafi then instructed me to come up with their counter offer which I did do. But that position did not prevail. Dr. Abdel-Shafi and I fought against Oslo to the bitter end. Then we lost, so there you go.

DB: Now, staying with Jerusalem, I think the statement made by Trump, even though it's obviously a continuum of U.S. policy – Obama's ambassador [Dan Shapiro] was no better, if not worse—but what's going on on the ground in Jerusalem in the context of this statement, in other words, the continuing expansion of house demolitions, the attempt to put security devices, and set up a place to block Muslims from going to pray before making them go through a metal detector..that was going on in the recent past. The heat on this situation in Jerusalem has been high before this announcement. So, this is just sort of pushing it right at the edge, isn't it?

FB: Right. Dennis, it's really emboldening Netanyahu and his religious fanatics over there, who, by the way were complicit in the assassination of Prime Minister [Yitzhak] Rabin. Who was first and, so far, the only Prime Minister they've had over there who was interested in negotiating peace with the Palestinians and Syria, which is why they murdered him.

So, yeah, this simply emboldens these people. And the real flashpoint is... Netanyahu permitting these fanatical, racist settlers to go onto Haram Al-Sharif [Temple Mount] itself, and storm Al-Aqsa Mosque. And, that is happening repeatedly. And it's extremely dangerous and highly provocative. Because, at the end of the day, these people want to destroy Al-Aqsa and build their so-called third temple. And it would be a total catastrophe if this happens, because you'd have 1.5 billion Muslims in the world rising up in unison over this.

But that's the real danger right now, I think, is the emboldenment of Netanyahu and these fanatical religious extremists, settlers that now believe they have a blank check to do whatever they want to do. And especially in Jerusalem and particularly the Haram Al-Sharif and the Al-Aqsa Mosque, yeah.

DB: And, I guess it should be of concern that Jared Kushner has a foundation that funds the building of settlements in the West Bank. I would think that that would be of concern to anybody thinking about any kind of negotiation, whatsoever. Not to mention the fact that Netanyahu would stay with the family at the Kushner house when he was in the U.S.

FB: Well, that's correct. Kushner is aiding and abetting, by means of his

foundation, he is aiding and abetting more crimes under the Hague Regulations of 1907, to which the United States government is a party, a violation of the Geneva Conventions of 1949, the four Geneva Conventions to which the United States is a party. And crimes against humanity as defined by the statute of the International Criminal Court. And the prosecutor, the International Criminal Court, is currently investigating war crimes, and crimes against humanity because of these settlements.

So, it's impossible to think that a guy like Kushner could possibly serve as some type of mediator here, and it does look now, the Palestinians have decided to turn to Russia and China, and the United Nations to serve as mediators. Although I have to point out, Dennis, that I was involved as legal advisor to the Palestinian delegation to the Middle East Peace Negotiations right from the very beginning there in Washington, D.C. in the fall of 1991, convened by President Bush, Sr., and the United States government has never served as an honest broker. They've always supported the Israeli position.

And, indeed, I think as I mentioned it before, Bush, Sr. put three American Jews in charge of the process, [Dennis] Ross, [Aaron David] Miller and [Daniel] Kurtzer. And they basically functioned as Israel's lawyer. And, I believe, two of them were, still are, orthodox. I don't think Ross is. And here we are, all these years later, now 2017 – that was 1991 – and nothing has changed because Trump has put Kushner, [David] Friedman and [Jason] Greenblatt as the so-called negotiators.

And here all three of them are orthodox. So, this situation is completely preposterous. How do you expect any negotiations to go on here – reasonable, fair negotiations? It's not going to happen.

DB: And, I guess, that takes us back to Nikki Haley's threatening statements today sounding like a bit of a mafioso captain warning any nation that would vote – I guess they didn't have much of an impact on the vote – but clearly it's got to be frightening if you're a little nation that lives or dies based on U.S. aid and they're saying you vote for this resolution in support of the Palestinians then we're going to kill you. This is also not a good sign.

