



# The initiative "Defend International Law"

## State of Norway responses to Israel's violation of international law

### Introduction

*Despite international conventions, UN resolutions and condemnations from the international community, Israel has not been prevented from a continued oppression of the Palestinian people, blockade and warfare against the people on the Gaza Strip, settlement policy in occupied territories, annexation of Palestinian land and neglect of resolutions by the UN Security Council. The Norwegian government and Norwegian politicians are expected to contribute to restoring respect for international law and ensure that the continued and systematic violations of international law by the state of Israel are met with sanctions.*

### The year 2019

On September 10<sup>th</sup>, 2019, Israeli Prime Minister Benjamin Netanyahu publicised his plans to annex the strategically important Palestinian part of the Jordan Valley. This area represents 30 percent of the West Bank. Netanyahu has on previous occasions declared that he intended to bring Israeli settlements in the West Bank under Israeli sovereignty. The Norwegian government stated that such unilateral action would be void under international law and represent a serious setback for a two-state solution. Ms. Anniken Huitfeldt (Labour Party), head of the Foreign and Defense Committee of the Norwegian Parliament, wrote in a Twitter message on September 11<sup>th</sup> that «*The Israeli prime minister is going for elections with a programme of making the occupation permanent and annex large parts of the West Bank, a definitive deathblow for the two-state solution. In the political platform of the Norwegian right-wing government (The Granavollen Platform) Israel has been embraced. Norway is now in need of a new Middle East policy*».

On July 22<sup>nd</sup>, 2019, Israeli military forces initiated the demolition of 70 Palestinian homes in the outskirts of occupied East Jerusalem. This was based on a green light from the Israeli Supreme Court to execute an order from the Ministry of Defence. The buildings are located at the Palestinian village of Sur Baher in the neighbourhood of Wadi Hummus, an area under control of the Palestinian Self-Governing Authority. This demolition is considered to be the most comprehensive in several years, and international reactions have been strong. The EU and the UN very soon declared the demolitions to be illegal and in conflict with international law. The World Council of Churches, which represents 350 member churches with just over 580 million members, stated that the demolition of homes must be stopped immediately, and made reference to The Geneva Conventions which state that an occupier cannot destroy property on the territory they occupy. Also, the Norwegian government strongly disapproved the demolitions and wrote in a Twitter message that the demolition is an unacceptable act and undermines the two-state solution.

On June 25<sup>th</sup>, 2019 the United States presented its first part ("Peace to Prosperity") of the so called "Deal of the Century" which, according to the Trump administration, intended to move Palestine to make peace with Israel. The release of this first part of the plan was done in

Bahrain where US Senior Adviser Jared Kushner and some key stakeholders met to discuss the content of the plan; a massive financial support for the Palestinians in the form of a \$ 50 billion investment fund. The political portion of the plan has yet to be released, but there are reasons to believe that it involves the approval of the Israeli gradually more extensive annexation of Palestinian land and a continuing Israeli occupation regime in the remaining areas of occupied West Bank.

Such a colonialization and continued oppression of the Palestinian people is, as we see it, both illegal and morally condemnable. Additionally, it serves to undermine the legitimacy of the Israeli state and any hope for a just peace in the area.

### **The years 1917, 1947, 1948, 1967, 2007**

2017 marked 100 years since the British Minister of Foreign Affairs issued what has been known as “The Balfour Declaration”. With this, the UK government supported the establishment of a Jewish state in Palestine. 2017 also marked 70 years since the UN General Assembly passed Resolution 181 that facilitated the division of Palestine into two states, in violation of the UN Charter's principle of people’s sovereignty. The principle of sovereignty is the basic principle of international law and means that all countries shall have control and authority over their own territory. The only body that can make exceptions to state sovereignty is the UN Security Council.

The year 2017 was also 50 years after the Israeli occupation of the West Bank, East Jerusalem, the Golan Heights, the Gaza Strip and the Sinai Peninsula. In 1978, Egypt and Israel signed a peace agreement, and Israel withdrew from Sinai, but continued its occupation of the rest of the territories. Israel has now formally annexed both Jerusalem as a whole and the Golan Heights.

Finally, 2017 also marked 10 years since Israel launched the blockade of the Gaza Strip, which keeps close to two million people in what is often referred to as "the world's largest prison". In the period from 2008/2009 to 2014, the people of the Gaza Strip have experienced three wars. The UN has stated that the impact of the blockade and wars will make Gaza uninhabitable by 2020.

The launch of the United Nations Partition Plan triggered the first, largest and most important war in the Palestine conflict, the 1948 war. The war led to the destruction of the Palestinian society, the start of the Palestinian refugee problem, and the establishment of the state of Israel.

