

The Case for Divestment from Companies Benefitting from Violations of International Law and Human Rights Abuses in the Occupied Palestinian Territories

September 2, 2014

www.uoftdivest.com

www.utgsu.ca/bds

Opened for endorsement by teaching staff, students, administrative staff, and alumni of the University of Toronto on September 2, 2014.

Purpose of this Brief

This brief explains why divestment from three companies — Northrop Grumman, Hewlett Packard, and Lockheed Martin — is important for the University of Toronto to end its involvement in socially injurious activities and violations of international law. This brief follows the UofT's Policy on Social and Political Issues with Respect to University Divestment¹ and provides a comprehensive and well-documented case for divestment from these three companies, as they manufacture and sell weaponry and other technologies which cause social injury to Palestinians in the West Bank and Gaza Strip and violate international law and internationally recognized human rights.

The petitioners who are supporting this proposal have affirmed that they have read and agree with this brief as a whole.

The brief is available at: www.uoftdivest.com

Contributors to the writing of this brief include: members of the University of Toronto Graduate Students' Union (UTGSU) BDS Ad Hoc Committee and Students Against Israeli Apartheid at the University of Toronto (SAIA UT).

Please contact divest@utgsu.ca with any questions or comments, or if you would like to sign the petition in person.

¹ See Appendix A for the full policy.

Table of Contents

EXECUTIVE SUMMARY	4
SECTION 1: HOW IS THE UNIVERSITY OF TORONTO INVESTED IN ISRAEL’S OCCUPATION AND WAR CRIMES?	7
SECTION 2: SOCIAL INJURY: HUMAN RIGHTS ABUSES AND VIOLATIONS OF INTERNATIONAL LAW.....	8
SECTION 3: FURTHER ELABORATION ON THE LEGAL AND POLITICAL CONTEXT OF ISRAELI OCCUPATION.....	22
SECTION 4: THE UNIVERSITY OF TORONTO’S INVESTMENT IN <u>NORTHROP GRUMMAN</u>:	26
SECTION 5: THE UNIVERSITY OF TORONTO’S INVESTMENT IN <u>HEWLETT PACKARD</u>:	29
SECTION 6: THE UNIVERSITY OF TORONTO’S INVESTMENT IN <u>LOCKHEED MARTIN</u>:.....	33
SECTION 7: LEARNING FROM HISTORY: INTERNATIONAL LAW HAS SETTLED THE DEBATE ON DIVESTMENT.....	36
SECTION 8: CALL TO ACTION	39
APPENDIX A: POLICY ON SOCIAL AND POLITICAL ISSUES WITH RESPECT TO UNIVERSITY DIVESTMENT.....	40

Executive Summary

An examination of the current investments held by the University of Toronto (UofT) raises serious concerns regarding the university's complicity in socially injurious activities in the Occupied Palestinian Territories (OPT) (as well as potentially elsewhere in the world). This report focuses on three companies whose shares are held in the Pension Master Trust and the Long Term Capital Appreciation Pool. We have found serious concerns with the university's holdings in the following three U.S. companies: Northrop Grumman Corp., Hewlett Packard Co., and Lockheed Martin Corp.

This report highlights the active involvement of these companies in significant violations of international law and human rights abuses in the OPT and raises issues of complicity in the commission of crimes under international law. UofT's own responsibilities under international law are examined and precedents for taking action are detailed.

The breaches of international law in which the named companies are demonstrably involved comprise a wide range of violations. The following is a brief summary of the most egregious instances of their involvement:

Northrop Grumman Corp.	Contributed to the production of various components and weapons used in the killing of civilians by Israel in its 2008/09 and 2014 attacks on Gaza, including the Longbow Hellfire 2 missile, the Apache AH64D Longbow helicopter and the F-16 bomber jet.
Hewlett Packard Co.	Implicated in the ongoing collective punishment of Palestinians through its involvement in checkpoint technologies used in the West Bank and information technology infrastructure used to facilitate the ongoing naval blockade of Gaza.
Lockheed Martin Corp.	Involved in the manufacture and supply of F-16 bomber jets and Hellfire missiles to Israel, which have together contributed to hundreds of civilian deaths in both Gaza and Lebanon.

