

HUMAN RIGHTS, NORMATIVE PRESSURE AND CORPORATE SOCIAL RESPONSIBILITY IN THE ISRAELI-PALESTINIAN CONFLICT

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ABSTRACT

In recent years, and in light of the faltering Israeli-Palestinian negotiations, there are growing pressures for a boycott of the State of Israel and of its settlements in the West Bank. The Boycott, Divestment, and Sanctions (BDS) campaign, initiated in 2005, is the most vocal voice in this context. This Article focuses on the economic aspects of the boycott and argues that the common understanding of it as a “classic anti-Semitism in modern garb” (in the words of Israel’s Prime Minister Netanyahu) is partial and therefore lacking. It is true that anti-Israeli and even anti-Semitic biases underlie some aspects of the calls for an economic boycott of Israel and its settlements. However, this Article argues that the emergence of a global discourse of corporate responsibility since the 1990s, which serves as a normative and practical platform for diverse forms of political-consumerist activism, “normative pressure” and “shaming” plays an inherent part in the boycott’s development and, therefore, needs to be examined closely in order to better assess its roots and aims. The article demonstrates that although the economic boycott practices tend to be perceived in Israel as a unique phenomenon, the practices and modes of economic activism used by the various players in the Israeli-Palestinian arena are not different from other cases of shaming, pressuring, and economically sanctioning business corporations for direct or indirect infringement of human rights, practices which have become increasingly prevalent in recent decades.

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I. INTRODUCTION

A vote for divesting \$21 million from three multi-national corporations which allegedly profited from Israel’s occupation of the West Bank—namely, Caterpillar, whose bulldozers were used for tearing down Palestinian houses, Motorola Solutions, whose security equipment was utilized for settlements’ protection, as well as Hewlett-Packard, whose technologies were implemented for continuing the siege on Gaza—was taken by the general assembly of the Presbyterian Church, one of the United States’ biggest church organizations, in June 2014. The church had made several unsuccessful appeals to said companies before it voted in favor of divestment.¹ The Danish-British security services company G4S, which, in 2013, had elected not to renew contracts concerned with security operations in the West Bank, decided not to renew its contracts with the Israeli prison service that very month.² The SodaStream company’s products, which were

1. Rebecca Shimoni Stoil, *Presbyterian Church votes in favor of divestment*, TIMES ISR. (June 21, 2014, 5:48 AM), www.timesofisrael.com/presbyterian-church-votes-in-favor-of-divesting-from-israel/; Ron Kampeas, *As Presbyterians again weigh divestment, Jewish groups lobby, warn and worry*, TIMES ISR. (June 3, 2014, 6:07 AM), <https://www.timesofisrael.com/as-presbyterians-again-weigh-divestment-jewish-groups-lobby-warn-and-worry/>.

2. Gill Plimmer, *G4S to end Israeli jail contracts within three years*, FIN. TIMES (June 5, 2014), www.ft.com/cms/s/0/06e06252-ecc9-11e3-8963-00144feabdc0.html#axzz33qeg8hEI. A few days before this announcement, the Bill & Melinda Gates Fund announced it sold over its G4S stocks, presumably due

manufactured in Mishor Adumim Industrial Park, beyond the pre-1967 borders, were pulled off the shelves of British department store chain John Lewis in June 2014.³ A worldwide surge of mass demonstrations, as well as petitions directed at various bodies to divest from Israeli companies, erupted after the 2014 Israel–Gaza conflict (also known as Operation Protective Edge) which started in July 2014.⁴ In November 2018, the Airbnb company issued an announcement (which it later moderated)⁵, according to which it would remove any settlement rental apartments from its repositories.⁶ In February 2020, the U.N. published a “blacklist” of 112 multinational companies (amongst which are huge corporations such as TripAdvisor, Airbnb and Booking.com) as well as Israeli firms (including all Israeli banks, Cellcom Israel, and the Shufersal supermarket chain) whose ties to Israeli settlements in the West

to criticism of the corporation’s activities in Israel. See *Bill Gates sells shares in U.K. firm linked to Israeli security services*, HAARETZ (May 31, 2014, 11:39 AM) [hereinafter *Bill Gates*], www.haaretz.com/bill-gates-sells-shares-in-g4s-1.5250315. During June 2014, the Methodist church pension fund announced it divests from G4S, due to similar reasons. See *United Methodist Church’s pension board divests from Israel-linked company*, HAARETZ (June 14, 2014, 2:00 AM) [hereinafter *UMC’s Pension Board*], <https://www.haaretz.com/jewish/united-methodist-church-s-pension-board-divests-from-israel-linked-company-1.5251810>.

3. *BDS bursts SodaStream’s U.K. bubble*, HAARETZ (July 3, 2014, 9:38 PM), <https://www.haaretz.com/.premium-bds-bursts-sodastream-s-u-k-bubble-1.5254424>. In October 2014 SodaStream announced it shut down its Mishor Adumim Industrial Park factory to move it to the Negev. Jordan Weissmann, *SodaStream Is Shutting Down Its West Bank Factory*, SLATE (Oct. 29, 2014, 5:57 PM), <https://slate.com/business/2014/10/sodastream-closes-its-west-bank-factory-can-you-now-drink-their-seltzer-guilt-free.html>.

4. See, e.g., Jerry Lewis, *UK’s largest union backs boycott of Israel despite Labor’s calls to refrain*, JERUSALEM POST (July 6, 2014 2:59 AM), <https://www.jpost.com/International/UKs-largest-union-backs-boycott-of-Israel-despite-Labors-calls-to-refrain-361617>. Thus, for example, in August 2014, New Zealand pension fund resisted calls urging it to divest from the Israeli ICL group. *NZ Super Fund statement on Israel/Palestine*, NZ SUPER FUND (Aug. 4, 2014), <https://nzsuperfund.nz/news-and-media/nz-super-fund-statement-israelpalestine/>. That notwithstanding the fact that in December 2012 this fund divested from AFI, Danya Cebus, Shikun & Binui and Elbit Systems owing to these firms’ involvement in construction work in Israeli settlements and on the Wall of Separation. *New Zealand government fund divests from Israeli firms over settlement construction*, HAARETZ (Dec. 16, 2012, 10:19 PM), <https://www.haaretz.com/nz-divests-israeli-holdings-in-protest-1.5273842>.

5. However, in April 2019, and in order to settle legal action brought against it, Airbnb reversed its decision, saying it would donate all proceeds from rentals in the West Bank to humanitarian organizations. *Airbnb reverses ban on West Bank settlement listings*, BBC (Apr. 10, 2019), <https://www.bbc.com/news/world-middle-east-47881163>.

6. Dan Williams, *Airbnb to remove listings in Israel’s West Bank settlements*, REUTERS (Nov. 19, 2018, 11:00 AM), <https://www.reuters.com/article/us-israel-palestinians-airbnb/airbnb-to-remove-listings-in-israels-west-bank-settlements-idUSKCN1NO1WA>.

Bank allegedly violate international law.⁷

In light of the slow pace of Israeli-Palestinian negotiations, over recent years the call to academically, culturally, sportingly, and economically boycott the state of Israel, Israeli settlements in particular, has been gathering followers. In this sphere, the BDS (Boycott, Divestment, Sanctions) campaign,⁸ which has been active since 2005, holds prominence, as the endorsement given by prominent public figures (such as Nobel Peace Prize laureate, the Most Reverend Desmond Tutu,⁹ as well as the late physicist Stephen Hawking¹⁰) bolstered the movement, earning it wide media attention. The movement's various activities gained much public visibility, albeit mostly negative, in Israel as well: they are harshly condemned by Israeli politicians, not least among them Israeli prime minister Benjamin Netanyahu, who in February 2014 referred thus to BDS:

I think the most eerie thing, the most disgraceful thing is to have people on the soil of Europe talking about the boycott of Jews. I think that's an outrage, but that is something that we're re-encountering.

In the past, antisemites boycotted Jewish businesses and today they call for the boycott of the Jewish state. And by the way, only the Jewish state. Now, don't take my word for it. The founders of the BDS movement make their goals perfectly clear. They want to see the end of the Jewish state. They're quite explicit about it. And I think it's important that the boycotters must be exposed for what they are. They're classical antisemites in modern garb. And I think we have to fight them. It's time to delegitimize the delegitimizers. And it's time that we fight back.¹¹

7. Noa Landau, *UN releases list of 112 companies with ties to Israeli settlements*, HAARETZ (Feb. 12, 2020, 8:10 PM), <https://www.haaretz.com/israel-news/.premium-un-releases-blacklist-of-112-companies-with-ties-to-israeli-west-bank-settlements-1.8527502>.

8. A book dedicated to the BDS phenomenon doubts it's being a "Movement," arguing it is best described as a trans-national network of local movements with relatively loose ties. See MAIA CARTER HALLWARD, *TRANSNATIONAL ACTIVISM AND THE ISRAELI-PALESTINIAN CONFLICT* (2013).

9. Desmond Tutu, *Statement from Archbishop Emeritus Desmond Tutu on US anti-BDS legislation*, JUST FOREIGN POL'Y (Apr. 2, 2014), <https://www.justforeignpolicy.org/statement-from-archbishop-emeritus-desmond-tutu-on-us-anti-bds-legislation/>.

10. Harriet Sherwood, Matthew Kalman & Sam Jones, *Stephen Hawking: Furore deepens over Israel boycott*, GUARDIAN (May 9, 2013), <https://www.theguardian.com/science/2013/may/08/hawking-israel-boycott-furore>.

11. Benjamin Netanyahu, Prime Minister, State of Israel, Address at Conference of Presidents of Major American Jewish Organizations (Feb. 17, 2014), <https://mfa.gov.il/MFA/PressRoom/2014/>

Notwithstanding these condemnations, Yair Lapid, then Israel's Minister of Finance, asserted in January 2014 that the growing strength of the boycott movement drives Israel ever closer to a "tipping point" similar to that with which the South African government was faced during the boycott by the Anti-Apartheid Movement.¹² An added warning was that of then-U.S. Secretary of State John Kerry, who warned that a peak in BDS activities is a likely outcome of the failure of Israeli-Palestinian peace negotiation, in February 2014.¹³

In a great many cases, other than those described above,¹⁴ the issue of the relation between business decisions regarding large corporations' activities and said corporations' direct or indirect involvement in upkeep and consolidating Israeli control of occupied territories is placed on Israel's public agenda. Through these, among other measures, this Article seeks to illustrate and discuss a single aspect of the current movement, namely that of the trade and industry boycott on Israel and Israeli settlements, in its various forms. This Article's main thesis is that the widespread labeling of this boycott, especially among Israeli public, as *nothing more* than a "classic anti-Semites in modern garb" activity is quite problematic, doing injustice to the more complex, and exceedingly crucial, understanding of this phenomenon. Offensive to Israelis' consciousness as they may be,¹⁵ the anti-Israeli and occasionally even anti-Semitic aspects which manifest as part of the background to the boycott campaign, should not blind us to its social and economic grounds. Starting in the 1990s, a global discourse of corporate social responsibility, evincing a major shift in society's expectations of business corporations, has emerged and gained prominence. This discourse consists of a practices and norms basis to extremely varying forms of political-consumerist activism, of which one expression is the shaming of corporations that violate human rights and other social interests, by employing "normative pressure." Exposing dubious

Pages/PM-Netanyahu-addresses-Conference-of-Presidents-of-Major-American-Jewish-Organizations-17-Feb-2014.aspx.

12. *Sanctions against Israel - A campaign that is gathering weight*, ECONOMIST (Feb 7. 2014), <https://www.economist.com/middle-east-and-africa/2014/02/07/a-campaign-that-is-gathering-weight>.

13. Eldad Beck, *Kerry: Israel's security is 'illusionary', boycott around the corner*, YNETNEWS (last updated Feb. 1, 2014, 6:17 PM), <https://www.ynetnews.com/articles/0,7340,L-4483446,00.html>.

14. For ongoing updates, see ELECTRONIC INTIFADA, <https://electronicintifada.net/blog/activism-and-bds-beat> (last visited Oct 3, 2020); WHO PROFITS, <https://whoprofits.org> (last visited Oct 3, 2020).

15. In March 2009, for instance, dozens of pro-Palestinian activists took over a French supermarket, throwing out all Israeli products carried by the store. chris den hond, *Action Boycott Israel Aulnay*, YOUTUBE (Mar. 10, 2009), <https://www.youtube.com/watch?v=JY461RU27MU>.

corporate practices has grown especially effective in the age of social networks, as it can both damage corporate reputation and affect these firms' ability to recruit talented and conscientious employees. The normative pressure discussed in this Article couples with Israel's unprecedentedly long control of disputed territories, in the Israeli-Palestinian context.

Distinguishing it from the "Differentiation" policy formulated by the European Union with regards to Israeli settlements, the second section of the Article briefly describes the phenomenon of the blanket boycotting of Israel—from the Arab League boycott of Israel to the BDS campaign. The third section discusses the rise of the "ethical concern" trend regarding corporate activities, indicating this trend's various idioms: Socially Responsible Investing (SRI), Shareholder Activism, Ethical Consumerism, and Corporate Social Responsibility (CSR). Theoretical tools for analyzing the corporate shaming phenomenon are introduced in the third section of this Article, with the fourth section dedicated to a short analysis of various shaming practices in the context of the boycott of Israel and of its settlements. The fifth and conclusive section attempts to evaluate the overall degree of success and efficacy of the boycott thus far.

II. FROM THE ARAB LEAGUE BOYCOTT OF ISRAEL TO THE BDS MOVEMENT

A. *Arab League Boycott of Israel*

Current calls for boycotting Israel are not an innovation in the course of the Israeli-Arab conflict. A salient historical example of a boycott of Israel is that declared by the Arab League. This boycott was not an outcome of a "Bottom-Up" effort by civil society, but rather of a "Top-Down" endeavor which was coordinated and led by the Arab League, which incorporates all Arab states, starting in 1945 and more intensely after the new state of Israel was declared in 1948. The boycott was represented as being intended to be both an act of solidarity with the Palestinian people and an attempt to impair the Israeli economy, as well as portrayed as a means of defense for Arab states against what they saw as Israel's imperialist and expansionist intentions regarding the Middle East.¹⁶ The boycott consisted of two main drives—a boycott of Israeli companies, intended to prevent the export of Israeli goods to Arab countries (primary boycott), as well as a boycott of foreign enterprises which engaged in business relations with Israel (secondary

16. See GIL FEILER, FROM BOYCOTT TO ECONOMIC COOPERATION: THE POLITICAL ECONOMY OF THE ARAB BOYCOTT OF ISRAEL 92–95 (1998).

boycott).¹⁷ For the most part, the primary boycott was maintained, with the secondary boycott prompting many leading corporations to avoid business relations with Israel for several years. Among these corporations were the large Japanese automotive firms (Honda, Mitsubishi, Toyota, Nissan, and Mazda), which precluded the sale of their products in Israel until the 1990s, as well as large American corporations such as McDonald's and Pepsi.¹⁸ Only after the first Intifada broke out in 1987 did Arab countries begin to regard the boycott of Israel not solely as a means to impair the Israeli economy but also as a political chip which could serve to force Israel to change its policies in the Israeli-Palestinian conflict.¹⁹

Over the years, however, the Arab boycott of Israel has gradually fallen apart, due to several factors.²⁰ Firstly, geopolitical shifts—the peace treaties which Israel reached, first with Egypt in 1979 and later with the Kingdom of Jordan in 1994 and recently with Bahrain and the UAE in 2020—led said states to cease the boycott. Furthermore, the Gulf War (1991), as well as the ratification of the Oslo accords between Israel and the Palestine Liberation Organization (PLO) (1993), also contributed to the boycott's collapse, albeit informally. Secondly, the boycott's collapse was in part due to the growing influence of economic globalization processes, primarily the expansion of free trade. Consequently, when Saudi Arabia joined the World Trade Organization in December 2005, it committed itself to WTO rules, among which is the proscription on boycotting a fellow member state. Globalization's processes and pushes for free trade also had effect in the bilateral plan. Lastly, counter-legislation of the secondary boycott which passed in Western countries has contributed to the boycott's collapse. In the United States, for example, a bill was enacted according to which “all U.S. persons (*all individuals, corporations and*

17. See generally Chaim Fershtman & Neil Gandal, *The effect of The Arab Boycott on Israel: The Automobile Market*, SOC. SCI. RES. NETWORK 1 (1996). Notwithstanding the main boycott, Israeli commodities passed through third countries have always been a *de facto*, though difficult to evaluate, export. The tertiary boycott—a boycott of companies doing business with companies that have business relations with Israel—has never truly been imposed. FEILER, *supra* note 16, at 92–95.