As a result of the war, around 750.000 Palestinians lost their homes. That same year, in 1948, the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) was established as a temporary organisation because the global community had to find a quick solution to the Palestinian refugee problem. Today, UNRWA has registered 5.15 million Palestinians living in the West Bank, Gaza Strip, East Jerusalem, and in Lebanon, Jordan and Syria. The United States, being the largest single financial contributor, decided in 2018 to end all financial support to UNRWA.

### **The Advisory Opinion of the International Court of Justice of 9<sup>th</sup> July 2004**

In 2002, Israel decided to build a separation wall on occupied Palestinian land. The

International Court of Justice (ICJ) issued an advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. ICJ pointed out that the wall is in violation of the UN Charter, the Hague Convention, the Fourth Geneva Convention and the UN Conventions on Economic, Social and Cultural Rights, and Civil and Political Rights, among others. Very little or nothing of the ICJ's advisory opinion directed at Israel, the UN and the international community has been followed up to date.

### **Lasting and continued violations of international law and human rights**

For more than 70 years, Israel has refused to comply with UN Resolution 194 declaring that Palestinian refugees have the right to return home and / or receive compensation for lost or destroyed property. For more than 50 years, Israel has also failed to comply with UN Resolution 242 to withdraw from the territories Israel occupied in 1967, or to comply with Resolution 478 declaring Israel's annexation of Jerusalem as invalid and illegal.

Through its settlement policy in the West Bank, Israel is continuously and increasingly breaking Article 49 of the Fourth Geneva Convention, which prohibits an occupying power the transfer of its own citizens to occupied territories. Israel's arrests and detention of children and young people, often without any legal trial, continue to be a serious violation of the UN Convention on the Rights of the Child (UNCRC).

On December 23<sup>rd</sup>, 2016, the UN Security Council adopted Resolution 2334 which states that Israeli settlements in the West Bank and East Jerusalem constitutes a "flagrant violation" of international law and has "no legal validity". The Security Council ordered Israel to immediately stop all construction activity. The resolution was adopted with 14 votes in favour, no one voted against, while the United States abstained.

The International Court of Justice, the EU, Amnesty International and Human Rights Watch also point out that the settlements are in violation of international law. In Norway, changing governments have stated several times, most recently in February 2019, that the settlements are an obstacle to achieving a lasting peace between Israelis and Palestinians. According to the 2013 UN report, "settling civilians on the territory of other states can be a war crime under the jurisdiction of the International Criminal Court"(ICC). Today, more than 700,000 settlers live in the West Bank, Jerusalem and the Golan Heights.

### **The response from Israel**

In response to UN resolutions and declarations of its breach of conventions of international law Israel continues building the wall, expanding settlements and inflicting a devastating collective punishment on the people of Gaza. Norwegian Foreign Minister Ine Eriksen Sørreide expressed in 2018 to Israeli authorities her concern for the "violations of international law, excessive use of force and violation of human rights".

In July 2018, the Israeli parliament, the Knesset, passed the law defining the country as "a Nation-State of the Jewish People", giving only Jews an exclusive right to national self-determination in the country. It also states that Hebrew is the national language of the country, while this should no longer be the case for Arabic. The law was passed by 62 against 55 votes. The critics believe that the law weakens democracy and makes both Palestinian Israelis and other minorities second-class citizens.

Confiscation and expropriation of Palestinian land is normally associated with the Occupied West Bank. Discrimination of ownership and access to land for the Palestinians minority inside Israel is not so well known. Their access to resources and opportunities to influence the politics of the state in which they are citizens is limited due to their ethnicity.

### **The Palestinian BDS call of July 9<sup>th</sup>, 2005**

On July 9<sup>th</sup>, 2005, one year after the International Court of Justice declared the separation wall as illegal, 170 Palestinian organisations urged the international community to boycott, divest and sanction Israel (BDS). The BDS campaign is promoting non-violence. The BDS campaign demands of Israel to end the occupation and colonization of all Arab land occupied in June 1967, to tear down the separation wall, to recognise the fundamental rights of Palestinian citizens of Israel, and to recognise the right of Palestinian refugees to return to their homes and properties as laid down in UN Resolution 194. As the Israeli government pursues an ever-harder occupation and expansion policy, there is a growing support for the Palestinian nonviolent strategy expressed through the BDS Movement.

### **Denial of entry and criminalisation of legitimate criticism**

In order to stop the growing criticism coming from the international civil society, the Knesset, on March 6<sup>th</sup>, 2017, passed an addendum to the Immigration Act, which authorises denial of entry for persons and organisations that support BDS. At the same time, the bill makes it difficult for Palestinians to maintain personal, professional and social relationships with family members, friends and colleagues if these persons should support the call for a boycott of Israel or of the illegal settlements. The goal of this legislation is to further isolate the Palestinians and marginalise those working for the protection of human rights and restoration of equality and justice.