FB: Right, well without the Haley/Trump threats, I suspect the Palestinians would have also picked up the 35 abstentions, and maybe the no-shows. It appears several states just didn't show up, because of these threats. So, basically it probably would have been – what, there's 193 U.N. member states – so it probably would have been 185 to 9. But under United for Peace all they needed was two-thirds of those voting and abstentions didn't count. So, there you are.

They have the votes, and indeed, they do have the votes to be admitted as a

full-fledged U.N. member state based on this vote here. And the Trump/Haley threats, it does appear to me, they've got the votes to get admitted to the U.N., hopefully starting in January [2018]. There's been a statement made that they will be submitting another resolution on their admission to the Security Council sometime in January. And, assuming the U.S. vetoes it, which it probably will under Trump, they can again invoke Uniting for Peace, and put it before the General Assembly.

Because, at the end of the day, in accordance with the terms of the United Nations charter, the Security Council only makes a recommendation on admission, not any decision. There's a big difference between recommendations and decisions. And, also, under the terms of the United Nations charter, at the end of the day, it is the General Assembly that admits a member state, not the Security Council.

I had advised the Palestinians years ago, they can do this, that they did try in 2012. And, at that point they decided just to go for observer state status. They're going one step at a time, and we'll have to see what their next step is.

I also noticed that, although I don't have a list, but [Palestinian] President Abbas just exceeded to about 22 different treaties. I still haven't gotten the names of those treaties. But that also goes back to our previous conversation on Jerusalem here on a legal intifada.

They will use their memberships in all these international organizations to further solidify and promote their statehood. And, the bottom line is, I think that's positive, one, because even [Noam] Chomsky has pointed out, if the Palestinians keep going this way, at the end of the day you'll have two states over there.

Otherwise, I'm afraid we're just going to have total chaos, and the Palestinians will be getting nothing more than a collection of little Bantustans. You remember, back in the days, Dennis, when we used to fight apartheid in South Africa. We had Transkei, Ciskei, and Bophuthatswana that weren't even connected with each other. They were little bitty plots of land. And that's pretty much what Israel has in mind here.

DB: And it is important to note those who fought that war against apartheid in South Africa are among the strongest supporters of the Palestinians. And they now say, and I pushed them on this, because I want to know if we're talking hyperbole here, and they now say that the Palestinian situation is way worse, particularly in Gaza. Way worse than they ever had it in terms of the Bantustans that you were just referring to.



FB: That's correct. And indeed, my friend, Professor John Dugard, who had been Special Rapporteur on Palestine is from South Africa. And he was one of a handful of white, international law professors over there with the courage, integrity and principles to oppose apartheid in South Africa, at risk to his life. And Dugard has said the same thing. If you want to look at... do a google on his name DUGARD.

And Dugard has said, and as you point out, other ANC leaders have said, that what the Palestinians are up against is far worse than what we were up against in the struggle against apartheid. You were involved, I was involved, many of us fought apartheid in South Africa. And we're fighting apartheid over there [Palestine] today as well. The legal principles are pretty much the same.

DB: The legal principles are the same, but the uh... sort of the history and the details, or the situation, are quite a bit different. Israel and its lobby controls U.S. policy so they're... all those anti-apartheiders have been fairly silent, wouldn't you say?

FB: Well, we have the BDS campaign...

DB: Well, yes... no, no, this is the silver lining but I mean all those politicians, and all those civil rights activists, and all those folks... and you know I can go down the list, do not see... if you even bring that up, either the subject disappears or you're considered an idiot, or a conspiracy theorist, over the top, whatever. When you make that parallel structure. I haven't heard it on NPR, have you?

FB: You mean National Propaganda Radio, Dennis? But, look, I set up the Israeli divestment/disinvestment campaign, in November of 2000, because of my involvement in the divestment/disinvestment campaign here against apartheid South Africa, that was called for by a black lawyer who was ahead of me at Harvard Law School, Randal Robinson.