18. Until 1966, even Coca-Cola cooperated with the Boycott. Tamar Barkay, *Employee volunteering: soul, body and CSR*, 8 SOC. RESP. J. 48, 59 (2012).

19. FEILER, *supra* note 16 at 91–92. Thus, for example, Saudi Arabia offered to suspend the boycott of Israel if it froze settlements' construction, in the wake of the Gulf War. The proposal was widely criticized. *Id.* at 109–11.

20. Abigail Bakan & Yasmeen Abu-Laban, *Palestinian Resistance and International Solidarity: The BDS Campaign*, 51 RACE & CLASS 29, 36–37 (2009).

unincorporated associations resident in the United States, including the permanent domestic affiliates of foreign concerns) agreeing to comply with, further, or support the Arab League boycott are to be penalized,” and the U.S. Department of Commerce even created a dedicated office of Antiboycott Compliance (OAC), intended to “raise the costs” of the boycott for companies participating in it, making it non-profitable for them. Following the U.S. legislation, similar laws were passed in other Western countries such as France and Germany.

B. *Current Attempts at Boycotting Israel and Its Settlements: Differentiation vs. Blanket Boycott*

The distinction between a call for a boycott of Israel and one for a boycott of its settlements is significant. Even supposing that the explicit goal of both types of calls is identical—applying pressure in order to end Israeli control of the territories it occupied in 1967—the two may be clearly distinguishable. The Israeli state within the pre-1967 borders (the 1949 Armistice border) is a sovereign state the existence of which is recognized by the vast majority of the international community (including the PLO, which recognized it as part of the Oslo Accords in 1993)²¹—this fact constitutes the foundation of that distinction. In this state of affairs, a call for a boycott of Israel itself may echo the approach labeled in Israeli public discourse as “Delegitimization,” namely, denying the legitimacy of a sovereign state that was recognized by the law of nations as fulfilling the right of the Jewish people to self-determination. As such, many criticize the singling-out of Israel, as compared with other countries, the gravity of whose violations of human rights is immeasurably greater.²² Ultimately, the fact that Israel is the only country in which the Jewish population constitutes a majority feeds the “Delegitimization” position asserted by those who, like Prime Minister Netanyahu, link the boycott to anti-Semitism. Perhaps this context merits mentioning the accepted “working definition” of anti-Semitism, according to which the application of “double standards” with regards to Israel—in contrast with criticism of any other country—demanding that it adopt policies which are neither expected nor required of any other democracy, among other things, should be considered anti-Semitic. The same applies to denial of the Jewish people’s right to self-

21. *Israel-PLO Recognition: Exchange of Letters between PM Rabin Chairman Arafat*, UNISPAL (Sept. 9, 1993) [hereinafter *Israel-PLO Recognition*], <https://unispal.un.org/UNISPAL.NSF/0/36917473237100E285257028006C0BC5>.

22. See, e.g., ALAN DERSHOWITZ, *THE CASE AGAINST BDS: WHY SINGLING OUT ISRAEL FOR BOYCOTT IS ANTI-SEMITIC AND ANTI-PEACE* (2018).

determination, claiming the very existence of the state of Israel to be a racist endeavor.²³

As opposed to the boycott of Israel itself, a “mere” boycott of the Settlements has much stronger alleged foundations. Firstly, due to *legal* considerations: the widely accepted stance in international law holds the West Bank territories to be “occupied territories,” over which the occupying state may not claim sovereignty. According to this approach, Israeli settlements are expressly illegitimate, being an illegal transfer of Israeli civil population to occupied territory.²⁴ Israel’s traditional stance regarding this issue, further corroborated in a juristic report released by a public committee headed by the late former Supreme Court Justice Edmond E. Levy, is indeed that, due to the fact that Israeli settlers choose to move in to those territories of their own free will, this

23. See, e.g., David Hirsh, *Anti-Zionism and Antisemitism: Cosmopolitan Reflections* (Yale Initiative Interdisciplinary Study Antisemitism (YIISA) Working Paper 1, 2007), <https://isgap.org/wp-content/uploads/2013/08/ISGAP-Working-Papers-David-Hirsh.pdf>. Various Western countries—most currently France (December 2019) - adopted the definition. It should be noted, however, that the definition also received wide criticism. See, e.g., *Free speech on Israel under attack in universities*, GUARDIAN (Feb. 27, 2017 12:43 PM), https://www.theguardian.com/education/2017/feb/27/university-wrong-to-ban-israeli-apartheid-week-event?CMP=aff_1432&awc=5795_1535379208_84e0651c18ba3094cf091db61fa54078].

24. Article 49 of the Fourth Geneva Convention prohibits the occupying Power from settling parts of its population in occupied territories. For an up-to-date discussion of the legal status of Israeli control of occupied territories, see, for example, AYEAL GROSS, *THE WRITING ON THE WALL: RETHINKING THE INTERNATIONAL LAW OF OCCUPATION* (2017); ORNA BEN-NAFTALI, MICHAEL SEARD & HEDI VITERBO, *THE ABC OF THE OPT: A LEGAL LEXICON OF THE ISRAELI CONTROL OVER THE OCCUPIED PALESTINIAN TERRITORY* (2018). The Israeli Supreme Court ruled that Israeli settlements’ legality was a clearly political issue, and therefore non-justiciable. On July 9, 2004, the International Court of Justice issued an advisory opinion asserting that the construction of the West Bank Barrier was contrary to international law and that it results in violations of Palestinians’ human rights. The Court also noted the illegality of the settlements under international law. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. 136 (July 9). The opinion was harshly criticized by Israel, which had not collaborated with procedures that led to it. Nevertheless, the U.N. General Assembly resolved to call on Israel to abide by this opinion, which, both in European countries and among international human rights organizations, was perceived as an important legal landmark. *UN Assembly votes overwhelmingly to demand Israel comply with ICJ ruling*, UN NEWS (July 20, 2004), <https://news.un.org/en/story/2004/07/110152-un-assembly-votes-overwhelmingly-demand-israel-comply-icj-ruling#.VGXGFWfuA4Q>; Shlomo Shamir, Aluf Benn & Yuval Yoaz, *Israel Firmly Rejects ICJ Fence Ruling*, HAARETZ (July 11, 2004), <https://www.haaretz.com/1.4754360>. The semantic debate over the wall’s name—the “Wall of Separation” or “West Bank Barrier” in Israeli discourse, as opposed to the “Wall of Apartheid” of Palestinian discourse, seems to emphasize it currently being a central point of the Israeli-Palestinian conflict, also clarifying the reasons for the Palestinian focus on corporations involved in its construction.

does not constitute a population transfer, additionally asserting that in any case the West Bank is not an “occupied territory.”²⁵ Regardless, this stance has few international community supporters.²⁶ Secondly, due to *realpolitik* considerations: a boycott of settlements does not inherently deny the rightful existence of the Israeli state but rather attempts to exert economic leverage on the Israeli government, pressuring it to cede control of the territories occupied in 1967 and put an end to settlement efforts. In light of the slow and seemingly hopeless pace of efforts to achieve peace between Israel and the Palestinian Authority (PA), as well as the gradually intensifying “reality on the ground” policy regarding settlement construction, exerting such pressure is increasingly deemed essential by advocates, pre-eminently headed by the European Union.²⁷ A long-time critic of Israel, the Jewish-American intellectual Noam Chomsky, has also urged for focusing the calls for boycott on settlements alone. According to him, in contrast to the wide support for ending the Israeli occupation (the first BDS demand), and to a certain degree its call for full equal rights for Israeli-Arabs (the second BDS demand), the third BDS campaign’s demand for fulfilling Palestinian refugees’ “right of return” to Israel—which, in the eyes of most Israelis, would lead to an influx of millions of Palestinians that would render Jews a minority, and would de facto mean the end of Israel as a Jewish state²⁸—gains little

25. LEVY COMMISSION, Report on the Legal Status of Building in Judea and Samaria (Regavim trans. 2012), <https://www.regavim.org/wp-content/uploads/2014/11/The-Levy-Commission-Report-on-the-Legal-Status-of-Building-in-Judea-and-Samaria2.pdf>.

26. It is worth noting, however, that in November 2019, U.S. Secretary of State Mike Pompeo stated that the establishment of the settlements does not stand in violation of international law. This dramatic deviation from the U.S. government’s traditional position received harsh criticism among the international community. See Tracy Wilkinson, *Trump changes decades-old U.S. position on illegality of Israeli settlements*, L.A. TIMES (Nov. 18, 2019), www.latimes.com/world-nation/story/2019-11-18/u-s-softens-position-on-israeli-settlements. The “Deal of the Century” Peace Plan presented by President Trump in January 2020 goes even further in this direction by stating Israel has the right to annex its settlements. WHITE HOUSE, PEACE TO PROSPERITY: A VISION TO IMPROVE THE LIVES OF THE PALESTINIAN AND ISRAELI PEOPLE 38 (2020); Jeremy Bowen, *Trump’s Middle East peace plan: ‘Deal of the century’ is huge gamble*, BBC (Jan. 29, 2020), <https://www.bbc.com/news/world-middle-east-51263815>.

27. Over the past three decades, the number of settlers grew by more than 330,000, currently standing at over 380,000 (not inclusive of a further 210,000 residing in East Jerusalem). Yotam Berger, *How Many Settlers Really Live in the West Bank? Haaretz Investigation Reveals*, HAARETZ (June 15, 2017), <https://www.haaretz.com/israel-news/.premium.MAGAZINE-revealed-how-many-settlers-really-live-in-the-west-bank-1.5482213>.

28. See, e.g., ADI SCHWARTZ & EINAT WILF, THE WAR OF RETURN: HOW WESTERN INDULGENCE OF THE PALESTINIAN DREAM HAS OBSTRUCTED THE PATH TO PEACE (2020).

support.²⁹ Lastly, unlike a boycott of the state of Israel, deemed unacceptable by the Israeli public, a part of said public would show “inner” support for the boycott of settlements alone, given the deep political controversy regarding the settlement efforts. As a matter of fact, the first drive to boycott the settlements’ produce started back in 1997, when the Gush Shalom organization launched its “consumerist battle” opposing the consumption of settlement produce, publishing a “black-list” of goods manufactured in the occupied territories.³⁰ In a similar vein, the owner of the Israeli master franchise of the fast food restaurant chain McDonald’s, businessman Omri Padan, refused to establish a branch in the Ariel settlement in June 2013.³¹ Interestingly enough, even the PA President Mahmoud Abbas declared he opposed a boycott of Israel and only supported the boycott of Israeli settlements, a stance for which BDS advocates harshly censured him.³² Further corroboration for the validity of this distinction can be found in Supreme Court Justice Yoram Danziger’s dissenting opinion in the Anti-Boycott Law case, which justices Salim Joubran and Uzi Vogelmann joined as well, putting forward the proposition of interpreting the law as banning exclusively the calls for boycott of Israel, excepting boycott of settlements:

Calling for a boycott to express discontent with government policy regarding this territory, to avoid giving support to said policy or to convince others to oppose it is a political statement which is clearly within the bounds of freedom of expression, entitled to the full protection guaranteed by our constitutional

29. See Noam Chomsky, *On Israel-Palestine and the BDS*, NATION (July 2, 2014) www.thenation.com/article/180492/israel-palestine-and-bds.

30. See *About Gush Shalom*, GUSH SHALOM (Dec. 5, 2019), http://zope.gush-shalom.org/home/en/about/general_info. The 2011 “Law for Prevention of Damage to State of Israel through Boycott” (the “Boycott Law”) was an attempt at curtailing practices such as this, and the organization has accordingly stopped publishing the list. zope.gush-shalom.org/home/he/campaigns/settlements_products. Despite the law’s strong negative impact on the freedom of expression, most petitions questioning the law’s constitutionality, including one by “Gush Shalom” were rejected by the Israeli Supreme Court in 2015. In a majority opinion ruling, the court upheld the provisions of the law holding boycott advocates liable for damages suits and allowing the Minister of Finance to impose economic sanctions on boycott advocates, cancelling only the section that allows for claims of damages without proof of damage. H.C.J. 5239/11 Avneri v. Knesset, (2015) (Isr.), versa.cardozo.yu.edu/opinions/avneri-v-knesset-summary.

31. Ido Efrati, *McDonald’s Israel Refuses to Open Branch Across Green Line*, HAARETZ (June 26, 2013), www.haaretz.com/.premium-mcdonald-s-not-beyond-green-line-1.5287116.

32. Harriet Sherwood, *Mahmoud Abbas accused of being traitor over rejection of Israel boycott*, GUARDIAN (Dec. 22, 2013), www.theguardian.com/world/2013/dec/22/mahmoud-abbas-rejection-israel-boycott.

system to political statements The issue of Israel’s control of the territory is held in an acute political controversy [C]alling for boycott of the territory is well within Israeli “politically tolerable” discourse, and should not be likened to calling for a boycott of the State as a whole Calls for boycott of the territory are clearly protected by legitimate democratic discourse. The principle of defensive democracy should not be allowed to be exploited for obstructing non-violent political expressions which oppose some government policy or other.³³

On the other hand, the BDS campaign’s stance calling for a boycott of all Israeli products—whether they be from the West Bank or legitimately Israeli territory—is founded, in part, on the allegation that Israeli settlement goods, which are often labeled “Made in Israel,” are hard to differentiate given the lack of unambiguous labelling.³⁴ As this Article will demonstrate, the same concern is also a reason for the EU support of labeling Israeli settlement products. In addition, boycott advocates who often equate Israel with the South African Apartheid regime argue that the blanket boycott of South Africa, which did not differentiate between dissidents or regime supporters, was a factor leading to the collapse of Apartheid, and thus, the same approach should be implemented in regards to Israel.³⁵ The bottom line is that the distinction between the Settlements and the state constructing, funding, and expanding them is essentially artificial, claim BDS supporters.³⁶ The

33. HCJ 5239/11 Avneri v. Knesset, ¶¶ 9, 23, 37 (2015) (Isr.) (Justice Danziger’s opinion).

34. It is worth noting that this is indeed a considerable difficulty, caused by Settlements’ Manufacturers conscious effort to obscure the source of the merchandise. See Dafna Arad, *Farming in the West Bank: Organic Paradise, Thorny Reality*, HAARETZ (Apr. 24, 2012), www.haaretz.com/1.5216745, where the owner of the organic brand “Giv’ot Olam,” Avri Ran, was quoted saying this: “Nowadays, 99% of Giv’ot Olam’s produce is not sold under Giv’ot Olam’s label. Accordingly, left-wing supporters, even the most ardent ones, ultimately buy Giv’ot Olam’s products.”

