



Minnesota Break the Bonds Campaign (MN BBC) Divest for Justice in Palestine!

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VIA CERTIFIED MAIL

January 31, 2011

Howard J. Bicker
60 Empire Drive, Suite 355
St. Paul, MN 55103

Dear Mr. Bicker:

The purpose of this letter is to demand that the Minnesota State Board of Investment (SBI) divest from all bonds or government obligations issued by the State of Israel on the basis that such investments are unlawful and unjust.

The inclusive list of all categories of Government obligations in which the SBI is permitted to invest is set forth in Minnesota Statute 11A.24, Subd. 2. That list does not include any Government obligations issued by the State of Israel. The relevant statutory provision is as follows:

“The state board may invest in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness provided the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which the board may invest under this subdivision include guaranteed or insured issues of (a) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (b) Canada and its provinces, provided the principal and interest is payable in United States dollars; (c) the states and their municipalities, political subdivisions, agencies or instrumentalities; (d) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars.” (Emphasis added.)

The quoted provisions of Section 11A.24 explicitly prohibit SBI investments in any government obligations that do not fall within the four categories listed in the second sentence of the subdivision. Despite the clear prohibition against such investments, the SBI currently holds two Israel bonds. These Israel Bond investments are in clear contravention of Section 11A.24.

Any interpretation of the statute that would allow for investments in Israel would lead to absurd results. For example, such an interpretation would permit the SBI to invest in North Korean government bonds and obligations, backed by the full faith and credit of the government in Pyongyang, without guarantees or insurance, and payable in North Korean Won. At the same time, more favored investments in U.S. government bonds would require the additional security of a guarantee or insurance. Favored Canadian government bonds and Inter-American Bank bonds would also require, in addition to a

guarantee or insurance, that they be paid back in US dollars. Likewise, interpreting the statute in a manner that permits investments in Israel Bonds would mean that the SBI could invest in government obligations issued by Sudan and Iran, permitting repayment in Iranian Rials and Sudanese Pounds, despite the fact that Minnesota law restricts on public policy grounds investments in private businesses and corporations doing business in those countries. To avoid these and other similarly absurd results, the statute must be read to prohibit investments in any government obligations not listed in the second sentence of Subdivision 2 of Minnesota Statute 11A.24. Such a reading, as demonstrated in the above examples, would permit less restrictive investment in rogue and pariah regimes than investments in US-sponsored organizations.

Moreover, interpreting the statute to permit investments in Israel Bonds allows Minnesota to be complicit in myriad international law violations. By investing in Israel Bonds, Minnesota is financially supporting a government widely and routinely condemned for violating international law and the Fourth Geneva Convention. Israel deposits the capital it receives from Minnesota's investments directly into its General Treasury. The General Treasury is a source of funds for Israel's military expenditures and Israeli infrastructure projects, many of which are in direct contravention of international law. The following is a partial list of projects, occupier military tactics and other acts that Minnesota's investments in Israel directly or indirectly fund or support. These exemplify Israel's belligerent disregard for even the most basic standards of decent and civilized behavior practiced by free, nondiscriminatory, and democratic societies.

The Separation Wall

In July 2004 the International Court of Justice in the Hague found that Israel's construction of a wall snaking deep inside the Occupied Palestinian Territory is contrary to international law. The ICJ ordered Israel to "cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto." The ICJ found that the wall violates the customary international law prohibition of the threat or use of force and any territorial acquisition by such means. In addition, the ICJ noted that the wall violates the international right of self determination of peoples and the principle of protection of civilian persons in time of war. The ICJ pointed out that Israel's construction of the wall violates various other human rights instruments, including the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the United Nations Convention on the Rights of the Child.

Rather than complying with the ICJ ruling, Israel has continued building the wall. The wall now runs more than 400 miles within the Occupied Territories and completely surrounds many villages resulting in the confiscation of thousands of acres of Palestinian land and preventing Palestinians from accessing water sources, crops, workplaces, hospitals, schools, and even neighbors.

Illegal Settlements

Article 49 of the Fourth Geneva Convention states, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."

Since 1967, when Israel first militarily occupied the West Bank, Gaza, and the Golan Heights, the number of civilians transferred into the territories has ballooned to approximately 500,000, in clear violation of Article 49. These civilians live in Israeli Jewish-only colonies, served by roads and highways, which may be used only by Israelis. The colonies are further served by infrastructure such as electricity and water, which is illegal under the same article.