And looking into the situation, I concluded that the legal principles are the same. And, when I did this, I remember the president of Harvard, Larry Summers, condemned me, because I was involved in the Harvard divestment/disinvestment campaign, and accused me of being anti-semitic.

And WBUR, which is the NPR affiliate out there in Boston asked me to debate Summers and I said I would. And Summers did not have the courage, integrity or principles to debate me. As you know, eventually Harvard fired him because he publicly stated women are dumber than men when it comes to math and science. So, fine.

So I debated Alan Dershowitz on this, as far back as 2002. And, we had a debate

and I won that debate. I clobbered Dershowitz. And in 2005 then-Palestinian civil society leaders contacted me and said "We really want to set up a BDS campaign, modeled on what the world did against apartheid South Africa. Boycott, divestment and sanctions, would you go in with us?" I said, "Sure." So, I sort of surrendered the initiative to them.

But we've made an enormous amount of progress in these years. And, yes, the forces against us are substantial, and I guess more substantial than in apartheid South Africa.

Although thereto, as you note, the United States government fully supported apartheid South Africa, except during President Jimmy Carter. But all the rest of them supported it, up through and including Reagan, and the collapse of apartheid. So, when I set this thing up in 2000 I knew the forces against us would be formidable.

But the only progressive ... change we've ever seen in this country, Dennis, in my lifetime, going back to the struggle for civil rights for black people, which I also supported, has come from the people, and grassroots movement. It has never come from Washington, D.C. And it certainly hasn't come from the judiciary. It hasn't come from Congress. It hasn't come from the executive branch.

So, I think we've done a pretty good job in the BDS campaign, not just in this country, but worldwide. And it's going to take more time. Israel is fighting it tooth and nail, as you know. They even set up a separate ministry over there, to counteract BDS. [Sheldon] Adelson is putting millions of dollars into the campaign.

But I think everyone who looks at it realizes they are losing, because we have truth and justice on our side. So we're just going to have to keep plucking away, Dennis. People want to have peace with justice there for both Palestinians and Jews. It can be done. But we have a lot more work to do.

DB: Beautiful. Alright, well, Professor Boyle, as always we appreciate the good information, and the discussion about an issue that is really at the core, whether there's going to be peace in this world.

FB: I do want to make one more point here which I think is very important. Back in 1991, I was advising both the Palestinian delegation and the Syrian delegation. And the Jordanians were prepared for peace but they couldn't go first. And at that time Lebanon was occupied by Syria, so they basically did whatever the Syrians told them. So I was advising, at the same time, the two key actors here.

And I can assure you that if Israel had wanted peace back in 1991, with the

Palestinians and with the Syrians, we could have had it. Because I knew the Palestinian bottom line, and I knew the Syrian bottom line, and I was drafting their documents. And, regrettably, they started under [former Israeli Prime Minister Yitzhak] Shamir, whose strategy was stall and delay. Then came Rabin, and he negotiated a comprehensive peace plan, agreement with Syria, full peace for full withdrawal. And he also did the Oslo Accord with the Palestinians. And then he was murdered.

DB: He was murdered by settlers. Let's remind people. He was murdered by crazy....

FB: Extremist settlers. And Netanyahu came to power and there's been no peace, peace process to speak of, since then. Now that's 1995. And here we are today. But I can say, based on my inside personal knowledge that peace was at hand, back at that point, at this early point. And, regrettably, we're pretty far from it today.

**Dennis J Bernstein is a host of "Flashpoints" on the Pacifica radio network and the author of Special Ed: Voices from a Hidden Classroom. You can access the audio archives at [www.flashpoints.net](http://www.flashpoints.net).**

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## The Balfour Declaration's Century of Turmoil

As Israel continues to occupy Palestinian lands and threatens a new war against Lebanon, much of this turmoil traces back to Great Britain's Balfour Declaration during World I, a century ago, reports Dennis J Bernstein.

By Dennis J Bernstein

Great Britain's Balfour Declaration – a century ago – laid the groundwork for a Zionist state in the Middle East and led to the purging of millions of Palestinians from what became Israel, a human rights crisis that continues to roil the Middle East to this day.