35. The analogy between Israel and Apartheid South Africa is prevalent among BDS supporters and appeared right from the beginning of the movement in 2005. See *infra* Section II (2)(B). See generally APARTHEID ISRAEL: THE POLITICS OF AN ANALOGY (Sean Jacobs & Jon Soske eds., 2015). It should nonetheless be noted that there are important flaws in this comparison, such as the different historic context of the dispute, the existence of legitimate Israeli security considerations within a long and bloody national conflict, and the effective PA control of the daily lives of 98% of Palestinians living in the West Bank.

36. Also noteworthy is Ilana Hammerman’s and other Israeli left-wing activists’ position, calling for imposing a boycott of the state of Israel, without distinguishing between it and the settlements. Nevertheless, they restrict its purpose, as opposed to the BDS campaign’s position which is wider, solely to end the Israeli occupation of the West Bank. Ilana Hammerman, Opinion, *To All Who Love This Place*, HAARETZ (Jan. 31, 2019), www.haaretz.co.il/opinions/.

explicit policy of recent right-wing Israeli administrations, which endeavors to blur this very distinction using various legislative measures, only confirms this position.³⁷ The 2011 Law for Prevention of Damage to State of Israel through Boycott (“The Anti-Boycott Law”), equating the call for a boycott of settlements with calling for a boycott of the state of Israel, is typically reflective of that policy.³⁸ In a way, the words of Justice Elyakim Rubinstein, the former Vice President of the Israeli Supreme Court, in the Anti-Boycott Law case, echo this stance:

. . . the law at hand represents an outcry of sorts, a fear not solely for the human rights of Judea and Samaria’s [the West Bank] settlers, but also for those of this state’s citizens and residents. Given various occurrences hostile to them in many countries, this fear is of no small substance, in the sense of “Thou shalt arise early and strike down upon those who would arise against thee to boycott and e’en destroy thee.”³⁹

At any rate, it would seem that unlike the cultural and academic boycotts, which are of a more comprehensive nature, directed against Israeli artists and institutions regardless of their place of residence, and even at the Israeli public as a whole (for instance, international performing artists cancelling their Israel shows), a major part of the emerging economic boycott’s practices is potentially more focusable and may be directed against manufacturing, operating, and collaborating in settlements alone. Hence the distinction between a boycott of Israel itself and a boycott of the settlements, in this context at least, may carry clearer implications. A salient example to this is the differentiation policy of the EU towards the Occupied Territories, as opposed to the leading ideology behind the BDS campaign’s activism, which may be termed “Blanket Boycott.”

premium-1.6896467 (Hebrew). I would like to thank Ilan Saban for bringing this point to my attention.

37. For an example constituting a distinct expression of this approach, see Tamar Pileggi, *Shaked revives bid to extend civil law to settlements*, TIMES ISR. (May 2, 2016), www.timesofisrael.com/shaked-to-revive-bill-to-extend-civil-law-to-settlements.

38. For an unofficial translation of the law by the Association for Civil Rights in Israel, see Law Preventing Harm to the State of Israel by Means of Boycott (2011), www.acri.org.il/en/wp-content/uploads/2011/07/Boycott-Law-Final-Version-ENG-120711.pdf.

39. HCJ 5239/11 Avneri v. Knesset, ¶ (b) (2015) (Isr.) (Deputy Chief Justice Rubinstein’s opinion). According to the Court’s own testimony, most petitioners would still file their petitions, even had the law solely prohibited calls for a boycott of the state of Israel. In this sense, this position corresponds with the BDS approach.

1. The EU Differentiation Policy Regarding Israeli Settlements⁴⁰

In past decades, the European Union's traditional position, which, beginning with the Venice Declaration of 1980, supported the establishment of a Palestinian state alongside Israel, has been going hand-in-hand with increasing cooperation between Israel and EU member countries, which stems from Europe's profound and historical commitment to the continued existence and security of the State of Israel. Over the years, Israeli and European leaders tried to downplay disagreements between the parties regarding the Israeli-Palestinian Conflict, acting to advance both issues independently.⁴¹ The ongoing stagnation in the peace process, especially the continued expansion of settlements beyond the pre-1967 borders and Israeli "conflict management" policy associated with it, however, has exacerbated European frustration. As far back as 2004, the EU compelled Israel to indicate the exact place of production in certificates of origin for exports originating in Israel, thus allowing EU customs authorities to revoke the exemption of import customs covering goods produced within the pre-1967 borders. Various groups, including civil society organizations, have ever since been increasing pressure on EU institutions to draw a sharp and conclusive distinction between the State of Israel, which is entitled to international legitimacy as well as historical commitment by Europe, and the Settlements, whose founding stands in violation of international law and constitutes a significant and persistent obstacle to the establishment of a Palestinian state. Public pressure is also supplemented with legal pressure—in light of the 2010 European Court of Justice ruling that EU-Israel agreements are to be interpreted also according to the EU-PLO agreement, the PA alone may legitimately issue certificates of origin for goods originating in the West Bank, including settlements.⁴² As a matter of fact, in recent years EU leadership support for a policy differentiating between Israel and the Settlements has begun to consolidate, as well as for attempting to enforce said policy to advance the peace process. Thus, for instance, in

40. This chapter is largely based on HUGH LOVATT & MATTIA TOALDO, EUR. COUNCIL ON FOREIGN RELATIONS, *EU DIFFERENTIATION AND ISRAELI SETTLEMENTS* (2015). See also Anders Persson, *'EU Differentiation' as a Case of 'Normative Power Europe'(NPE) in the Israeli-Palestinian Conflict*, 40 J. EUR. INTEGRATION 193 (2018).

41. As part of the Euro-Mediterranean Partnership, an Association Agreement was signed between Israel and the EU in November 1995. The agreement deepened their relations and enabled close cooperation across a range of areas relating to trade, tourism, hi-tech, the military, and education. See LOVATT & TOALDO, *supra* note 40, at 3.

42. Itzhak Kornfeld, *ECJ Holds that West Bank Products Are Outside Scope of the EU-Israel Association Agreement*, AM. SOC'Y. INT'L. LAW, INSIGHTS (June 23, 2010), bit.ly/2DwjJMc.

2013, during a discussion of Israel's application to join the study program Horizon 2020, the European Commission issued directives which differentiated Israel from disputed territories, prohibiting any funding of research activities which are conducted beyond the pre-1967 borders (including in the Golan Heights and East Jerusalem, Israel's annexation of which was never recognized).⁴³ As mentioned above, in November 2015 the European Commission approved, also due to consumer protection considerations, directives that call on member countries to enforce the labeling of settlements products sold in marketing chains,⁴⁴ which France adopted in November 2016.⁴⁵ In November 2019, the European Court of Justice ruled that European countries are required to clearly label food products manufactured beyond the pre-1967 borders.⁴⁶ Furthermore, over half of EU countries issued warnings regarding legal and financial risks involved in maintaining business relations with bodies working to establish Israel's control of the disputed territories. Thus, for instance, the Dutch government's warning led the *Stichting Pensioenfondsen voor de Gezondheid, Geestelijke en Maatschappelijke Belangen* (PGGM) pension fund to divest

43. Barak Ravid, *EU: Future Agreements With Israel Won't Apply to Territories*, HAARETZ (July 16, 2013), www.haaretz.com/.premium-eu-bans-deals-with-israeli-settlements-1.5295933. On the other hand, the Trump administration's decisions of moving the US Embassy to Jerusalem (May 2018), acknowledging Israeli sovereignty over the Golan Heights (March 2019) and, above all, introducing the "Deal of the Century" Peace Plan (January 2020), which constitute a dramatic historical change the United States' position, evidently are noteworthy. Nevertheless, global objection to these decisions, admittedly, was nearly unanimous.

44. Barak Ravid, *European Commission Adopts Guidelines for Labeling Products From Israeli Settlements*, HAARETZ (Nov. 11, 2015), <https://www.haaretz.com/israel-news/.premium-european-commission-adopts-guidelines-for-labeling-products-from-israeli-settlements-1.5420413>. In January 2017, on the other hand, former Israeli Minister of Culture Miri Regev torpedoed Israel's participation in the Creative Europe agreement due to the existence of a similar exclusionary clause. Hili Perlson, *Israeli Government Backtracks on 'Creative Europe' Funding Program*, ARTNET NEWS (Jan. 31, 2017), news.artnet.com/art-world/israeli-government-creative-europe-funding-program-837713.

45. Barak Ravid, *France Issues Regulations Requiring Retailers to Label Goods from Israeli Settlements*, HAARETZ (Nov. 24, 2016), www.haaretz.com/israel-news/.premium-france-issues-regulations-requiring-retailers-to-label-settlement-goods-1.5466092. Prior to that, the United Kingdom (2009), Denmark (2012) and Belgium (2014) have independently adopted voluntary guidelines for labelling.

46. Case C-363/18, *Organisation juive européenne and Vignoble Psagot Ltd v. Ministre de l'Économie et des Finances*, 2019 E.C.R. 954. On an interesting note, the Court justifies its position, *inter alia*, by the need to provide European consumers with information that will enable them to make informed decisions not only on health, economic or environmental contexts, but also in ethical ones. This would seem to further support the thesis presented in this paper.

from five Israeli banks⁴⁷ and, in Denmark, the KLP *Kapitalforvaltning* insurance company decided to divest from two international building materials companies that owned Israeli subsidiary companies operating quarries in Area C, where, unlike PA's full or partial authority over Areas A and B, the Oslo Agreements granted Israel near exclusive control over Palestinian lives.⁴⁸ The EU being Israel's largest trading partner,⁴⁹ coupled with its willingness to deepen Israel's integration with it, constitute, in the eyes of EU leadership, a significant leverage over Israeli public opinion, which may be used to strengthen and further the policy of differentiation.⁵⁰ In actual fact, Israel has largely accepted it: this was the case when Israel joined the "Horizon 2020" science, research, and development agreement in 2014 even with its directive, described above, prohibiting grants for research to Israeli institutions operating beyond the pre-1967 borders.⁵¹ Such was also the case in December 2017, when the Israeli government ratified the Financing Agreement of EU's economic development program, ENI CBC Med, which includes an identical clause.⁵²

Despite common attempts of Israeli politicians to bind them together, the policy of differentiation between Israel and the Settlements is clearly distinct from the BDS campaign. This policy constitutes a legal and political result of Israel's desire to deepen its economic integration with Europe, and the European objection to the application of this integration to the Settlements, which are considered illegal under

47. Barak Ravid, *Largest Dutch Pension Fund Boycotts Israeli Banks Over Settlement Ties*, HAARETZ (Jul. 18, 2014), www.haaretz.com/.premium-dutch-fund-boycotts-israeli-banks-1.5309030.

48. Barak Ravid, *Denmark's Largest Pension Fund Divests From German Firm Which Operates Quarries in Israeli Settlements*, HAARETZ (Dec. 14, 2015), www.haaretz.com/israel-news/.premium-denmark-s-largest-pension-fund-divests-from-german-firm-with-settlement-ties-1.5377103.

49. Total trade between Israel and the European Union in 2016 amounted to more than 36 billion euros. *Israel*, EUR. COMM'N, ec.europa.eu/trade/policy/countries-and-regions/countries/israel/.

50. Other possible steps include restricted European cooperation with Israeli banks operating in the settlements; reducing tax benefits for European organizations which support the settlements; revocation of the validity of official Israeli documents issued in the occupied territories (e.g., on behalf of Ariel University), etc.

51. Israel has attached a letter of protest to the agreement, clarifying that it maintains its position on the matter. In addition, it was decided that the Ministry of Economics would formulate a mechanism for compensating settlements' companies and organizations hurt by the European prohibition on transferring funding. Barak Ravid, *Israel and EU Compromise on Terms of Joint Initiative, Following Rift over Settlement Funding Ban*, HAARETZ (Nov. 26, 2013), www.haaretz.com/.premium-israel-eu-mend-rift-1.5294667.

52. Noa Landau, *Despite Minister's Opposition, Israel Approves Deal with EU That Excludes Settlements*, HAARETZ (Dec. 31, 2017), www.haaretz.com/israel-news/.premium-israel-approves-deal-with-eu-that-excludes-settlements-1.5630071.

international law. Therefore, European objection to labelling this policy as discriminatory and anti-Semitic seems quite plausible.⁵³

2. The BDS Campaign: Blanket Boycott

In certain respects, the BDS campaign may be regarded as the natural continuation of the Arab League boycott of Israel—using the instrument of economic pressure to achieve a far-reaching political goal. As will be demonstrated, however, the boycotts' different origin—governmental decisions which led to the Arab boycott as opposed to direct “Bottom-Up” action against business corporations in the BDS campaign—and especially the increasing change in social expectations of corporations, which forms the background to that phenomenon, justify, this Article argues, distinguishing it from the earlier Arab League Boycott and placing it in a broader socio-political context.

The World Conference against Racism, held in 2001 in Durban, South Africa, is a symbol of the beginning of the intensified struggle against Israel, which later led to the BDS campaign. The conference, held by the U.N., served as a platform for presenting strong anti-Israeli positions, especially those of a global forum of NGOs calling for sanctioning and boycotting Israel and severing all ties with it.⁵⁴ As of 2002, and against the backdrop of the second Intifada, Palestinian intellectuals and Western academics began a growing outcry for imposing an academic boycott of Israel.⁵⁵ In April 2004, these calls gained wider recognition due to a group of Palestinian intellectuals and civil society organizations that launched the PACBI campaign (Palestinian Campaign for the Academic and Cultural Boycott of Israel), calling for systematic boycott of Israeli cultural and academic institutions, with the aim of increasing political pressure on

53. For criticism of EU policies from a trade policy perspective see Nellie Munin, *EU Measures Toward Israeli Activities in the Occupied Territories and the BDS: A Diplomatic Achievement or a Pyrrhic Victory?*, 7 J. MULTIDISCIPLINARY RES. 55 (2015).

54. For a detailed description, see, e.g., *The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, was Held in Durban, South Africa from August 31 to September 7, 2001*, HUM. RTS. WATCH, <https://www.hrw.org/legacy/campaigns/race/>.

55. For a detailed description, see, e.g., ANDREW PESSIN & DORON S. BEN-ATAR, *ANTI-ZIONISM ON CAMPUS: THE UNIVERSITY, FREE SPEECH, AND BDS 1-40* (Andrew Pessin & Doron S. Ben-Atar eds., 2018). See also *PACBI Guidelines for the International Academic Boycott of Israel*, PALESTINIAN CAMPAIGN ACAD. & CULTURAL BOYCOTT ISR. (July 31, 2014), <http://www.pacbi.org/etemplate.php?id=1108>; see also *Success in Academic Boycott*, PALESTINIAN CAMPAIGN ACAD. & CULTURAL BOYCOTT ISR. (last visited Dec. 5, 2019), [pacbi.org/etemplate.php?id=2441](http://www.pacbi.org/etemplate.php?id=2441).

Israeli regime.⁵⁶ Later on, on July 9, 2005, the anniversary of the International Court of Justice (ICJ) rendering its advisory opinion deeming the construction of Israeli West Bank barrier illegal,⁵⁷ 170 Palestinian organizations founded the BDS campaign which has three goals: ending the Israeli occupation and tearing down the West Bank wall; granting full equality to Arab citizens of Israel; and protecting the right of Palestinian refugees to return to their homes in accordance with U.N.'s General Assembly Resolution 194.⁵⁸ The campaign called on civil society organizations around the world,⁵⁹ as well as for “principled individuals,” to fight for the realization of these goals, in light of the ongoing occupation as well as of the inability of the international community to compel Israel to end it. The fight was to be carried out by means of imposing various forms of boycott of Israel, until it complies with international law.