Occupation

According to the Hague Convention of 1907 and Fourth Geneva Convention, military occupation is considered a temporary condition during which the occupied population is protected under international law. The Fourth Geneva Convention details the required treatment of the occupied population. Israel routinely violates the protections of the Fourth Geneva Convention in its dealings with the Palestinians. A sample of violations is noted below:

1. Article 33: “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.” Frequent incursions into cities and villages, curfews, harassment of the civilian population, and arbitrary arrests, are a few of the violations of this provision. In the case of Operation Cast Lead in December 2008 – January 2009, all of Gaza’s 1.5 million residents were collectively punished for what Israel claimed were the actions of Hamas.
2. Article 3: “Persons taking no active part in the hostilities...shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.” Reputable human rights groups, such as Amnesty International, Human Rights Watch, and B’Tselem, have reported on Israel’s inhumane treatment of civilians and non-combatants.
3. Article 34: “The taking of hostages is prohibited.” The recent release of testimony from former Israeli Defense Forces (IDF) soldiers describes numerous cases of IDF soldiers using Palestinian civilians as human shields, both in Gaza and in the West Bank.
4. Article 55: “To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.” Israel has denied Palestinians food and medical supplies, and denies them the means to make a living. The siege on Gaza is illustrative of the denial of foodstuffs to the population, by an unreasonably restrictive list of products which are not allowed into the region, even though those products have no military purpose whatsoever. At over 600 checkpoints on Palestinian roads in the West Bank, Palestinians requiring emergency medical care, including women giving birth, have either been denied passage or subjected to unreasonable delays, leading to several deaths.

The Siege on Gaza

In addition to the collective punishment of the residents of Gaza as a violation of international law, it is illegal to prevent normal commerce, movement of individuals and goods into or out of occupied territories. Gaza's economy has been devastated to the point where unemployment stands at over 50%. Only a small fraction of the products that were produced within the region can be exported, and even those must pass through Israel. The products that may enter Gaza are severely restricted, with only the most basic necessities permitted to enter. Moreover, Gazans often must obtain permits to leave the Strip, even to go to a hospital. The result is a population without access to many resources necessary for survival.

After the attack on the humanitarian aid flotilla in May, Israel eased the entry of some products into Gaza. However, only 34% of the trucks allowed in prior to 2007 were allowed to pass into Gaza in December 2010. None of these trucks included cement or rebuilding materials and many of the Palestinians whose homes were destroyed during Operation Cast Lead continue to live in tents.

Much of the fertile farmland in the Gaza Strip is inaccessible to Palestinian farmers because Israel maintains a tight buffer zone on the Gaza side of the border, with guard towers and an indiscriminate shoot-to-kill policy. Some of these guard towers are equipped with high powered armor piercing sniper rifles operated remotely by IDF personnel sitting behind computer screens on Israeli military installations deep inside Israel. Many farmers and shepherds who ventured too close to the buffer zone while they were tending their land or herding animals have been killed, the most recent being a 65-year old man named Shaban Karmout, who was tying up his donkey.

According to international law and the Oslo Accords, Gazan fishermen should be allowed to fish within 20 miles off the coast of their land. But Israel restricts these fishermen to three miles and routinely shoots fishermen who stray further. Other means of intimidation and restriction to the least fertile areas for fishing include spraying the fishing boats with sewage water and ramming and disabling boats.

Operation Cast Lead

In addition to killing over 1,400 people, mostly civilians, including 300 children, Operation Cast Lead caused massive destruction of civilian infrastructure in Gaza. This included the killing of 31,000 chickens on a farm in Zeytoun (flattened by a bulldozer), the bombing of flourmills, the purposeful scarring of farm fields with the Star of David sign, and the destruction of sewage treatment facilities. These actions had no military justification. According to the report issued by the United Nations Fact Finding Mission on the Gaza Conflict (the "Goldstone Report"), Israel's only purpose was to "deliberately punish, humiliate and terrorize a civilian population." Indeed, Israel has for all material purposes admitted that disproportionality is an integral part of its military strategy, a criticism routinely leveled against it by various human rights organizations, by its adoption of the "Dahiya doctrine" which it created. The Dahiya doctrine, illegal under international law, refers to the Israeli strategy, employed by the IDF during its 2006 assault on Lebanon, of applying "disproportionate force" and causing "great damage and destruction" to civilian and governmental infrastructure during a conflict.