I caught up with noted Palestinian human rights campaigner Mustafa Barghouti in San Francisco where he was lecturing on the Balfour Declaration, a letter from British Foreign Secretary Arthur Balfour published on Nov. 9, 1917, and promising a Jewish homeland. The letter came during World War I while Great Britain was at war with Turkey's Ottoman Empire.

In June 2002, Dr. Barghouti co-founded the Palestinian National Initiative, and currently serves as its Secretary-General.

Dennis Bernstein: What was the significance of the Balfour Declaration and what does it mean to the Palestinian people?

Mustafa Barghouti: The Balfour Declaration was a major historical crime committed against the Palestinian people. It was a crime that led to a series of other crimes, including the ethnic cleansing of the Palestinian people in 1948, when 70% of the population were displaced and forced to leave their country. There are still 6 million refugees spread all over the world. It led to the occupation of the West Bank and Gaza and Jerusalem in 1967.

But most importantly, the Balfour Declaration was a racist act that discriminated against 90% of the population of Palestine. It gave 10% of the population the right to a homeland and deprived the Palestinians of that right. The result is what we see today, which is a system of apartheid that is much worse than what existed in South Africa.

I believe the Balfour Declaration was also a crime against the Jewish people. It used the Jewish population to serve the colonial interests of the colonial powers of Europe at the time. It pushed the Jewish population toward Zionism. It put the Jewish people in contradiction with the Palestinians and with the Arabs and created a situation of instability which has existed now for a hundred years.

Britain should apologize for its crime in Palestine and compensate the Palestinian people for the harm caused to them. At the very least, they should recognize the state of Palestine. Theresa May, the prime minister of Britain, added insult to injury by celebrating the anniversary of this declaration in the company of Benjamin Netanyahu. We responded with a fantastic rally in which 50,000 people gathered in the streets of London, occupying key locations for more than five hours.

I spoke in front of these people, as did Jeremy Corbyn, the leader of the Labor Party, who could very soon become the next prime minister of Britain. I think we can clearly say that we control public opinion in Britain.

Dennis Bernstein: What the Balfour Declaration essentially did was take a land where people had been living for generations, centuries, and gave it to another people.

Mustafa Barghouti: Exactly. Britain had no ownership of Palestine and did not even govern Palestine at the time. They took the land of the Palestinian people and gave it to the Jewish people, who were a very small minority in Palestine.

At that time, Palestine was under Ottoman Turkish rule. Ninety percent of the population were Palestinians, whether Muslim or Christians, and ten percent were Jewish.

Balfour was not for the sake of the Jewish people as human beings, it was a case of using the Jewish people for colonial purposes. And it was in the interests of the colonial powers to push the Jewish to become Zionist, although at that time most of the Jewish people did not want Zionism.

The Balfour Declaration was a part of the Sykes-Picot Agreement, which divided the Middle East between the French and British colonial powers. Proof that the Jewish people were used for colonial purposes came in 1956 when the British responded to the Egyptian decision to nationalize the Suez Canal by attacking Egypt through Israel. All of this led to the terrible crisis we see today. It was totally unjust, it was absolutely colonial and it created the system of apartheid we have to struggle against today.

Dennis Bernstein: Why do you suppose some of the key leaders in the anti-apartheid movement have said that the situation in Palestine is worse than it was in South Africa?

Mustafa Barghouti: In South Africa, there was never the segregation of roads that you see in the occupied West Bank, there were never the walls you have here. In South Africa, settlements were not used to ethnically cleanse the population.

Israel takes away 87% of our water resources in the West Bank. A Palestinian in the West Bank is allowed to use no more than fifty cubic meters of water, while an illegal Israeli settler is allowed to use 2,400 cubic meters, 48 times more than a Palestinian.

The Israeli GDP per capita is about \$38,000 while ours does not exceed \$2,000.