In this context, the distinction accepted in literature, distinguishing Top-Down action from Bottom-Up action, is quite germane:⁶⁰ while the former is usually made at the decision-maker level in the central government, or in an attempt to influence decision makers, using national or international legal measures, the latter relies on an action stemming from the “ground” and is generally characterized by decentralization, drawing its credibility locally, from field activists. Accordingly, and unlike the European Union boycott (and though vastly different, also the Arab League boycott) which operates on the international politics level, that is “Top-Down,” the BDS campaign is a clear demonstration of a “Bottom-Up” action, which the Palestinian civil society conducts in the Occupied Territories, Israel, Europe, and the United States, with the PA playing a limited role in this context, as stated above, even somewhat reluctantly. As suggested by its initials, the movement’s activities focus on three major venues of action:

56. For a description, see PALESTINIAN CAMPAIGN ACAD. & CULTURAL BOYCOTT ISR., *supra* note 55.

57. *Israel-PLO Recognition*, *supra* note 21.

58. For a detailed description, see, e.g., CHARLES TRIPP, THE POWER AND THE PEOPLE: PATHS OF RESISTANCE IN THE MIDDLE EAST 125 (2013); *Palestinian BDS National Committee*, BDS, <https://bdsmovement.net/bnc>.

59. See, e.g., Claudia Baumgart-Ochse, *Claiming Justice for Israel/Palestine: The Boycott, Divestment, Sanctions (BDS) Campaign and Christian Organizations*, 14 GLOBALIZATIONS 1172 (2017) (describing ties between the BDS campaign and Christian organizations), <https://doi.org/10.1080/14747731.2017.1310463>.

60. See, e.g., Joost Berkhout, Jan Beyers, Caelesta Braun, Marcel Hanegraaff & David Lowery, *Making Inference Across Mobilisation and Influence Research: Comparing Top-Down and Bottom-Up Mapping of Interest Systems*, 66 POL. STUD. 43 (2018), <https://doi.org/10.1177/0032321717702400>.

1. Boycotts—These include boycotts of several types: economic, academic, cultural and sporting.

A. The *Economic Boycott* is directed against products manufactured in Israel and the settlements, as well as against Israeli and multinational corporations which “benefit from the violation of Palestinians’ rights,” constituting a prominent example of “Bottom-Up” action. The rest of the Article will focus on this boycott.

B. The *Academic Boycott* is directed, as stated above, against Israeli academic institutions which allegedly assist in “white-washing the oppression of Palestinians through the creation of a sympathetic international image of Israel.” This one aspect of current boycotts’ trend garners much attention by Israeli public. This is due both to the involvement of several Israeli academics in calls to boycott Israel,⁶¹ an involvement that triggered a heated public debate in Israel, possibly constituting a significant catalyst for the institution of the “Anti-Boycott Law,” as well as to the spread of the boycott calls to campuses in the United States, a main point of attraction for Israeli academics, which helped raise awareness to the boycott. Nonetheless, the academic boycott is apparently perceived, even among those supporting an economic boycott, as contradictory to the ideal of academic freedom and the derived free flow of ideas principle, and therefore as somewhat less legitimate.⁶²

C. The *Cultural Boycott* is directed both against Israeli cultural institutions representing Israel, as well as against Israeli bands and artists, acting to prevent international collaborations with them. At the same time, artists are increasingly pressured to refuse to appear or display their art in Israel. Alongside prominent artists such as Elvis Costello, Stevie Wonder, Zakir Hussain, Neil Young, The Pixies, Lorde, and Lana Del Rey, who decided to cancel their Israel shows; Nick Cave and Radiohead publicly expressed their objection to the boycott and performed in Israel. Clearly, such decisions carry much wider resonance with the public than a case in which a foreign

61. See, e.g., Neve Gordon, *Boycott Israel*, L.A. TIMES (Aug. 20, 2009), <https://www.latimes.com/archives/la-xpm-2009-aug-20-oe-gordon20-story.html>.

62. See, e.g., THE CASE AGAINST ACADEMIC BOYCOTTS OF ISRAEL (Cary Nelson & Gabriel Noah Brahm eds., 2015).

pension fund resolves to divest from a large Israeli corporation.⁶³

D. The collective *Sporting Boycott*—as opposed to the long-established practice of Arab athletes forfeiting international competitions in which Israeli athletes participate—is mainly expressed through the Palestinian Football Association’s campaign for the exclusion of Israel from FIFA, the International Federation of Association Football.⁶⁴ Thus far this campaign has been unsuccessful, although in somewhat of a compensation, the sporting boycott campaign did win a token “victory,” when a June 2018 Palestinian activists’ campaign pressuring the Argentinian national team headed by international star footballer Lionel Messi to cancel its planned Israel game, managed to accomplish its goal.⁶⁵

Naturally, this Article focuses on the economic boycott, which is related to the Article’s hypothesis regarding the advent of the “ethical consumer” and the influence of “normative pressure” on corporations. Moreover, and as far as the author understands, this is also the type of boycott perceived as most legitimate—and perhaps also the most effective—given its focusing (even if not exclusively) on the boycott of settlements, and not on the boycott of the State of Israel⁶⁶—as actually

63. For a discussion of the cultural boycott, see Chen Tamir, *A Report on the Cultural Boycott of Israel*, HYPERALLERGIC (Feb. 3, 2015), <https://hyperallergic.com/179655/a-report-on-the-cultural-boycott-of-israel/>; see also Itay Stern, *Performers Are Flooding Israel: A Sign of the Cultural Boycott’s Failure?*, HAARETZ (Feb. 19, 2017), <https://www.haaretz.com/israel-news/culture/.premium-MAGAZINE-performers-are-flooding-israel-a-sign-of-the-cultural-boycott-s-failure-1.5438390>.

64. See Barak Ravid, *Israel Reaches Compromise, Staving Off Palestinian FIFA Expulsion Bid*, Haaretz (May 29, 2015), <https://www.haaretz.com/.premium-israel-staves-off-fifa-expulsion-vote-1.5367586>; see also *Israel/Palestine: FIFA Sponsoring Games on Seized Land*, HUM. RTS. WATCH (2016) (calling on FIFA to stop sponsoring football games played by teams from Israeli settlements), bit.ly/2dvcj6z (last visited Dec. 5, 2019).

65. The success of the BDS was partly due to the Culture and Sport Minister’s decision to move the match from Haifa to Jerusalem. See Uzi Dan et al., *Argentina Cancels Jerusalem Soccer Match with Israel Following Palestinian Pressure*, HAARETZ (June 6, 2018), <https://www.haaretz.com/israel-news/argentina-cancels-israel-soccer-match-in-jerusalem-after-palestinian-pressure-1.6153639>. However, in November 2019, largely as “compensation” for the cancellation of that match, an exhibition game between the national teams of Argentina and Uruguay was held, in spite of BDS activists’ pressures against the game being held in Israel. See Raphael Ahren, *The Messi-ah Finally Arrives: Israel Fetes Argentine Soccer Superstar*, TIMES ISR. (Nov. 19, 2019), <https://www.timesofisrael.com/the-messi-ah-finally-arrives-israel-fetes-argentine-soccer-superstar>.

66. The BDS website states as follows: “The BDS movement calls for a boycott of all the products of all Israeli – and international – companies that are involved in Israel’s violations of Palestinian rights. Virtually all Israeli companies are complicit to some degree in Israel’s system of

happens with the other types of boycott, which consequently are easier to label as expressions of anti-Semitism.

2. Divestment—This entails appealing to institutional investors (such as universities and pension funds) to divest from companies, both Israeli and foreign, that are involved in violating Palestinians' rights, in the hope of employing economic pressure on Israel that would lead it to alter its conduct. This venue of action will be discussed as part of this Article analysis of the economic boycott.

3. Sanctions—This aspect of the movement's activity, which, in contrast to the two mentioned above, pertains to international relations and not to the activities of civil society,⁶⁷ and involves constant and continuous pressure to impose international sanctions on Israel for its violations of international law in such a way that its membership in various economic and diplomatic forums may be jeopardized. Nevertheless, given that sanctions are an instrument whose implementation is exclusively reserved for the state, the likelihood of sanctions to be implemented in the foreseeable future is very slim in light of ongoing U.S. support of Israel, as well as the fact of the United States having a right of veto in the U.N. Security Council, which holds sole authority for authorizing sanctions.

III. BEYOND ANTI-SEMITISM: BETWEEN ETHICS AND HUMAN RIGHTS

A. *The Emergence of "Normative Pressure"*

*"These are new times / Cameras kill faster than guns"*⁶⁸

As mentioned above, while the economic boycott of Israel and the settlements is framed and labeled in the Israeli public's mind as an expression of anti-Israeli and anti-Semitic sentiments, this Article proposes that it additionally be understood in two other ways: firstly, as

occupation and apartheid. Some of our biggest economic boycott and divestment campaigns are against companies that operate in illegal Israeli settlements in the Occupied West Bank, including East Jerusalem. This is simply because campaigns targeting these companies are, at this stage, more capable of winning widespread support and succeeding." *Know What to Boycott*, BDS, <https://bdsmovement.net/get-involved/what-to-boycott> (last visited Aug. 17, 2020).

67. As the Arab League Boycott demonstrated, a boycott may also be carried at a state level.

68. AVIV GUEDJ, PAPER SOULS [נשמות מנייר] (Kame'a - Independent Music Group 2016).

part of the growing impatience with regards to Israel's contention that its control of the Occupied Territories is a temporary measure, which deepened the hostility towards Israel; secondly, which is this Article's main thesis, as part of a broader contemporary phenomenon of social critique of corporations. This critique occurs in the context of the gradual change in social expectations of corporations and the increasing demand that their decisions account for extra-economic considerations, including human rights issues. Indeed, the question of the relationship between business and society is not a new one, having been debated in various historical contexts for over 100 years, especially in the United States:⁶⁹ from the early twentieth century campaign against "Robber Barons" and the legislation of anti-trust laws; through the great struggles for consumers' rights regarding safety and environmental damage issues, occurring in the 1960s and 1970s; to the legislative campaign against the phenomenon of hostile takeovers of companies and the stripping of their assets ("corporate raiding") that took place during the 1980s.⁷⁰ Beginning in the late 1990s, however, especially against the backdrop of economic globalization and the exposure of harmful practices by large multinational corporations, a new variant of this very question has emerged. Publicity regarding the negative social externalities reawakened the question of corporations' commitment to adopting "do good" practices, compelling them to consider wider public concerns about their activities beyond mere shareholders profits. This demand of corporations is further bolstered in light of their growing economic, social, and political power and the increasing difficulty for countries to oversee corporate activities;⁷¹ intensifying monopolization, resulting in a growing number of our daily lives' aspects being controlled by a handful of corporations; the weakening of countervailing forces, such as organized labor, which for several decades countered

69. Soule further advances the debate to the "Boston Tea Party" of 1773, when American settlers contended with the East India Company monopoly. See SARAH SOULE, CONTENTION AND CORPORATE SOCIAL RESPONSIBILITY 1-3 (2009).

70. C.A. Welles, *The Cycles of Corporate Social Responsibility: An Historical Retrospective for the Twenty-first Century*, 51 KANSAS L. REV. 77 (2002).

71. As of August 2018, of the world's largest revenue collectors, seventy-one are corporations and only twenty-nine are states (revenues of states mainly consist of tax collected). See *Of the World's Top 100 Economic Revenue Collectors, 29 Are States, 71 Are Corporates*, OXFAM BLOGS (Aug. 3, 2018), <https://oxfamblogs.org/fp2p/of-the-worlds-top-100-economic-entities-29-are-states-71-are-corporates/>. Less than ten years ago, in 2010, of the world's 100 largest economic entities forty-two were corporations. See Tracey S. Keys & Thomas W. Malnight, *Special Report: Corporate Clout Distributed 2012: The Influence of the World's Largest 100 Economic Entities*, GLOBAL TRENDS 4 (2012), <http://www.globaltrends.com/product/special-report-corporate-clout-distributed-2012-the-influence-of-the-worlds-largest-100-economic-entities/>.

corporate power; and the state-like functions corporations fulfill more and more in the current age of privatization and deregulation of public services.⁷² Finally, the deep crisis of Western democracy—as expressed through the evident distrust of politicians and the rise of populist political leaders and parties—also contributes to the growing scrutiny (and resentment) of corporations. In the words of Ronen Shamir, “when the public milieu becomes privatized, the private becomes a matter of public concern.”⁷³

Within the emerging global movement resisting corporations, Shamir distinguishes between two types of “social rage” which mainly develop Bottom-Up:⁷⁴ The rage of those whose *standards of living* were materially impaired by a specific corporate activity—such as the establishment of sweatshop workshops, the expulsion of villagers from their lands, the closure of factories, etc.—and the rage of those whose cultural identity values, pertaining to their *quality of life* were compromised as an outcome of corporate activities—such as through workforce exploitation, human rights violations, environmental damages, and animal welfare transgressions (the latter position is also referred to as “Post materialism”). According to Shamir, these past few years have witnessed the extension of ethical concern, which is expressed through quality-of-life sufferers’ growing awareness of standards-of-living sufferers, as well as through the formers’ demand—consumerist in nature—that the goods sold to them by corporations meet certain ethical demands corresponding to the subjective identity they seek to establish.⁷⁵ To a large extent, this is indicative of a change in political action patterns, which nowadays relies more on consumer identity rather than on a civic identity. As culture critic Naomi Klein demonstrated in her classical book *No Logo*,⁷⁶ the branding process of the major companies has become a useful tool for civil society organizations, which try to imprint on the public mind links between a certain brand and violation of human rights. Countering the double concealment upon which

72. See, e.g., DAVID VOGEL, *THE MARKET FOR VIRTUE: THE POTENTIAL AND LIMITS OF CORPORATE SOCIAL RESPONSIBILITY* (2005), <https://www.jstor.org/stable/10.7864/j.ctt1287b7x.10>.

73. Ronen Shamir, *Private Market and Public Pressure: On the Formulation of The Corporate Social Responsibility Concept*, in *GENERATIONS, SPACES, IDENTITIES: CURRENT PERSPECTIVES OF ISRAELI SOCIETY AND CULTURE* 237, 239 (Hanna Herzog, Tal Kohavi & Shimshon Zelniker eds., 2007) (Heb.).

74. *Id.* at 244–45.

75. *Id.* But see JOSÉE JOHNSTON & SHYON BAUMANN, *FOODIES: DEMOCRACY AND DISTINCTION IN THE GOURMET FOODSCAPE* 152-76 (2010) (claiming it is a means of class distinction for high-middle-class members belonging to economic and cultural elites).

76. NAOMI KLEIN, *NO LOGO: TAKING AIM AT THE BRAND BULLIES* 248–60 (2000).

brand-building is based—concealment of production conditions from quality-of-life sufferers, coupled with concealment of the product’s economic value from standards-of-living sufferers—organizations adopt a tactic of double exposure of the two phenomena.⁷⁷ This is the context which gives rise to the Ethical Consumer, a context which, as we later demonstrate, is also essential for understanding the boycott movements of Israel and Israeli settlements.