Apartheid

Although harsh criticism is used against those who claim that Israel is an apartheid state, Israel exhibits most, if not all, of the traditional characteristics of an apartheid state, including the following:

1. Within the occupied territories, two systems of laws are in effect. The legal system applicable to any given person depends solely on ethnicity. Jewish Israelis, who are illegal settlers (see above, Fourth Geneva Convention, Article 49), are full Israeli citizens, subject to Israeli civilian law. They have the right to vote in Israeli elections and many of them have the responsibility to serve in the Israeli military. Palestinian Christians and Muslims, living only meters away from these illegal settlements, are subject to military orders, which are random, often capricious, and frequently change according to the whim of the military rulers. These people have no right to vote in Israeli elections and no other rights within Israel. Their movements are restricted and they must carry IDs and show them to military personnel at any time. Palestinians are subject to “administrative detention,” which is detention without charges or trial. This detention can last 180 days and be extended indefinitely. According to Adalah, the legal center for Arab minority rights in Israel, and B’Tselem, Israel routinely holds hundreds of Palestinians under administrative detention for lengthy periods of time in prisons in the West Bank.
2. The laws within the State of Israel governing rights and responsibilities are also based on ethnicity. Jewish Israelis are allowed to purchase and rent property anywhere on Jewish National Fund (JNF) land. JNF is a quasi-governmental agency within Israel. The land governed by the JNF is set aside for Jews only. No Muslim or Christian may purchase or rent property from it. JNF has appropriated most of the land that was formerly owned by Palestinians, and even if proof of ownership can be shown, the Palestinians are refused the right to regain their property. If a Palestinian builds a home for his family on his own property, it may be demolished. In fact, more than 24,000 Palestinian homes have been demolished within Israel and the occupied territories since 1967.

In addition to land ownership and rental, non-Jews are restricted in such mundane and private matters as whom they may marry, whether they may live with their spouse, and with whom they may associate. Laws passed by the Knesset (Israeli parliament) include a “loyalty oath” law, requiring non-Jews to swear an oath to a Jewish state, a law stripping non-Jewish Knesset members of immunity, and other non-democratic, ethnicity-based laws.

3. Numerous international lawyers and judges have determined that Israel is an apartheid state, including those from South Africa, whose credentials cannot be questioned.¹

¹ “Occupation, Colonialism, Apartheid? A re-assessment of Israel’s practices in the occupied Palestinian territories under international law”, Human Sciences Research Council, Cape Town, South Africa, May 2009.

Although neither the US nor Israel has ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid (ICSPCA), it is defined as a crime against humanity and Israel continues to violate this international law.

Right of Return

The United Nations and other international agencies have recognized the Palestinian refugee issue and called for Israel to allow those Palestinians displaced from their homes in 1948 to return or be compensated for the loss of their properties which Israel has disregarded. UN General Assembly Resolution 194 calls for the right of Palestinians to return, and subsequent UN resolutions have urged the same. The fact that the United States is complicit in Israel's continuing violation of various UN resolutions by vetoing nearly every resolution in the Security Council designed to hold Israel accountable does not erase Israel's responsibility for complying with International Law and UN Resolution 194.

Nuclear Program

Despite Israel's purported concern about a possible Iranian secret nuclear weapons program, Israel itself has a secret nuclear weapons program. More than 20 years ago, Mordechai Vanunu, an Israeli nuclear scientist, gave information to the British press regarding the extent of Israel's weapons of mass destruction. At that time Israel had more than 200 nuclear weapons. The program is still officially secret and Israel has never signed the Nuclear Non-proliferation Treaty or allowed International Atomic Energy Agency (IAEA) inspectors into its facilities to inspect. (In contrast, Iran has signed the NPT and allowed inspections.) For speaking out, Israel imprisoned Vanunu in solitary confinement for eighteen years. He remains under house arrest today with orders barring him from speaking to the media. Nobel Peace Prize laureate Mohammed ElBaradei, the former Director General of the IAEA and current Egyptian opposition figure has stated that "Israel is the number one [nuclear] threat to the Middle East."

In conclusion, Minnesota Break the Bonds demands that the SBI immediately divest from all Israel bonds, no matter how much or how little those investments may be. SBI investments in Israel violate Minnesota law and make Minnesota complicit in Israel's Apartheid scheme and seemingly unshakeable pattern of human rights and international law violations. Minnesota law does not and should not permit investments in governments like Israel's.

Minnesota Break the Bonds formally requests that the SBI place the issue of Israel Bond Divestment on the official agenda for the next quarterly meeting which is currently scheduled for March 3, 2011, and allow representatives of Minnesota Break the Bonds to speak on the issues addressed in this letter.

If the SBI fails to timely honor our request to be placed on the official agenda to address the issues raised in this letter, and fails to divest from all Israel Bonds, Minnesota Break the Bonds will pursue all available legal remedies.² Our point of contact is William McGrath, whom you may reach at billmcgrath52@gmail.com or 507-645-7660.

² Because the demand for divestment contained in this letter is based on a claimed violation of law, this is not an appropriate matter for referral to the Investment Advisory Council and any such referral would be viewed as dilatory.

Respectfully submitted by the board of Minnesota Break the Bonds:

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