In a call from February 18<sup>th</sup>, 2017, 57 Norwegian organisations supported the right to promote and operationalise BDS, and to fight for human rights and international law with peaceful means.

The coordinated Israeli campaign to remove all opposition and criticism of the occupation and discrimination does not limit itself to denial of entry to Israel. The campaign also targets Norwegian solidarity and humanitarian organisations, and can be seen in actions like lawsuits, threats of lawsuits, and discrediting the targeted organisations. Both Norwegian People's Aid, Norwegian Church Aid and the Norwegian Refugee Council have been the subject to such reactions.

In July 2018, the Israeli Defence Force (IDF) attacked the Norwegian and international crew on the vessel "Kårstein" which sailed under Norwegian flag. The boat was on its way to the Gaza Strip with auxiliary equipment and was boarded in international waters. In August the same year, a Norwegian human rights activist was shot twice by Israeli soldiers on Palestinian soil.

In January 2018 the Israeli Ministry of Strategic Affairs published a blacklist of 20 international organisations from countries such as the United States, France, the United Kingdom and Norway. According to the ministry, members of these organisations can be denied entry into Israel and Palestine because of BDS support. "We have shifted from defence to offense. The boycott organisations need to know that the State of Israel will act against

them and not allow [them] to enter its territory to harm its citizens”, said Minister of Strategy Gilad Erdan. The list includes the Quaker organisation American Friends Service Committee, which in 1947 received the Nobel Peace Prize for relief work among Jewish refugees.

People and organisations that openly criticise Israel are in many instances labelled as antisemitic. Thus, the Israeli campaign against BDS is not only an attack on freedom of speech, but also an attempt to criminalise individuals and institutions that support the fundamental rights of Palestinians. As part of this campaign, several countries have adopted or sought to pass laws that penalise individuals, organisations and companies that refrain from trade and cooperation with Israel. As the first EU state, the German Parliament (the Bundestag) adopted a statement on May 17<sup>th</sup>, 2019 which declares the BDS movement to be anti-Semitic.

### **International humanitarian law**

International humanitarian law or "The rules of war", which is among the most important regulations within international law, is to secure civilians in war and conflict from suffering, being targets of attacks, and offer general protection.

Since the 1967 Six Day War, 850.000 Palestinians have been held in detention by Israel. In the efforts to remove all resistance to occupation at an early stage, children and young people in particular are severely affected. Hundreds of thousands of minors down to the age of twelve have been in Israeli prisons because of protests, stone throwing and Facebook posts. At the end of May 2019, there were 5,350 Palestinians in Israeli prisons, 480 of these without having their cases brought to a court. Of these, 210 were minors (26 under 16). Israeli soldiers expose children to unnecessary use of force, sometimes even leading to death. The abuses are well documented by UNICEF, and both Israeli, Palestinian and international human rights organizations. The UN Committee on the Rights of the Child which monitors the implementation of the UNCRC (which Israel has ratified unreservedly, and which also applies in the occupied territories), has also criticized Israel for this mistreatment of children.

In 2018, OCHA recorded 265 incidents where Israeli settlers killed or injured Palestinians or damaged Palestinian property, marking a 69 per cent increase compared with 2017; as a result, one Palestinian woman was killed, and another 115 Palestinians were injured (another two Palestinian suspected perpetrators of attacks were killed by Israeli settlers). Palestinian property vandalized by settlers includes some 7,900 trees and about 540 vehicles.

On March 30<sup>th</sup>, 2018, Palestinians on the Gaza Strip initiated the weekly protest marches near the border fence to Israel. The protesters have since then demanded an end to the blockade of the Gaza Strip and upheld the Palestinians' right to return to their homes in Israel from which their families were displaced. A report by the United Nations Human Rights Council of February 26<sup>th</sup>, 2019 documents that, until 2019, Israeli military has killed approximately 180 Palestinians (the youngest was four years old), more than 6,000 people have lifetime injuries and more than 23,000 are injured from use of arms. The report documents that Israeli soldiers deliberately killed Palestinian children, journalists and health workers during the demonstrations. The Commission concludes that there is reason to believe that Israeli military has violated human rights and international law, and that some of these violations may be war crimes or crimes against humanity. Since March 30<sup>th</sup>, 2018 and until September 30<sup>th</sup>, 2019, Israeli soldiers have killed 309 Palestinians in these protest marches.

When asked whether Norway endorse the conclusions of the UN report, the Foreign Minister Ine Eriksen Sørreide expressed in very general terms the following to the Norwegian Parliament (the Stortinget) on March 4<sup>th</sup>, 2019: "Civilians should be protected during armed conflict. We urge all parties to respect humanitarian law and avoid more losses of lives.