The interest in standards-of-living sufferers and the activism that it produces among quality-of-life sufferers are realized in three discrete levels, which together constitute what may be called the “normative pressure” to which the corporations are nowadays subject.⁷⁸ Firstly, such interests are realized in a variety of topics that have become subjects for ethical concern: factory conditions, human rights, animal welfare, environmental damage, etc. Secondly, they have been realized in the range of economic practices through which ethical concern is expressed: economic boycotts, demands for divestment, SRI, shareholder activism, establishment of cooperatives, and Ethical Consumerism, among others. The subsequent Section will elaborate upon this level. Lastly, they have been realized in a variety of social initiatives resisting corporate activity: shaming, fair trade campaigns, lawsuits, lobbying for further regulation, activities resisting consumer culture, local food markets, and so forth. The globality of this pressure, which often is a result of cooperation between activists from the “Global North” and victims from the “Global South,” provides ample room for activities by NGOs and social movements that operate transnationally (and thus have been dubbed “Global Civil Society”), benefiting from social trust and standing which enables them to lay down the ethical standards demanded of corporations.⁷⁹ For this purpose, these organizations make use of the internet and of social networks, which produce an unprecedented level of monitoring, enabling quick, inexpensive, and effective exposure of problematic corporate practices. All this, as part of the emergence—demonstrating the profundity of change in social expectations of business corporations—of a hybrid field of diverse actors: from accountants in charge of financial reporting; to philosophers and thinkers involved in formulating

77. I would like to thank Tamar Barkay for bringing this point to my attention.

78. For a discussion of differences between direct and indirect pressures on corporations, see SOULE, *supra* note 69, at 7–9.

79. For a textbook discussion of the subject, see MARGARET E. KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS* (1998). See also Tim Bartley & Curtis Child, *Shaming the Corporation: The Social Production of Targets and the Anti-Sweatshop Movement*, 79 AM. SOC. REV. 653 (2014).

ethical codes; and to regulators and lawmakers, who try to transform voluntary standards into compulsory content.

A patent expression of this change may be found in the growing discourse of the “Business and Human Rights” sphere.⁸⁰ The expansion of corporations’ activities beyond national boundaries, as well as their growing influence on local communities, indeed collide head-on with the increasing importance of human rights discourse on the transnational level, of which corporate vernacular is traditionally absent. The drastic rise in corporate power increased public awareness of many cases of human rights violations, particularly in “Global South” countries, where social governance is weak, as well as in conflict areas, where the potential for rights violations is occasionally an integral part of the business activity.⁸¹ These violations might manifest in the abuse of natural resources vital for the local population’s livelihood, the employment of workers, even children, in exploitative conditions, and so forth. The unique difficulty that these violations produce stems from the fact that international human rights law directly obliges only states to enforce it; hence its application to corporations is extremely limited,⁸² all the more so in the context of these corporations’ activities in the extraterritorial global sphere. Against this backdrop, two mutually enhancing phenomena may be noted. On one hand, in light of the possible human rights consequences of corporate activity, practices defining its acceptable or unacceptable boundaries are being defined within many corporations, as well as with regards to them. On the other hand, there have simultaneously been various attempts at a collective response to this state of things, mainly through various voluntary initiatives.⁸³ In

80. See, e.g., *BUSINESS AND HUMAN RIGHTS: FROM PRINCIPLES TO PRACTICE* (Dorothee Baumann-Pauly & Justine Nolan eds., Routledge 2016); see also *BUSINESS AND HUMAN RIGHTS: BEYOND THE END OF THE BEGINNING* (César Rodríguez-Garavito ed., Cambridge Univ. Press 2017).

81. Dana Weiss & Ronen Shamir, *Corporate Accountability to Human Rights: The Case of the Gaza Strip*, 24 HARV. HUM. RTS. J. 155 (2011).

82. Although in the past few years there has been a growing recognition of the position held by non-state actors, including corporations, in international law. See generally ANDREW CLAPHAM, *HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS* (2006); see also David Kinley & Junko Tadaki, *From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law*, 44 VA. J. INT’L L. 931, 935 (2004).

83. Thus, for instance, the UN formulated the Global Compact initiative in the late 1990s, stating, *inter alia*, that corporations must respect human rights and are not complicit in human rights violations. See *The Ten Principles of the UN Global Compact*, U.N. GLOBAL COMPACT (2020), <https://www.unglobalcompact.org/what-is-gc/mission/principles>. In 2000, the Organization for Economic Cooperation and Development (OECD) issued a directive (updated in 2011) applying to multinational corporations operating “in or from” any of the states which adopted this directive. See also OECD, *OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES* (2011), <https://>

2011, the U.N. Human Rights Council adopted “Guiding Principles on Business and Human Rights” that define the division of responsibility between states and corporations regarding human rights abuses.⁸⁴ These establish that the responsibility to protect human rights, including against corporation abuses, remains in the hands of states, whereas corporations are expected to respect human rights—especially by avoiding cooperation with regimes that abuse human rights and conducting due diligence with regard to the potential risk of human rights abuses caused by their activity. Although this is not a binding legal document, it now enjoys a broad international consensus, including among leading global corporations.⁸⁵ The U.N. Human Rights Council published a draft of a legally binding covenant formulated by an inter-government working group, in July 2019, obligating state parties to regulate business corporations’ commitments to respect human rights.⁸⁶ Nevertheless, it clearly is a long way before it takes effect, if ever.

The following Section describes in brief some of the prominent economic practices related to the current ethical concern for quality-of-life sufferers, which also pertain to the calls for the economic boycott of Israel and Israeli settlements.

B. *Economic Practices of Ethical Concern*

As stated above, normative pressure exerted on corporations by quality-of-life sufferers relies, among other things, on a variety of economic practices directed at the corporation or voluntarily carried out by it in response to pressure. This Section briefly describes these practices.

www.oecd.org/daf/inv/mne/48004323.pdf; Doreen McBarnet, *Corporate Social Responsibility Beyond Law, Through Law, For Law: The New Corporate Accountability*, in *THE NEW CORPORATE ACCOUNTABILITY 9* (Doreen McBarnet, Aurora Voiculescu & Tom Campbell eds., 2007); Steven R. Ratner, *Corporations and Human Rights: A Theory of Legal Responsibility*, 111 *YALE L.J.* 443 (2001); *Developments in the Law-Corporate Liability for Violations of International Human Rights Law*, 114 *HARV. L. REV.* 2025 (2001); Kinley & Tadaki, *supra* note 82.

84. U.N. HUMAN RIGHTS COUNCIL, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc A/HRC/17/31 (Mar. 21, 2011), www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf. For a discussion of principles involved, see U.N. GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: FOUNDATIONS AND IMPLEMENTATION 273 (Radu Mares ed., 2012). On a side note, corporations operating in conflict areas are also expected to respect international humanitarian law.

85. For instance, the work done by the Shift Center, which works with corporations on adopting the guiding principles. See SHIFT, www.shiftproject.org (last visited Sept. 14, 2020).

86. OEIGWG Chairmanship, *Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises (Revised Draft)* (Jul. 16, 2019), www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG_RevisedDraft_LBI.pdf.

1. Socially Responsible Investment (SRI)

Socially Responsible Investment is a financial investment that also accounts for extra-financial considerations—religious, social, or environmental—seeking to re-formulate the motives of financial activity, especially among institutional investors (pension funds, universities, religious institutions, etc.).⁸⁷ It is historically rooted in Christian religious communities such as Quakers and Methodists, which already in the eighteenth century, had imposed various limitations, due to religious and moral considerations, on investing in the slave trade or in “sinful” trades such as those of liquor or

87. Max Weber’s well-known distinction between rationality of values and rationality of results (instrumental) may aid in analyzing the types of responsible investment—a responsible investment motivated by moral extra-financial values (religious, environmental and social), which is based on filtration, as opposed to a responsible investment motivated by instrumental considerations of profit maximization, which is based on choice: (1) Investment based on screening (or “negative assessment”)—a conscious decision to avoid investing in industries which are perceived as morally, rather than economically, precarious, such as tobacco, liquor, weapons, pornography, gambling, etc. Beginning in the 1920s, funds that screened investments considered offensive by religious investors appeared in the U.S. Profiting of such activities is perceived to be sinful. Later on, the principle of screening was also adopted by political pressure groups which opposed the investments associated with the Vietnam War or the Apartheid regime in South Africa. Today the principle is also being adopted by Dutch and Scandinavian pension funds, although they justify this mainly on the basis of a risk management policy, arguing that on the long term, “immoral” investments are non-profitable. Thus, for example, investment in the tobacco industry constitutes a risk, as there are considerable chances that smoking is completely prohibited and that numbers of smokers drop, so by the perspective of non-speculative institutions, this is a precarious investment. Finally, another type of an “ethical” responsible investment is the Solidarity investment, based on the principle of contribution: investing in a project because of its social aims (for example, supporting a project that helps people with disabilities) or donating a project’s profits to a social body. (2) An investment based on selection (or “positive assessment”)—in contrast with the ethical investment, the instrumental investment, whose motivation derives from intrinsic economic considerations—the ethics of responsibility is anchored in the principles of efficiency and productivity. “Positive assessment” does not *a priori* rule out any field of investment, but rather examines each investment decision in any company in light of its social or environmental performance. This is the “Triple Bottom Line” principle. In other words, such an investment approach will be able to make a decision to invest in a gambling company, for example, if it turns out that its employees are treated fairly or that it works to promote gender equality. Selection may also take the type of industry into account (pollution caused by a bank and that caused by an oil company are impossible to compare), when a best-in-class organization is invested in, even from an educational approach, seeking to encourage positive trends in the entire industry. Elise Penalva Icher, *Investissement socialement responsable*, in *DICTIONNAIRE CRITIQUE DE LA RSE* 254, 254–58 (Nicholas Postel & Richard Sobel eds., 2013) (Fr.). *But see* Tamar Barkay, *Neo-Liberalism in Zionist Translation: Businesses’ Social Responsibility in The Perspective of The Social Struggle On Israeli Identity* (2003) (thesis, Tel Aviv University) (on file with author) (Isr.) (suggesting that a utilitarian model of corporate social responsibility [the business case] may blur the Weberian dichotomy mentioned above).

firearms.⁸⁸ The modern age of SRI dawned during the latter half of the twentieth century, with the emergence of the United States' Civil Rights Movement, which called on investors to bear in mind social considerations such as racial and gender equality. SRI also played a part in the success of equality economic sanctions imposed on the South African Apartheid regime, when various institutional investors divested from the country, later on even avoiding investing in the country altogether.⁸⁹ Even though there still is no conclusive evidence for the economic advantage of responsible investment, social and environmental considerations are taken into account, in one way or another, in more than 30 trillion dollars, according to an updated report.⁹⁰ The CEO of the Blackrock Investment Company, the world's largest institutional investor which manages a six trillion dollar fund, announced in January 2018 that he now examines investments in business concerns not only in accordance with their financial performance, but also in light of their social vocation and their contribution to the society in which they operate.⁹¹

2. Shareholder Activism

Normative pressure may also be exerted on corporations through shareholder activism (or shareholder engagement), which is founded on the concept of actively using the company's shares in order to influence its conduct through various, both internal and external, modes of action: from attempts at swaying the opinions of corporate management or other shareholders (including with threats of divestment and raising public pressure); through convening shareholders' meetings and submitting shareholder resolutions regarding social and environmental matters; to taking action to remove Board of Directors members. Alongside activism arising from economic considerations (for example, increasing the value of the stock by changing the company's policy), there are more and more attempts by "principled" shareholders to use activism to promote social and environmental goals.⁹²

88. Steve Schueth, *Socially Responsible Investing in the United States*, 43 J. BUS. ETHICS 189, 189–90 (2003).

89. *Id.* at 190.

90. Global Sustainable Alliance, *Global Sustainable Investment Review 2018* (2019), http://www.gsi-alliance.org/wp-content/uploads/2019/06/GSIR_Review2018F.pdf.

91. Larry Fink, *2018 Letter to CEOs: A Sense of Purpose*, BLACKROCK (2018), www.blackrock.com/corporate/investor-relations/2018-larry-fink-ceo-letter.

92. For further discussion, as well as a critical analysis of these practices, see Joakim Sandberg, *Changing the world through shareholder activism?*, 5 NORDIC J. APPLIED ETHICS 51 (2011). The "Campaign GM" of 1970, led by the social activist Ralph Nader, was one of the first examples of

3. Ethical Consumerism

Unlike responsible investment, which essentially is an insider strategy of change, Ethical Consumerism is an outsider strategy.⁹³ As stated above, beginning in the late 1990s, and against the backdrop of changing social expectations of corporations, the issue of Ethical Consumerism, framed as an essential remedy for the market behavior of consumers, grew in prominence.⁹⁴ This philosophy is based on the concept according to which consumer decisions are not only capable of stimulating change in commercial concerns' specific modes of conduct, but—all the more so—also as leverage for change in broader social practices—environmental protection, human rights, or the struggle against poverty in the “Global South” countries. The quality-of-life sufferer consumer is perceived as an actor capable of making post-materialist considerations and, through their individualistic choices, leading to global changes that would also work favorably for standards-of-living

shareholder activism, when an attempt was made to promote a General Motors company shareholders' meeting decision that would lead to the appointment of an African-American member of the company's board of directors. Donald E. Schwartz, *Proxy Power and Social Goals: How Campaign GM Succeeded*, 45 ST. JOHN'S L. REV. 764 (1971).

93. SOULE, *supra* note 69, at 9–18.

94. As a matter of fact, neither is the question of consumer responsibility a new question in the capitalist era. Regarding this matter, two main historical trends can be identified: (1) an “ethicalization” of the consumer through the market - the understanding that the market could also be used as a site for expressing social protest developed in the US as far back as the nineteenth century: the abolitionist movement, for example, promoted the independent sale of “slavery free” sugar and cotton (free produce movement), in order to increase awareness and support of their campaign. As opposed to this *Boycott*, American workers' unions at the beginning of the 20th century called for a *Boycott*—a consumerist ban—which served for leverage on companies which attempted to prevent their employees from unionizing. Since then, many social struggles, such as the mid-twentieth-century civil rights campaign of African Americans, made an important use of these two tools characterized by an individualization of the collective action - a collective recruitment of individuals based on their individual and daily practices. This way the market is marked as the source of collective problems, but also as a means for resolving them, through consumer decisions. (2) Turning the consumer into a political, social and economic change agent - a different form of collective recruitment puts the emphasis on consumer activity of a civil and political nature. Here too, this is not a new matter: the celebrated “Boston Tea Party” in 1773, when American protesters threw the chests of English tea into the harbor, symbolized their desire to stop trading with the British Empire in response to the economic pressures it has exerted on the colonies. Another example, dating to the beginning of the twentieth century, is the activities by Florence Kelly, head of the National Consumer League, who sought to increase awareness of the production conditions in the sweat workshops and encourage consumers to purchase products manufactured under fair conditions, in the White label campaign. See Sophie Dubuisson-Quellier, *Consummation responsable*, in Postel & Sobel eds., *supra* note 87, at 77–82.

sufferers.⁹⁵ Otherwise put, Ethical Consumerism combines individual considerations with considerations relating to the public good. Ronen Shamir emphasizes the consumer's aspect, as opposed to the civic one, which motivates this phenomenon, but other researchers oppose the binary "citizen-consumer" division, pointing out that, on the contrary, ethical concern produces additional new venues for civic and political involvement. Ethical Consumerism is viewed, in this context, both as an expression of the ways through which the individual may accept civic responsibility, faced with questions of justice in a world that is deeply unequal, and as an experiment in imagining economic alternatives to the prevailing capitalist model. Differently than traditional politics, this consumerism is also used as a means of increasing awareness, raising support, and exerting pressure, in a way that is embedded in the everyday life of the individual.⁹⁶

4. Corporate Responsibility Practices

In addition to the various economic practices instigated by quality-of-life sufferers, the corporate response to them is also noteworthy, primarily the corporate responsibility discourse that, over the past two decades, has taken center stage in corporate culture. CSR discourse attempts to instill a new sense to business activity, in a manner similar to that of responsible investment discourse, which seeks to re-formulate the motives of financial activity. A growing number of corporations, mainly multinational, invest considerable resources in social and environmental issues. The creation of Corporate Citizenship programs and appointments of vice-presidents for human rights, as well as corporate responsibility executives, became a common sight among large companies, whereas corporate practices founded on the "triple bottom line" approach, among which the practice of publishing sustainability reports is most prevalent of all, are gradually being established as an

95. See Shamir, *supra* note 73. Other writers speak of "political consumerism," which they describe as a social entrepreneur's strategy of action which emphasizes the political aspect of the citizens'-consumers' ethical, individual and collective choice to favor one product over another, calculated to make a difference in business sector's conduct. The choice of this strategy stems both from the low esteem and trust in which the effectiveness of institutionalized politics' formal channels of action are held, as well as the belief that in order to influence public policy in the age of consumer globalization, one must operate through alternate channels available at the market sphere. See generally THE OXFORD HANDBOOK OF POLITICAL CONSUMERISM (Magnus Boström, Michele Micheletti & Peter Oosterveer eds., 2019).

