

## *Report Brief: Shrinking Space and the BDS Movement*

### **What does 'shrinking spaces' mean?**

Social movements challenging the status quo often face efforts to reduce the public space in which they operate. This can mean legal restrictions, limiting access to public facilities and/or institutions, or threatening physical safety of activists, all aimed at undermining campaigns. In this report, we demonstrate the dangers posed by these attacks using the efforts to criminalize the Boycott, Divestment, and Sanctions (BDS) Movement as a case study.

### **What is BDS?**

The BDS campaign for Palestinian rights calls for non-violent pressure on Israel to end its violations of three areas of international law by (1) Ending its occupation of all Arab lands and dismantling the separation wall; (2) guaranteeing full equality for Palestinian citizens of Israel, and (3) respecting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194.

### **Why is the non-violent BDS campaign under attack?**

The BDS movement is targeted by the Israeli government and its allies because it has been one of the most successful campaigns both in shifting public opinion on Israeli treatment of Palestinians, and in challenging financial support for Israel. This report outlines several of the movement's successes, including:

- French multinational Veolia sold its Israeli subsidiaries and abandoned Israel as a market altogether in 2015, after a global campaign targeted its links to occupation and settlements.
- Irish construction giant CRH withdrew from the Israeli market in 2016, while British security company G4S is also set to ditch its Israeli interests after a BDS campaign focused on its role in Israeli prisons and other occupation infrastructure.
- The website of National Students for Justice in Palestine (SJP) cites more than 50 BDS victories in student councils across the US since 2012.
- In the US, the Association for Asian American Studies, the American Studies Association, the Native American and Indigenous Studies Association, and National Women's Studies Association, have all endorsed a boycott of Israeli academic institutions, while in the UK, hundreds of academics have publicly declared their backing for the academic boycott.

- Numerous artists have responded to the BDS call for a cultural boycott by refusing to perform in Israel or the occupied territories, and in February 2015, almost a thousand UK artists signed a pledge in support of a cultural boycott.
- In November 2018 in response to a global BDS campaign, Airbnb announced it was removing all properties in the occupied West Bank from their rental listings. [Note: this occurred after the report was published.]

### **Legal actions seeking to undermine BDS in Israel and the U.S.**

In reaction to the growing success of the movement, the Israeli government, with support from the United States government, has pushed back, seeking to reduce the legal space in which BDS campaigners can act. Some examples outlined in the report include:

#### *In the US*

- In March 2017 the Israel Anti-Boycott Act was introduced in Congress to prohibit US citizens and companies from supporting boycotts of Israel. It would impose “severe civil and criminal punishment” on violators. Many members of Congress have pledged to oppose the bill, primarily on First Amendment grounds, but it remains on the table in December 2018.
- The anti-BDS push on Capitol Hill was preceded and accompanied by a wave of anti-boycott bills at state level. Along with efforts to criminalize boycott support, which is aimed primarily at campus-based activists, much of the state legislation focuses on regulation of state contracts, prohibiting financial state ties with companies who might comply with the boycott.
- New York’s Governor Andrew Cuomo led the states’ charge in June 2016, issuing Executive Order 157 directing New York state agencies to divest public funds from any institution or company supporting BDS.
- According to the legal rights and civil liberties group Palestine Legal, since 2014, at least 102 anti-BDS measures have been introduced in state/local legislatures across the country, while as of January 2018, 24 states have enacted anti-BDS laws.
- Thirty-five New York legislators called for the City University of New York’s SJP chapters to be immediately suspended, and the New York State Senate threatened to cut \$485 million of CUNY’s funding when Brooklyn College student organizers hosted a panel discussion that included a BDS co-founder.

#### *In Israel*

- In 2016, NIS 100 million (US\$28 million) was allocated by the government to fight BDS, with officials also revealing that they would use cyber technology to fight BDS campaigners, including through “actions [that] will not be publicly identified with the government.” Israel’s envoy to the UN, Danny Danon, said: “We’re advancing legislation in many countries...so that it will simply be illegal to boycott Israel.”
- In July 2011, the Knesset approved the Bill for Prevention of Damage to the State of Israel Through Boycott, which allows private citizens to sue boycott advocates for

claimed damages. The law “imposes sanctions on any individual or entity that calls for an economic, cultural or academic boycott of Israel’s West Bank settlements or of Israel itself,” and was upheld by the Israeli Supreme Court.

- A new bill is being advanced in the Knesset that seeks to exempt the government’s anti-BDS efforts from the country’s Freedom of Information Law. In early 2017, the Knesset passed a new law which “forbids granting entry visas or residency rights to foreign nationals who call for economic, cultural or academic boycotts of either Israel or the settlements.” Jewish US citizens, including at least one rabbi, have been among those prohibited from entering Israel.

The report also outlines several actions taken in the U.K. to undermine the BDS movement.

### **First Amendment protections**

A number of the anti-BDS bills have already been challenged by the ACLU under First Amendment protections. In one example described in the report, the ACLU hailed as “the first decision of its kind” a federal judge’s ruling that “blocked enforcement of a Kansas law targeting boycotts of Israel, ruling that the First Amendment protects the right to engage in political boycotts.”

For more information, find the full report at  
<https://ips-dc.org/report-shrinking-space-and-the-bds-movement/>