But Israel obliges us to buy products at the Israeli market price. So we make much less money but have to buy products at their cost. In addition, they force us to pay for water and electricity at double the amount Israelis pay. If we happen to have to send a child to an Israeli hospital, we would be obliged to pay four times what an Israeli would pay.

If you look it up in the dictionary, "apartheid" is defined as "two systems of laws for two peoples living in the same place." That is exactly what Israel has created. Israeli citizens, even if they are illegal settlers violating international law, are treated with respect by the Israeli government, they have rights, they are ruled by civil law. While Palestinians are ruled by military law. They still use against us the Ottoman Turkish Law of 1911, the British

Mandatory Law, the British Emergency Law, Jordanian law, Israeli law and 2,400 Israeli military orders. That is why you have things like administrative detention, which means they can arrest any Palestinian without even bringing charges. 56 members of our elected parliament were jailed by Israel, many under administrative detention. Imagine if the Mexican government came to the United States and arrested congress people and put them in jail without even charges!

Dennis Bernstein: People in custody are being subjected to torture, young people are being subjected to torture. This is an ongoing program. I am always stunned by the brutality and the acceptance of that brutality by the United States. If what is going on in Palestine is a form of ethnic cleansing, then we would have to indict the United States.

Mustafa Barghouti: It is unfortunate that US institutions are completely biased toward Israel. Without American support, Israel could not do what it does. The problem is that there are double standards. They speak about freedom, about democracy, about human rights...except when it comes to Palestine. It is as if we are not human beings. We speak about countries having to abide by international law—not having nuclear weapons, for instance—but Israel is above international law. That can only be described as a double standard.

In the long run, this is bad, not only for the Palestinians, but also for the Jewish people. The system of apartheid and racial discrimination run by the Israeli government is absolutely incompatible with the history of the Jewish people, the people who suffered from the Holocaust, from anti-Semitism and the pogroms in Russia. They should not be oppressors, they should not be discriminating against other people. That is why it does not surprise me to see many wonderful Jewish activists supporting Palestine and the BDS movement. I don't think the Israelis can be free until the Palestinians are free.

Dennis Bernstein: Do you see the Boycott, Divestment and Sanctions movement as an effective movement? It certainly contributed to ending apartheid in South Africa.

Mustafa Barghouti: Of course, it is very effective. It translates international solidarity with the Palestinian people into a material effect. But it must be stated that the BDS movement is not against the Jewish people and it is not anti-Semitic. It is a nonviolent form of action and freedom of expression. It is about individual rights. Those who have come out against BDS are positioning themselves against freedom of choice. If you don't want to boycott Israel, at least boycott settlement activities, which, according to United Nations Security Council resolution 2334, are a violation of international law.

**Dennis J Bernstein is a host of "Flashpoints" on the Pacifica radio network and**

the author of Special Ed: Voices from a Hidden Classroom. You can access the audio archives at www.flashpoints.net.

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## What Kind of One-State Solution

As the illusion of a “two-state solution” fades away with the deadlocked Israeli-Palestinian talks, what remains is a “one-state solution” that will be either democratic and egalitarian or a de facto apartheid system with a permanent Palestinian underclass, as Lawrence Davidson observes.

By Lawrence Davidson

Michael Jay Rosenberg is a well-known, sharp-minded critic of the Israeli government. But he is also a “liberal Zionist” who believes in the legitimacy and necessity of a Jewish state. This point of view has led him to attack the BDS (Boycott Israel) movement in a recent piece, “The Goal of BDS is Dismantling Israel”.

In the process he seriously underestimates the movement’s scope and potential in an effort to convince himself and others that BDS has no chance of actually achieving the goal he ascribes to it.

However, the only evidence he cites of the movement’s weakness is the recent failure of the University of Michigan’s student government to pass a divestment resolution. At the same time, he fails to mention an almost simultaneous decision by Chicago’s Loyola University student government to seek divestment. Rosenberg also makes no reference to BDS’s steady and impressive efforts in Europe.

Rosenberg continues by asserting that the reason the boycott movement “keeps failing” is because its goal is to destroy Israel rather than to attack the occupation and pressure for a two-state solution. He writes: “The BDS movement is not targeting the occupation per se. Its goal is to end the State of Israel itself.”