96. CLIVE BARNETT, PAUL CLOKE, NICK CLARKE & ALICE MALPASS, GLOBALIZING RESPONSIBILITY: THE POLITICAL RATIONALITIES OF ETHICAL CONSUMPTION (2011).

industry standard.⁹⁷ More and more corporations—especially high-profile ones—understanding that ignoring public pressure is counterproductive for the firm, voluntarily commit themselves to social obligations, which in turn increase social expectations of the firm and affect the volume of sales, workforce recruitment, and even capital raising. In this context, “social license to operate” is the new buzzword, namely the need of corporations to identify issues that concern their various audiences, beyond the scope of obligations dictated by the law. This “license”—which is a salient testimony to corporations’ constant need of public legitimacy—is frequently cited in the business literature as one of the most prominent arguments in favor of CSR.⁹⁸ Management discourse within academia especially in Europe,⁹⁹ also increasingly puts an emphasis on questions of business ethics, corporate responsibility, sustainability, and business-community relations,¹⁰⁰ a phenomenon which illustrates a gradual transition from a corporate contractual discourse, focusing solely on shareholder interests, to one that emphasizes the interests of all of the corporation’s stakeholders. In many respects, therefore, the question now is no longer whether

97. Thus, all of the “Fortune 500” companies—the 500 largest corporations in the United States—have today a corporate responsibility policy compatible with accepted norms of human rights and environmental protection.

98. Michael Porter & Mark Kraemer, *Business and Strategy: The Link between Competitive Advantage and Corporate Social Responsibility*, HARV. BUS. REV. 1, 1 (2006). The term “corporate responsibility” includes a variety of practices, hence Porter and Kramer’s suggestion it is used as an “umbrella term” covering the variety of ways through which interactions between corporation and society are defined and used. Whether these stem from the need for social legitimacy, from genuine ethical concern, or from business considerations alone, it seems that current discourse is based on the basic proposition according to which business corporations have some obligation to society. These discussions frame the corporate social responsibility discourse as a burgeoning field, in which various actors contribute in a variety of ways to change the corporate practices. Ronen Shamir, *Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility*, 38 L. & SOC’Y REV. 635 (2004).

99. See ANDREW CRANE & DIRK MATTEN, BUSINESS ETHICS: A EUROPEAN PERSPECTIVE (2004).

100. In a widely influential paper they published, Michael Porter and Mark Kramer claimed that in light of today’s capitalist crisis, following the 2008 financial crisis, the change required from corporations is even more significant and far-reaching—they must make a more comprehensive perceptual change and define the purpose of their activities as creating shared value for all stakeholders, rather than for shareholders alone. Michael E. Porter & Mark R. Kramer, *Creating Shared Value*, HARV. BUS. REV. 2, 4 (2011). In another paper published in the influential Harvard Business Review in 2014, the approach according to which the corporation should maximize ‘shareholders’ profits, as well as the transition that took place over recent decades from a “value creation” approach to a “value extraction” one, promoting corporate executives’ economic interests and greatly deepening social gaps, were both very harshly criticized. William Lazonick, *Profits without Prosperity*, HARV. BUS. REV. 1, 4–5 (2014).

corporate responsibility exists, but rather what this responsibility entails. Scholar Simon Zadek has called the discussion of this question “the most controversial and most important public debate of the twenty-first century.”¹⁰¹

C. *Ethical Concern’s Venues of Action: The Case of Corporate Shaming*

As previously demonstrated, “normative pressure” expressing the ethical concern of quality-of-life sufferers and their attempts at disciplining the corporations are made concrete in a variety of ways, important among them the act of shaming. This action typically comprises three phases: First, naming a specific problematic practice and linking it with the corporation. Next, publicizing and spreading the message in order to shame the corporation and make it compensate for damages and alter its conduct. At the same time, publicity is also intended to increase awareness among consumers, investors, and policy makers. Last, issuing a credible-enough threat of imposing a material sanction—such as boycott, counter-litigation, furthering regulation—in the event of non-compliance with demands. According to Keck and Sikkink, the effectiveness of shaming is an outcome of the vulnerabilities of the body which is shamed, vulnerabilities stemming from the existence of two types of leverages: material (risking the reputation the corporation holds with stakeholders, such as consumers, investors, workers, governments, etc.) and moral (ethical criticisms of economic decisions).¹⁰² Friman describes “the politics of leverage” as composed of the means of integrating the instruments of “naming” an unacceptable practice, “shaming” by publicly condemning it, and imposing a material sanction accordingly, in order to affect that organization’s behavior. He also describes the conditions in which this combination is effective.¹⁰³ Busby and Greenhill propose a more nuanced analysis which also emphasizes the ability of “weak” players to exert pressure on powerful organizations through shaming, which highlights the discrepancy between such organizations’ statements and acts, and thus instigates moral guilt and simultaneously, or alternatively, concerns of reputational damage. These organizations are then “tamed” by costing them (or credibly threatening to cost them) dearly in political and

101. SIMON ZADEK, *THE CIVIL CORPORATION: THE NEW ECONOMY OF CORPORATE CITIZENSHIP* 29 (Rev. ed. 2007).

102. KECK & SIKKINK, *supra* note 79, at 23–24, 28–29.

103. *THE POLITICS OF LEVERAGE IN INTERNATIONAL RELATIONS: NAME, SHAME, AND SANCTION* 201–18 (H. Richard Friman ed., 2015).

material prices.¹⁰⁴ Even though shaming on its own is not enough, it remains indispensable as it instigates and enables the effective threat of sanctions.

Indeed, the larger and richer a corporation is, and the more it is “branded,” the greater the chance that it would be targeted by external (“market”) pressures of that type.¹⁰⁵ This is due to the fact that the prominence of mega-corporations in consumers’ daily lives, as well as their reliance on maintaining a “clean” image as a central part of their marketing strategy, makes them more susceptible to consumers’ and investors’ growing demands for more responsible behavior. Incidentally (and somewhat paradoxically) this often happens precisely because these corporations show genuine interest in changing problematic norms and practices, which makes them strategically inviting targets for many organizations.¹⁰⁶ This state of affairs gradually turns public pressure, which usually starts Bottom-Up, into a business risk for many corporations, harming both their reputation and their ability to recruit talented and conscientious personnel. The result is that the aforementioned pressure, which often relies, as shown, on moral arguments, drives corporations to operate in an instrumental manner and adopt various risk management strategies for dealing with public image risks, as well as with legal and financial risks or the risks of non-compliance with regulation.¹⁰⁷ Otherwise put, the dualism of current corporate shaming can be seen thus: A normative appeal to corporate conscience that relies on a credible threat of material damages, which in turn motivates the corporation, which primarily relies on rational-instrumental thinking, into action.¹⁰⁸ This is reflective of the two competing types of logic

104. Joshua W. Busby & Kelly M. Greenhill, *Ain't that a Shame? Hypocrisy, Punishment, and Weak Actor Influence in International Politics*, in *THE POLITICS OF LEVERAGE IN INTERNATIONAL RELATIONS: NAME, SHAME, AND SANCTION* 105–22 (H. Richard Friman ed., 2015).

105. One example of many is the public protest against the Apple company that arose at the beginning of 2012, following the exposure of the harsh work conditions its China suppliers’ employees are subject to. Charles Duhigg & David Barboza, *In China, Human Costs are Built into an iPad*, N.Y. TIMES (Jan. 25, 2012), www.nytimes.com/2012/01/26/business/ieconomy-apples-ipad-and-the-human-costs-for-workers-in-china.html; Charles Duhigg & Nick Wingfield, *Apple Asks Outside Group to Inspect Factories*, N.Y. TIMES (Feb. 13, 2012), bits.blogs.nytimes.com/2012/02/13/apple-announces-independent-factory-inspections.

106. For a more thorough discussion, see Bartley & Child, *supra* note 79.

107. See John L. Campbell, *Why Would Corporations Behave in Socially Responsible Ways? An Institutional Theory of Corporate Social Responsibility*, 32 *ACAD. MGMT. REV.* 946 (2007); Tim Bartley, *Institutional Emergence in an Era of Globalisation: The Rise of Transnational Private Regulation of Labor and Environmental Conditions*, 113 *AM. J. SOC.* 297, 306–12 (2007).

108. Cf. VOGEL, *supra* note 72.

implemented in corporate responsibility discourse—deontological logic, as opposed to utilitarian logic—which also echoes Albert O. Hirschman’s famous observation on the distinction between the *economic* conception of the corporation and its *political* conception.¹⁰⁹ The next Section will analyze how to understand and classify the calls for the boycott of Israel and Israeli settlements in light of the increasing “normative pressure” exerted on business corporations and these corporations’ concerns about shaming and reputational damages.

IV. CORPORATE SHAMING: THE CASE OF THE ECONOMIC BOYCOTT OF ISRAEL
OR OF ISRAELI SETTLEMENTS

As shown above, the current calls for an economic boycott of Israel or of the Israeli settlements are, at least in part, means to a political end—exerting political pressure on Israel so it withdraws its forces from the Occupied Territories. First and foremost, these calls utilize various tools of exerting “normative pressure” which were developed over the recent years against the backdrop of the increasing awareness of quality-of-life sufferers in the West to the costs of their consumerist choices, and in light of their desire to promote social and political changes through these choices, especially in the context of preventing human rights violations. This pressure mainly starts Bottom-Up, receiving growing attention by business corporations that understand that a lack of response to it will impact their “Social License to Operate,” i.e., their public legitimacy. In other words, the ongoing change in social expectations from business corporations is the platform upon which the BDS campaign builds in its attempt to “shame” Western corporations and make them divest from Israel and the Occupied Territories, thereby effectively promoting the economic boycott. Due to the fact that existent international law tools, which are state-focused, do not provide an effective response to corporate violations of human rights in the Occupied Territories,¹¹⁰ a “Governance Gap” is produced.¹¹¹ This gap is mainly met by exerting “normative pressure” in the form of calls for corporations to avoid economic activity in Israel, especially in the Settlements, in order to avoid violating the human rights of the

109. See ALBERT HIRSCHMAN, *EXIT, VOICE, AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES* (1970).

110. See Ena Cefo, *Corporate Human Rights Violations in the Occupied Palestinian Territories: Is There Any Recourse?*, 47 *GEO. J. INT’L L.* 793, 807–812 (2016).

111. See Mary Martin, *Missing the train. International governance gaps and the Jerusalem Light Railway*, 4 *GLOBAL AFF.*, 101, 102, 104 (2018).

Palestinian population under occupation. This Section describes two campaigns that garnered great public resonance: those against the “Africa Israel Investment” (AFI) group and against the G4S company. Both cases allow for an analytical examination of various aspects relating to calls for the economic boycott of Israel or the Israeli settlements for the violation of international legal norms. These calls, illustrative of the similarity of the Israeli case to other cases the world over, constitute yet another example of social and political demands directed at corporations, which, as stated above, are increasingly prone to acquiescence.

A. Africa Israel Investment Group

Since 2008, civil society organizations have exerted pressure on the AFI group, which also carries extensive international activity, in light of its involvement in construction projects beyond the pre-1967 border. For instance, following the protests of pro-Palestinian NGOs in 2009, the British Embassy in Israel reconsidered its decision to lease its new Tel Aviv house from the company.¹¹² In 2009, the British Blackrock bank divested from the company, apparently (though formally denying the claim) due to pressure by Norway banks which marketed Blackrock’s funds. After its ethics committee found that these companies’ involvement in construction in East Jerusalem “significantly contributes to human rights violation[s],” the Norwegian sovereign wealth fund, which manages Norwegian oil money, announced its divestment from AFI and from its subsidiary Danya Cebus in 2010.¹¹³ New Zealand government investment funds joined the boycott in 2012.¹¹⁴ The pressure exerted on the company was thus also of a governmental character, originating not only with civil society organizations—in other words, “Top-Down” as well as “Bottom-Up.” The AFI group announced in November 2010 that it would no longer be involved in construction beyond the pre-1967 border.¹¹⁵ However, it was claimed in June 2012

112. Barak Ravid, *U.K. Embassy Nixes Move to Offices of Company Behind West Bank Construction*, HAARETZ (Mar. 4, 2009, 2:00 AM), www.haaretz.com/1.5083195.

113. Walter Gibbes, *Norway oil fund excludes 2 Israeli companies*, REUTERS (Aug. 23, 2010, 6:46 AM), www.reuters.com/article/idUSLDE67M0UF.

114. *New Zealand Government Fund Divests From Israeli Firms Over Settlement Construction*, HAARETZ (Dec. 16, 2012, 10:19 PM), www.haaretz.com/nz-divests-israeli-holdings-in-protest-1.5273842.

115. Press Release, Adalah-NY, In major boycott movement success, Africa Israel says no plans to build more settlements (Nov. 3, 2010), adalahny.org/press-release/423/major-boycott-movement-success-africa-israel-says-no-plans-build-more-settlements.

that it did not cease its activities.¹¹⁶ The pressure finally bore fruit in October 2014 when the CEO of Africa Residence, a subsidiary of AFI group, pledged: “We do not partake in construction beyond the pre-1967 border,” a decision that also applies to the executive arm of the parent company, including Danya Cebus.¹¹⁷ On a side note, simultaneous to protests against AFI for its involvement in construction in the Occupied Territories, personal pressure was also exerted on the group’s owner, billionaire and senior diamond industry magnate Leviev. Thus, for instance, against the backdrop of the company’s involvement in the construction of settlements, the U.N.’s Children’s Fund (UNICEF) resolved to sever its ties with Leviev, who donated to its activities. A demand, which proved unsuccessful, for removing Leviev as a sponsor to a fashion show at the FIT Museum in New York, was also made by Adalah New York in 2011.¹¹⁸

B. G4S

In 2009 it was first published¹¹⁹ that a subsidiary of British-Danish security company G4S (one of the world’s largest security companies), G4S ISRAEL, provided security services for businesses active in Israeli settlements, as well as recognition equipment for security checkpoints at the West Bank and Gaza Strip crossings. It was also reported that G4S provided security systems for the Israel Prison Service (IPS), including for Ofer prison, which is located beyond the pre-1967 border. G4S’s involvement in human rights abuses came under the spotlight of the Danish public in November 2010, following a London-held public trial of corporations involved in the preservation of Israeli control of the Occupied Territories:¹²⁰ the Danish Foreign Minister called on the

116. Press Release, Adalah-NY, Leviev’s Africa Israel Continues Settlement-Building, Contradicting 2010 Pledge (June 18, 2012), adalahny.org/press-release/937/leviev-africa-israel-continues-settlement-building-contradicting-2010-pledge.