### **The Norwegian government “Granavolden platform” and granting Israel special status**

In the strategy and policy documents of the present Norwegian government, the “Granavolden platform”, the coalition parties express as a general response to countries that violate international law that the government will "Cooperate with other countries to implement economic and political sanctions for serious and persistent violations of international law". However, this does not apply to Israel.

In the platform presented on January 17<sup>th</sup>, 2019, Israel is granted special status since the government aims to "facilitating enhanced research and development cooperation, trade, tourism and cultural exchange with Israel". At the same time, the government commit to "use a balanced stance on the Middle East conflict, actively support the goal of Israel and Palestine as two states within secure and recognized borders and support a democratic development in the Middle East".

On July 19<sup>th</sup>, 2015, the EU adopted a recommendation that discourages EU states from promoting economic relations and business that support illegal settlement activities. 21 EU states has followed up this recommendation. However, Norway has not been willing to comply with this recommendation.

On June 14<sup>th</sup> 2019, the Norwegian Parliament (the Stortinget) voted down the following proposal (92 to nine votes): "The Stortinget asks the government to make sure the public sector refrains from buying Israeli goods which in violation of international law are produced in occupied Palestinian territories." Also, the proposal "The Stortinget asks the government to design a scheme for labelling Israeli goods produced in violation of international law on occupied land" was voted down by 67 against 35 votes.

### **Norway has a responsibility and a duty to defend international law and human rights**

A characteristic of Norwegian foreign policy has been the crucial importance given to the protection of international law, democracy and human rights. In the present government's campaign to become a member of the UN Security Council for the years 2021-2022, the Foreign Minister stated this in the parliament on March 5<sup>th</sup>, 2019: “The candidature of Norway is geared at promoting both national and global interests. We aim to promote international law and the multilateral order, which in turn also strengthens Norwegian security and sovereignty. We promote our candidature in order to take responsibility and to strengthen our relations with countries inside and outside the council”.

If Norway is going to play such a role in a credible way, the Norwegian authorities must respond strongly and unequivocally to Israel's violation of international law and human rights. In response to a question from an MP on November 26<sup>th</sup>, 2018 regarding why Norway does not impose sanctions on the Israeli state, despite serious, repeated and sustained violations of international law, the Foreign Minister replied as follows:

*“The government is against sanctions and boycott of Israel. Dialogue, collaboration and building of trust are instruments better suited for resolving conflicts. Nor does Norway have any tradition of imposing unilateral sanctions on other states. Our position is that sanctions and restrictive measures are most effective when they have broad international support. Norway implements decisions by the UN Security Council on binding international sanctions. Norway may also endorse and support restrictive measures adopted by the EU. Neither the UN Security Council nor the EU has adopted sanctions or restrictive measures against Israel. The government has made it clear to Israel that the Israeli settlements in the occupied territory are in conflict with international law and represent an obstacle to peace. This position is based on a number of UN Security Council resolutions, including resolutions 465 and 471, and also the ruling of the International Court of Justice in The Hague. Norway also expresses to the Israeli authorities concern for the violations of international law, excessive use of force and human rights violations.*

*Only a negotiated two-state solution can create lasting peace between the Israelis and the Palestinians. The experience of the Norwegian effort through many years to help build an institutional and economic foundation for a Palestinian state is that economic cooperation between the parties provides results and better living conditions for the Palestinian population. Any sanctions against Israel will also worsen the living conditions for the Palestinian people.”*

The way this policy is described reflects an understanding that there are negotiations between two equal parties in the conflict and results will be won by dialogue. Furthermore, that Israel is still willing to enter into a two-state solution agreement with the establishment of a sovereign and independent Palestinian state.

### **Promoting defence of international law and human rights**

The Norwegian government must take the consequences of the fact that "dialogue and understanding" has not proved to be a sufficient tool to achieve a just and peaceful settlement between Israel and Palestine.

The unwavering attitude to Israel's violations of international law and human rights has helped legitimize Israeli politics of expansion and colonization of Palestinian land, with new settlements, expansion of the wall and annexation of Palestinian land. The daily discrimination against the Palestinians has not subsided but has increased with new laws and regulations. With its approach, the Norwegian government supports Israeli policies based on the oppression and discrimination of the Palestinian population, rather than supporting the democratic forces among Palestinians and Israelis working with nonviolent means to achieve a just and sustainable solution.

When a country breaks international rules through occupation and violation of international law and human rights, it must lead to some consequences. Norwegian authorities and politicians must restore respect for international law and work to ensure that Israel's long-standing and systematic violations of international law are met with sanctions. This will make clear that the policies and practices of the state of Israel are not accepted by the international community.