What does that mean? Well, according to Rosenberg, it means “replacing Israel itself with a state” that would be “in theory, hospitable to Jews [but] would no longer be Israel.”

At this juncture there are several points in Rosenberg’s thinking that warrant scrutiny. First of all his emphasis on “in theory” in the comment above implies that, in his view, only a Zionist state can really be “hospitable to Jews.” Take

the Zionism out of Israel and you really have to take the Jews out as well.

One can understand his concern, since he is aware of the wrongs committed by the Israeli government and knows that reconciliation with the Palestinians will not come easily. However, given the right sort of compromises, his fear for the well-being of Jews in a non-Zionist Israel does not have to necessarily translate into fact.

Secondly, he is still arguing that a two-state solution is possible. "The solution to the Israeli-Palestinian conflict is two states for two peoples." Maybe "in theory" that is the case. However, "in the real world" (to use Rosenberg's words), it is almost impossible to envision this happening given the make-up of the Israeli power structure and its worldview.

Most of those who organize and participate in the movement to boycott Israel know that the two-state solution is dead in the water. Even if the present negotiations led by Secretary of State John Kerry produce some pale imitation of a Palestinian state, it is hard to see it amounting to anything but a Bantustan.

The fact is, even now, there is only one state between the Mediterranean Sea and the Jordan River, and that is Zionist Israel. Having realized this, the boycotters have two choices: to give up the cause or to pressure for the transformation of Zionist Israel into a democratic, religiously and ethnically egalitarian state – a new Israel. This is what Mr. Rosenberg calls "dismantling Israel."

### **South Africa Precedent**

Those seeking a genuine democratization of Israel are encouraged by the past dismantlement of apartheid South Africa. But Rosenberg will have none of this either. He points out that in that case it was "the South African apartheid regime that was abolished, not the country known as South Africa."

Here he is not clearly thinking his point through. The boycott movement helped destroy an apartheid ideology and its institutionalized manifestation as the government of Republic of South Africa. That, perforce, altered the essential character of the country. There is no difference between that and the present boycott goal of the destruction of the Zionist ideology and its institutionalized manifestation as the government of State of Israel. That also must result in a change in the character of that country.

Finally, Rosenberg points to the demand embodied in UN Resolution 194, and supported by the BDS movement, which calls for the return of Palestinian refugees evicted in 1948. This really scares him and understandably so. From the Zionist perspective, the demographics of Israel are precarious enough as it is.



Allow back a sizable number of non-Jewish refugees and the maintenance of a Jewish majority in Israel becomes impossible.

On this note I have a Palestinian friend who asserts that one refugee should be resettled in pre-1967 Israel for every Israeli settler living beyond the Green Line. Would Mr. Rosenberg think this fair?

When it comes to Palestinian refugees, what Rosenberg appears not to take seriously is the long-recognized fact that, when and if the implementation of the Right of Return ever takes place, it will certainly be the result of negotiations aimed at minimizing social disruption.

None of this analysis of Rosenberg's position is meant to deny that he does raise a very serious question: can justice be achieved for the long-suffering Palestinians while preserving Israel as an exclusive Jewish state? He wants to answer this question in the affirmative and he thinks a two-state solution will allow him to do so.

Unfortunately, that is "not how the real world works" (his phrase again) in Tel Aviv and Jerusalem. The truth is that this solution has been taken off the table by the Israelis themselves. We are left with a unitary Zionist state.

The answer to the question of whether such a state is compatible with justice for the Palestinians is simply no. Zionism, like apartheid before it, has to go – for the sake of the Palestinians and also for a more promising future for the Jews.

**Lawrence Davidson is a history professor at West Chester University in Pennsylvania. He is the author of *Foreign Policy Inc.: Privatizing America's National Interest*; *America's Palestine: Popular and Official Perceptions from Balfour to Israeli Statehood*; and *Islamic Fundamentalism*.**

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