117. Ofer Petersburg, *Business powerhouse Africa Israel: No building beyond Green Line*, YNETNEWS (Oct. 27, 2014, 11:29 PM), www.ynetnews.com/articles/0,7340,L-4584876,00.html.

118. Philip Weiss, *Art-washing: Museum at F.I.T. ducks calls on sponsorship by settlement-builder Leviev*, MONDOWEISS (Dec. 25, 2011), mondoweiss.net/2011/12/art-washing-museum-at-fi-t-ducks-calls-on-sponsorship-by-settlement-builder-leviev/?amp.

119. The Women for Peace Coalition published a report on companies involved in the operation of the checkpoints throughout the West Bank. *Privatizing Security Corporate Involvement in the Checkpoints*, WHO PROFITS (Mar. 2009), whoprofits.org/flash-report/privatizing-security-corporate-involvement-in-the-checkpoints.

120. Adri Nieuwhof, *Corps. found guilty at Russell Tribunal second session*, ELECTRONIC INTIFADA (Dec. 1, 2010), electronicintifada.net/content/corporations-found-guilty-russell-tribunal-second-session/9127.

company not to take measures that might help preserve unlawful settlements; various Danish pension funds announced they would consider divesting from the company; and Danish university students and lecturers called on their institutions to sever their ties with the company.¹²¹ In this case as well, given the combined public pressure (both Top-Down and Bottom-Up), G4S announced in March 2011 that it intended to end its activities in Israel, in order to ensure that its business activities, even though they do not contradict international law, “conform to its ethical policy.”¹²² The pressure of Palestinian human rights organizations continued and, in April 2013, the company decided not to renew contracts relating to security activity in the West Bank.¹²³ In June 2013, during a G4S shareholder meeting, some of the shareholders demanded explanations regarding the human rights violations, including torture, carried out in the prisons that G4S operates in the Occupied Territories, while demonstrators simultaneously broke onto the floor and tried to prevent the company’s CEO from speaking.¹²⁴ Similar events also occurred in June 2014 (a demonstration led by Desmond Tutu,¹²⁵ the Nobel Peace Prize laureate) and in June 2015.¹²⁶ In September 2013, the East London Teachers Association called on London authorities to end their contracts with G4S, given its activities in the Occupied Territories.¹²⁷ In June 2014, a few days after the Bill and Melinda Gates Foundation, one of the world’s largest philanthropic foundations, decided to sell its company’s shares in G4S

121. See, e.g., Adri Nieuwhof, *Outcry in Den. over firm’s involvement in occupation*, ELECTRONIC INTIFADA (Dec. 15 2010), electronicintifada.net/content/outcry-denmark-over-firms-involvement-occupation/9142.

122. *G4S stops activities in West Bank*, BUS. & HUM RTS. RESOURCE CTR. (Mar. 11, 2011), <https://media.business-humanrights.org/media/documents/files/media/documents/g4s-stops-activities-in-west-bank-11-mar-2011.pdf>.

123. *Isr. & Palestine: G4S says it will quit key cont. by 2015 amid protests against its operations in West Bank*, BUS. & HUM RTS. RESOURCE CTR., www.business-humanrights.org/en/israel-palestine-g4s-says-it-will-quit-key-contracts-by-2015-amid-protests-against-its-operations-in-west-bank#c72055 (last visited Dec. 5, 2019).

124. *G4S shareholders lambast the board*, BUS. & HUM RTS. RESOURCE CTR., www.business-humanrights.org/en/g4s-shareholders-lambast-the-board (last visited Dec. 5, 2019).

125. Rupert Neate, *Desmond Tutu tells G4S to stop supplying to Israel prisons*, GUARDIAN (June 4, 2014, 4:00 PM), www.theguardian.com/business/2014/jun/04/desmond-tutu-g4s-israeli-prisons-noam-chomsky.

126. Shane Hickey, *G4S meeting descends into chaos, with nine activists bundled out*, GUARDIAN (June 4, 2014, 10:43 AM), www.theguardian.com/business/2015/jun/04/g4s-meeting-chaos-activists-bundled-out-israel.

127. *East London Teachers Association condemns G4S contract with Israel’s Prison System*, BUS. & HUM RTS. RESOURCE CTR., <https://www.business-humanrights.org/en/latest-news/east-london-teachers-association-condemns-g4s-contract-with-israels-prison-system/> (last visited Jan. 24, 2019).

(probably against the backdrop of the increasing criticism of the company),¹²⁸ G4S decided not to renew its contacts with the IPS, including its activities within pre-1967 Israel.¹²⁹ The same month, the Methodist Church's pension fund also announced it would divest from the company.¹³⁰ In April 2015, more than twenty South African companies announced they would sever their business ties with G4S because of its involvement in the violation of human rights in the Occupied Territories.¹³¹ In June 2015, following a complaint by a Palestinian human rights organization, the British National Contact Point, a mechanism for verifying complaints against corporations which was established by virtue of the OECD's (voluntary) Guidelines for Multinational Corporations, determined that G4S operated in violation of these directives.¹³² Accordingly, the British Labor Party decided to cancel its contract with the company for securing the party convention in November 2015.¹³³ Ultimately, G4S ISRAEL was sold to the Israeli FIMI Opportunity Funds, in December 2016.¹³⁴ Nevertheless, the company has stated that the sale was made due to business and strategic considerations, and that it does not support the BDS campaign.¹³⁵

128. *Bill Gates*, *supra* note 2.

129. Gill Plimmer, *G4S to end Israeli jail contracts within three years*, FIN. TIMES (June 5, 2014), www.ft.com/cms/s/0/06e06252-ecc9-11e3-8963-00144feabdc0.html#axzz33qeg8hEl.

130. *UMC's pension board*, *supra* note 2.

131. *20 South African businesses join G4S boycott over its involvement in Israeli prisons & alleged rights abuses against Palestinians*, BUS. & HUM RTS. RESOURCE CTR., www.business-humanrights.org/en/20-south-african-businesses-join-g4s-boycott-over-its-involvement-in-israeli-prisons-alleged-rights-abuses-against-palestinians (last visited Dec. 5, 2019).

132. In July 2016, the UK National Contact Point published an announcement expressing disappointment at the fashion in which G4S carried out its decision. *UK NCP releases follow up on complaint against G4S alleging involvement in Israeli abuses against Palestinians*, BUS. & HUM RTS. RESOURCE CTR., www.business-humanrights.org/en/uk-oecd-natl-contact-point-releases-final-statement-in-complaint-filed-against-g4s-alleging-its-involvement-in-israeli-abuses-against-palestinians (last visited Dec. 5, 2019). It must be noted that over the years, UK Contact Point dealt with various and varied complaints for human rights violations by business corporations – from the sale of weapons to Saudi Arabia to the Formula 1 race being held in Bahrain. For further details see, *UK National Contact Point (UK NCP) case statements*, U.K. GOV. (Oct. 2, 2013), www.gov.uk/government/collections/uk-national-contact-point-statements.

133. *UK: Labour party votes to end contract with G4S over human rights concerns regarding services it provides to the Israeli Government*, BUS. & HUM RTS. RESOURCE CTR., www.business-humanrights.org/en/uk-labour-party-votes-to-end-contract-with-g4s-over-human-rights-concerns-regarding-services-it-provides-to-the-israeli-govt (last visited Dec. 5, 2019).

134. *Agreement Reached on Sale of G4S Israel*, G4S (Dec. 2, 2016, 7:00 AM), bit.ly/2TaZjEp.

135. *Statement Regarding the Sale of G4S Israel*, G4S (May 23, 2016, 1:48 PM), <https://www.g4s.com/news-and-insights/news/2016/05/23/statement-regarding-the-sale-of-g4s-israel>.

As these cases demonstrate, the calls for an economic boycott of Israel and the Israeli settlements occur against the backdrop of the emergence of a global platform expressing the change in social expectations regarding mega-corporations over the last two decades, which has been implemented the world over in various cases. More specifically, the two examples discussed in this Article enable the analytic examination of different aspects of the calls to the economic boycott—the corporations’ identities, the nature of their activities, and the type of pressure exerted on them. The primary observation relates to the identity of the companies on which economic leverage was exerted: whether these are *foreign* companies involved in economic activity in Israel and especially in Israeli settlements (the case of G4S) or whether these are Israeli companies (the case of AFI group). This distinction is important for two reasons. Firstly, the types of leverage at the disposal of boycott advocates are significantly different when it comes to foreign corporations which, over the last two decades, have been involved in the discourse and practice of corporate responsibility, particularly in the context of human rights. Since the vast majority of boycott initiatives do not originate within the state of Israel, their effectiveness clearly is greater in the home countries of those foreign corporations. The combined and multi-dimensional pressure—from public figures, institutional investors, shareholders, and human rights organizations—exerted on G4S is an excellent example of this. Secondly, as somewhat of a mirror image of the former aspect, most Israeli corporations are more vulnerable to the trends of public opinion in the local market than to external pressure, especially regarding their business activities in Israel. Largely due to the Israeli-Palestinian conflict, in Israel, unlike in Western countries, corporate responsibility discourse is relatively negligible and the issue of corporate violations of human rights is only rarely commented upon. Moreover, in an attempt to blur the distinction between Israel and the Occupied Territories, Israel’s official response to the boycott, primarily the passing of the 2011 law to prevent damage to the state of Israel through boycott, is reflective of the Israeli public’s intolerance of boycott attempts, including those that pertain to the settlements. Inasmuch as Israeli corporations are very cautious of what they perceive to be a mixture of politics and business, apprehensive, as a matter of fact, of deviating from the Israeli consensus,¹³⁶ it is not surprising that they try to “stay in line” with these popular

136. Tamar Barkay, *Businesses’ Social Responsibility: Neo-Liberalism in Zionist Translation*, 33 THEORY & CRITICISM 45 (2008) [Hebrew].

attitudes.¹³⁷ On the other hand, given that corporations such as AFI Group are also globally active, they would be more willing to concede to the economic pressure exerted on them. A noticeable example of the pressures' effects is the moving of certain factories from the Occupied Territories—where they were originally established due to governmental incentives and the availability of cheap labor—into pre-1967 Israeli territories.¹³⁸

Another observation regarding foreign corporations pertains to the identity of the organization involved in pressuring the corporation for its involvement in business activities (especially) beyond the pre-1967 borders: is it a state government (or a supranational body such as the European Union, with its differentiation policy) or is it a civil society organization (which, as we have shown, often advocate a “blanket boycott” policy)? Setting aside the greater caution taken by governments, whose scope of political considerations is much wider than that of human rights organizations, one may suggest a further observation regarding the two aspects of the current discourse on business ethics. Whereas governments must take into account the emerging discourse of “Business and Human Rights,” which, among other things, compels them to protect human rights, including from corporate activities (and this is the backdrop against which the activity of the British National Contact point described above,¹³⁹ for instance, is to be understood), the “market” pressures that civil society exerts on corporations is designed to exploit the CSR discourse, which is primarily based on the

137. A salient instance took place in 2010, when Mizrahi-Tefahot bank, following the media pressure by right-wing organizations, required brand endorser, celebrity actor Dvir Benedek, to apologize for lashing out against the former Minister of Culture Limor Livnat, who chastised artists who announced that they would not appear in Ariel, beyond the pre-1967 border. Ayala Tsoref, *Digital Doghouse / How Bank Mizrahi-Tefahot Found Itself Under Attack*, HAARETZ (Nov. 24, 2010), www.haaretz.com/israel-news/business/1.5144389.

138. For example, and apparently also in the case of “SodaStream” and “Ahava” factories. An interesting hybrid case is the decision of Israeli subsidiaries of foreign corporations to move their factories back into pre-1967 borders: Unilever Israel, for example, moved its “Bagel Bagel” factory from the Barkan industrial zone to Safed; Mul-T-Lock, owned by the Swedish corporation ASSA ABLOY, moved its factory from Barkan to Yavne; and the Barkan Wineries company, purchased by the Dutch Heineken Company, moving production to Hulda. Navit Zomer, *Bagel-Bagel leaving territories*, YNETNEWS (July 19, 2011, 2:52 PM), <https://www.ynetnews.com/articles/0,7340,L-4097068,00.html>; *Swedish business pulls out of West Bank*, CORPORATEREGISTER.COM (Sept. 7, 2012, 5:43 AM), <https://www.corporateregister.com/news/item/?n=220>; *Gush Shalom congratulates the Barkan Wineries*, SCOOP (Sept. 1, 2008, 11:05 AM), <https://www.scoop.co.nz/stories/WO0809/S00004.htm?from-mobile=bottom-link-01>.

139. See *supra* text accompanying notes 133-136.

risk management approaches adopted by corporations, particularly exploiting their concerns of reputational damage.

In this context, the typology which Haufler suggested, differentiating between the two models of “Corporate Naming” and “Corporate Shaming,”¹⁴⁰ may be utilized: a *values-based campaign* using a vocabulary of morality and responsibility, led by global civil society organizations, and based on publicly denouncing a corporation for adopting offensive practices. Such denunciation is detrimental to what Haufler calls the “Reputation Capital” of the corporation, which is, of course, also of economic value—negative publicity, brand and reputation damages, avoidance by consumers and potential workers, devaluation of stock prices, lawsuits, etc.—with the goal of making it adopt adequate standards of conduct. In light of the contradiction between moral considerations and corporate greed, denouncing corporations generally enjoys public credibility.¹⁴¹ Denunciation can also have a broader impact, by creating deterrence, as well as improving the image of “good” corporations. This seemingly is the type of campaign characterizing the “blanket boycott” of BDS activists: reliance on human rights discourse and simultaneous denunciation of corporations active in Israel and especially in Israeli settlements, damaging their “reputational capital” in order to compel these companies to alter their business conduct, described as contributing to the Israeli human rights violations of the Palestinian population. This aspect was quite prominent in the lengthy campaign that was waged against G4S. On the other hand, a *stigmatization campaign* is more “juristic” in character, being based on the exposure of discrepancies between the corporate behavior and regulatory requirements, and thus may also be fronted by state governments. In the case of the EU’s differentiation policy, the main bulk of the political pressure, which relies on international law, seems to be directed at the Government of Israel rather than at corporations.

A third possible observation pertains to the nature of the economic action taken against the corporation: direct or indirect. Thus, for example, when human rights organizations demand that foreign institutional investors (those committed to SRI policies) divest from Israeli or multinational corporations which are involved in economic activities in

140. Virginia Haufler, *Shaming the shameless? Campaigning against Corporations*, in *THE POLITICS OF LEVERAGE IN INTERNATIONAL RELATIONS: NAME, SHAME, AND SANCTION* 185 (H. Richard Friman ed., 2015).

141. A striking example of this is the campaign against “Blood Diamonds,” which has succeeded in framing the connection between the sale of diamonds and the financing of Africa’s bloody civil wars. *Id.* at 193–96.

the Occupied Territories, they exert indirect pressure on those very corporations to cease their activity, tamed by the “whip” of potential devaluation, as well as that of reputational damages which the public shaming following divestment may incur.¹⁴² A patent example of this is the decision by the Bill & Melinda Gates Foundation to divest from G4S. On the other hand, the boycott—and the shaming resulting therefrom—occasionally take expression through *direct* economic damages to the multinational or Israeli corporations: through the cancellation of contracts with them (or pressure exerted on public institutions to so act, such as in the case of the British embassy reconsidering its decision to rent a building from the AFI Group), and, in more extreme cases, by shops refusing to sell their goods or workers refusing to unload goods in the ports¹⁴³—and as it happened in the case of the Ahava company, even through the closing of brand stores.¹⁴⁴

A final observation, primarily relevant to the boycott of the Israeli settlements, concerns the nature of activities conducted by the corporation over which economic leverage is exerted: there is a distinction between the shaming—be it direct or indirect—of Israeli or foreign corporations involved in the *civil* aspects of development beyond the pre-1967 borders and such shaming of corporations that are involved in its *security* aspect. Civil aspects includes, for example, the construction of infrastructure projects (such as the Jerusalem light rail¹⁴⁵ or wastewater purification facilities); the use of non-renewable natural resources (such as sand and gravel mining for manufacturing concrete); the

142. Usually, institutional investors try to negotiate with the corporations before resolving to divest.

143. The Turkish flotilla to Gaza in 2010 provoked severe responses in international public opinion and bolstered the calls for an economic boycott of Israeli companies. In June 2010, the port workers in Sweden and Norway announced a boycott of Israeli ships carrying Israeli produce for the local markets, during which boycott they would avoid charging and unloading these ships. *Sweden to launch weeklong boycott on Israeli ships*, YNETNEWS (May 6, 2010, 4:52 PM), www.ynetnews.com/articles/0,7340,L-3899301,00.html. In summer 2014, following Operation Protective Edge, demonstrations against the unloading of Israeli ships were held at various US ports. *Israeli ship unloads cargo despite US protest*, TIMES ISR. (Aug. 21, 2014, 5:19 AM), www.timesofisrael.com/israeli-ship-unloads-cargo-despite-us-protest.

144. A London flagship store of the “Ahava” brand was shut down in 2011, against the backdrop of ongoing protests against its activities. On an interesting side note, “Ahava” was purchased by a Chinese corporation in 2016. Shelly Appelberg, *Chinese Conglomerate Buys Ahava Cosmetics for \$76 Million Amid BDS Concerns*, HAARETZ (Apr. 7, 2016), www.haaretz.com/israel-news/business/.premium-1.713278.

145. For a description of the Palestinian campaign that caused the French corporation Veolia to sell its investments in the Jerusalem Light Rail project, which was also built beyond the pre-1967 border, see Martin, *supra* note 111.

construction of residential buildings in the settlements (as in the case of AFI group); the establishment of factories (such as “SodaStream”) and production centers (HP, for example, has established a software development center in Beitar Illit) beyond the pre-1967 border; and the provision of services (e.g., banking or Internet supply) to residents of Israeli settlements. Corporations active in these fields are targeted by boycott activists who consider them to be “determining reality in the field,” creating obstacles to of a viable political solution to the conflict. Conversely, the security aspect primarily includes the construction of the wall of separation;¹⁴⁶ the construction of checkpoints and obstacles throughout the West Bank; and the supply of security equipment for the protection of the settlements, equipment used by Israeli security forces for ongoing West Bank activities (Ofer prison or the Israeli police headquarters, for instance, in the case of G4S), and of equipment used to carry out punitive (such as Caterpillar’s bulldozers, used for demolishing houses and farmland) or supervisory (such as HP’s proprietary technologies, which assist in maintaining the siege of Gaza by monitoring the checkpoints) measures aimed at the Palestinian population. The main relevance of corporate involvement in the security aspects of Israeli control of the Occupied Territories is to international humanitarian law, which pertains not only to states but also to any bodies whose activity are “closely linked” to the armed conflict, including assisting one of the conflicting sides. Clearly, the public exposure of corporate involvement relating to punitive measures and violations of human rights of the Palestinian population—such as in the case of G4S—amounts to a much harsher shaming as far as the corporations are concerned and, in this sense, constitutes significant leverage.

In conclusion, even though economic boycott practices are perceived by the Israeli public to be a unique, anti-Semiticly motivated phenomenon, the practices and methods of operation implemented by the various actors of the Israeli-Palestinian arena are demonstrably not different from other increasingly common cases in recent decades, in which corporations are shamed, pressured, and subjected to financial sanctions, for directly or indirectly violating human rights.

146. See *Israel-PLO Recognition*, *supra* note 21. For example, in September 2009, the Norwegian Sovereign Foundation announced that it had decided to divest from the Elbit company, which provided security systems for the construction of the wall. The reason for this divestment was that given the advisory opinion, no matter if true or not, the risk of the Norwegian investment promoting human rights violations, as opposed to the directives of the Sovereign Foundation’s Ethics Council, is increased. See *Recommendation on the exclusion of the company Elbit Systems Ltd*, GOVERNMENT.NO (Sept. 3, 2009), bit.ly/2RcQ5pA.

V. CONCLUSION: IS THE ECONOMIC BOYCOTT SUCCESSFUL?

This Article aimed to demonstrate that, in order to fully understand the current surge in calls for the economic boycott of Israel and the Israeli settlements, it must be perceived in a broader socio-economic context, particularly against the backdrop of the rise of human rights discourse and the ongoing change in social expectations of business corporations during the last few decades. The Israeli public's common response, which holds the calls for boycott and the corporate practices they engender to primarily be a manifestation of anti-Israeli and anti-Semitic sentiment, fails to take these contexts into account, especially that of business corporations' and corporate officials' need for public legitimacy, a need which is certainly augmenting in the current era of increasing inequalities and growing social and political rage. It also ignores the continuation of Israel's allegedly temporary control of the Occupied Territories, which gives rise to fury and despair.

Does the boycott campaign have a practical effect on reality on the ground? Apparently, it is too early to tell. On the one hand, it is a non-violent struggle. In contrast with the bloodshed which characterized the Israeli-Palestinian conflict in past decades, the attempt to utilize an economic boycott is certainly a novel approach: it constitutes a political-economic step, which may also be seen as a development within the right for freedom of expression, calculated for exerting constant economic pressure that will lead to an Israeli withdrawal from the Occupied Territories. Thus, it echoes historical struggles such as the struggle against the Apartheid Regime in South Africa or the struggle against slavery, and the glory of these struggles is certainly reflected upon it. The various rather minor victories that the BDS campaign may take credit for—G4S having its contracts cancelled, companies such as SodaStream and AFI group having ceased activities beyond the pre-1967 border, world-leading institutional investors having divested from Israeli companies, etc.—carry a psychological impact that might gradually affect international public opinion, perhaps even bolster the so called “Silent Boycott”—the resolution of more and more business to simply “have no dealings” with Israel, without publicly voicing an opinion.¹⁴⁷ In this regard, Israeli exporters' relatively high dependency of the European market, which is more mindful of human rights discourse, may be Israel's Achilles' Heel.¹⁴⁸ Therefore, the economic-

147. See Yuval Azulay, *Israeli industrialists set up BDS hotline for exporters*, GLOBES (Aug. 9, 2015, 6:35 PM), en.globes.co.il/en/article-israeli-industrialists-set-up-bds-hotline-1001059637.

148. Former Treasury Minister Yair Lapid, for example, warned that, in light of Israel's exports-driven economy, the boycott might hurt “everyone's pocket.” Ali Abunimah, *Growing*

political pressure that the EU exerts on Israel is highly important, given that Israel-EU cooperation agreements affect many spheres of the Israeli economy, notably academia. The more the attempts at blurring the differentiation between Israel and the Settlements continue to increase, the more the EU Boycott aspect is liable to become increasingly pronounced, thereby deterring European corporations from further consolidating relations with Israel and perhaps even leading certain governments (including those of non-European countries) to impose sanctions on Israeli corporations, such as banks and infrastructure companies, which operate in the Settlements as well. In this sense, the future may hold a growing similarity between the BDS campaign and EU policy. The November 2019 ruling of the European Court of Justice in the *Psagot* case, requiring European countries to clearly label food products manufactured beyond the pre-1967 borders, is perhaps the bellwether of future events.¹⁴⁹

But then again, the indiscriminate boycott of both Israel and the Settlements, and more importantly, the ambivalence regarding the state of Israel and its very right to exist, emphasized by the BDS demand for the application of the right of return for millions of Palestinian refugees,¹⁵⁰ could fail the BDS campaign, as Noam Chomsky argued,¹⁵¹ because of its meager chances to gain legitimacy. Moreover, the excellent (at least, pre-COVID-19) macroeconomic figures—continued economic growth, continued increase in foreign investment, the growing availability of export markets in countries which are somewhat less mindful of human rights—seem to indicate that the Israeli economy is robust, standing a good chance of weathering the economic boycott attempts. Additionally, the fact that most Israeli exports to Europe—including rubber products, chemistry, computing and more—are not consumed as end products by average individuals, further reduces the boycott’s impact. The limited capacity of the Palestinian struggle to

boycott will “hit each of us in the pocket” warns Israel finance minister, ELECTRONIC INTIFADA (Jan. 11, 2014), electronicintifada.net/blogs/ali-abunimah/growing-boycott-will-hit-each-us-pocket-warns-israel-finance-minister. A 2015 report by the RAND Corporation estimates potential economic damages of the BDS campaign to Israeli economy at no less than fifteen billion U.S. dollars. C. ROSS ANTHONY, DANIEL EGEL, CHARLES P. RIES, CRAIG A. BOND, ANDREW LIEPMAN, JEFFREY MARTINI, STEVEN SIMON, SHIRA EFRON, BRADLEY D. STEIN, LYN SAY AYER, & MARY E. VALANA, RAND INSTITUTE, *THE COSTS OF THE ISRAELI-PALESTINIAN CONFLICT* xxxii (2015), www.rand.org/content/dam/rand/pubs/research_reports/RR700/RR740-1/RAND_RR740-1.pdf.

149. See Case C-363/18, *Organisation juive européenne and Vignoble Psagot Ltd v. Ministre de l’Économie et des Finances*, 2019 E.C.R. 954.

150. See ADI SCHWARTZ & EINAT WILF, *supra* note 28 and accompanying text; Chomsky, *supra* note 29 and accompanying text.

151. Chomsky, *supra* note 29.

affect geopolitical forces in the international arena is further illustrated by the very limited success of the cultural and the sporting boycotts, particularly against the backdrop of the current U.S. administration's solid support of Israel. This support was further affirmed by the January 2020 "Deal of the Century" Peace Plan and its assertion of Israel's right to annex all Israeli settlements. In fact, the peace agreements that were signed between Israel and the UAE and Bahrain in September 2020 may further weaken the BDS campaign efforts.¹⁵²

On a final note, the Israeli government's counter-offensive to the BDS campaign, currently waged by the Ministry of Strategic Affairs, must also be mentioned. This ministry, which boasts a considerable,¹⁵³ albeit non-transparent,¹⁵⁴ budget, has garnered multiple successes, including the drying out of state funding for BDS-supporting organizations, as well as the passing of various legislation, especially in the U.S.,¹⁵⁵ imposing sanctions on bodies and businesses involved in the boycott of Israel. In light of Israel's own legislation, which in recent years has much escalated its battle against the boycott campaign, from the anti-boycott law, through

152. See, e.g. Ahmad Melhem, *Israel boycott movement furious at UAE over deal to import wine from occupied Golan Heights*, AL-MONITOR (Nov. 3, 2020), <https://www.al-monitor.com/pulse/originals/2020/11/israel-uae-deal-wine-golan-heights-palestinians-boycott.html>; Emily Schrader, *With the UAE deal, the BDS movement is over*, JERUSALEM POST (Sept. 1, 2020 10:09 AM), <https://www.jpost.com/opinion/with-the-uae-deal-the-boycott-divestment-and-sanctions-movement-is-over-640622>.

153. Itamar Eichner, *Government creates joint program for rapid BDS response*, YNETNEWS (Dec. 29, 2017, 9:02 AM), <https://www.ynetnews.com/articles/0,7340,L-5063599,00.html>. In a 2019 paper, Barkay and Shamir present the efforts of the "Maala" organization, a civil organization that endeavors to promote corporate responsibility in Israel, to prevent the framing of the BDS campaign in the vocabulary of human rights and corporate responsibility. This is, mainly through holding international conventions featuring prominent actors of the global CSR field, which showcase, among other things, the contention of the BDS anti-Semitism, and corporate activity in the occupied territories is framed in terms of economic development and job creation. These conferences are funded by the Ministry of Strategic Affairs and Public Diplomacy. Tamar Barkay & Ronen Shamir, *Israel vs. BDS: Corporate Social Responsibility and the Politics of Human Rights*, 17 GLOBALIZATIONS 698 (2019).

154. In October 2019, the Israeli Supreme Court rejected an appeal on the District Court's decision to approve the Ministry of Justice's refusal to disclose details about the identities of the international law firms and the nature of the services supplied in the fight against BDS activists and movement in Europe. APA 6863/18 Snitz vs. Ministry of Justice, (2019) (Isr.) [Hebrew].

155. *Anti-Semitism: State Anti-BDS Legislation*, JEWISH VIRTUAL LIBRARY, www.jewishvirtuallibrary.org/anti-bds-legislation (last visited Dec. 5, 2019). For a critical analysis of said legislation, see S.C. Code Ann. 11-35-5300 (2015), HARV. L. REV. (May 10, 2016), harvardlawreview.org/2016/05/s-c-code-ann-11-35-3500-2015. American Human Rights organizations have started a legal campaign to strike down these laws, claiming that they violate the freedom of political expression. See *State Law Requires Contractors to Sign Document Promising Not to Boycott Israel*, ACLU (Dec. 7, 2017), bit.ly/2ROtHbb.

denying boycott supporters entry to Israel¹⁵⁶ and introducing a “blacklist” of organizations (including Jewish organizations) supporting the boycott,¹⁵⁷ to the initiative of creating a database of Israeli civilians who support the BDS movement¹⁵⁸ and establishing a unit dedicated to the denigration of boycott supporting organizations,¹⁵⁹ it may be said ironically that to a large extent, the current Israeli position’s interests lie with the BDS campaign’s position, as they both strongly object to any attempts at differentiating Israel from Israeli settlements, contrary to the EU’s approach. The questions which are still open to debate are those pertaining to said governmental counter-offensive’s potential impact on Israeli democracy, including this—whether and to what extent the end should and can serve to justify the means.

156. Entry into Israel (Amendment No. 28) Law, 5777-2017, SH No. 2610 p. 548 (Isr.). The law has garnered public attention against the backdrop of the October 2018 denial of entry to American student Lara Alqasem. For a description of the affair, see e.g., *Israel must lift its bar on US student Lara Alqasem*, THE GUARDIAN (Oct. 13, 2018, 1:02 PM), <https://www.theguardian.com/world/2018/oct/10/israel-must-lift-its-bar-on-us-student-lara-alqasem>.

157. Noa Landau, *Israel Publishes BDS Blacklist: These Are the 20 Groups Whose Members Will Be Denied Entry*, HAARETZ (Jan. 7, 2018), www.haaretz.com/israel-news/israel-publishes-bds-blacklist-these-20-groups-will-be-denied-entry-1.5729880.

158. Barak Ravid, *Israeli Ministry Trying to Compile Database of Citizens Who Support BDS*, HAARETZ (Mar. 21, 2017), www.haaretz.com/israel-news/ministry-trying-to-compile-database-of-israelis-who-support-bds-1.5451338.

159. Amir Oren, *Israel Setting Up ‘Dirty Tricks’ Unit to Find, Spread Dirt on BDS Groups*, HAARETZ (June 19, 2016), www.haaretz.com/israel-news/.premium-israel-setting-up-dirty-tricks-unit-to-spread-dirt-on-bds-groups-1.5397740.