On account of their involvement in these violations, these companies have all become central targets in campaigns across the world that seek to call on institutions such as governments, universities, and churches to divest their funds from companies that profit from Israeli occupation and war crimes. A diverse range of institutions have already committed to divesting and/or calling for divestment from one or more of the named companies, including: the government of Norway, the British University and College Union, Cardiff University, University of California Santa Cruz, DePaul University, Hampshire College, Carleton University, the Quaker Friends Fiduciary Corporation, the Presbyterian Church USA, and the United Methodist Church.

This brief is being sent to the Office of the President of UofT to call on UofT to follow the noble lead of these institutions and divest from companies that are complicit in Israel's war crimes and violations of international law. The report includes the following sections, intended to provide a detailed background on the issues at hand:

Section 1: How is UofT invested in Israel's occupation and war crimes? Describes the structure of UofT's equity holdings, and provides details about UofT's investments in the three named companies.

Section 2: Social Injury: Human Rights Abuses and Violations of International Law provides a detailed explanation of the characteristics that define the Israeli occupation of Palestine, including checkpoints and movement restrictions, the Wall, the blockade of Gaza, Operation Cast Lead (2008-2009), and Operation Protective Edge (2014) in addition to the broader issues of colonialism and apartheid.

Section 3: Further Elaboration on the Legal and Political Context of Israel's Occupation delves further into the context by describing the legal and political basis upon which accusations of war crimes and possible crimes against humanity are based. Specifically highlighted are the 2004 Advisory Opinion of the International Court of Justice; Articles 49 and 147 of the Fourth Geneva Convention; United Nations Security Council Resolutions 446, 452, 465, and 471; Article 8 of the Rome Statute of the International Criminal Court; and the Report of the UN Fact Finding Mission on the Gaza Conflict. UofT's obligations under the Nuremburg Principles as well as Canadian domestic law are subsequently outlined.

Sections 4 through 6 detail the manner in which the three named companies contribute to Israel's violations of international law and enact social injury. Each company profile includes a general background, how UofT is invested, the violations of international law it is involved in, and a description of other divestment campaigns by which it has been and continues to be targeted.

Section 7: Learning from History: International Law has Settled the Debate on Divestment argues that the academic debate has been had within the international community and provides a reflection on UofT's participation in the movement to divestment from South African Apartheid.

Finally **Section 8: Call to Action** details the following three specific actions for the UofT President and Governing Council to take:

Actions

Based on the findings of the report and in the spirit of democratic governance, we call upon UofT to:

- 1) immediately divest of its stock in Northrop Grumman, Hewlett Packard and Lockheed Martin;
- 2) form a committee of Governing Council to review all companies involved in violations of international law around the world; and
- 3) refrain from investing in all companies involved in violations of international law. With respect to Palestine, this entails following the guidelines put forth by Students for Justice in Palestine in the historic divestment by Hampshire College. (See Section 8 for details.).

Section 1: How is the University of Toronto invested in Israel's occupation and war crimes?

After an examination of the current equities held by UofT in the Pension Master Trust and Long Term Capital Appreciation Pool, we have found the university's holdings in Northrop Grumman Corp., Hewlett Packard Co., and Lockheed Martin Corp. to be contrary to UofT's stated commitment to equity, social justice and human rights.² Furthermore, these three companies are benefitting from the social injury illegally enacted on Palestinians by the state of Israel in the OPT.

A review of recent human rights reporting indicates that each of these companies is implicated in significant violations of international humanitarian law, including grave breaches of the Fourth Geneva Convention amounting to war crimes. The three companies contribute extensively to these violations by:

- Manufacturing weapons and weapon components that are used to kill and maim Palestinian civilians; and/or
- Materially supporting and economically developing the illegal Israeli settlements and checkpoints in the occupied West Bank, thereby entrenching the occupation of Palestinian land; and/or
- Perpetuating Israel's illegal siege of Gaza and its discriminatory practices and policies against Palestinians, both in the OPT, and within Israel.

These companies reap profits from Israel's ongoing occupation of Palestinian land and violations of Palestinian rights. By investing in these firms in spite of their actions, UofT not only violates its stated ethical principles, but as well becomes complicit in their breaches of international law and violations of human rights. Given its mandate to establish the university's policies governing its investments³, the Governing Council has the authority and obligation to ensure that these investments comply with ethical and legal standards.

² Governing Council. (June 25, 1992). Statement on Human Rights. University of Toronto. Retrieved from: <http://www.governingcouncil.utoronto.ca/policies/hrights.htm>

³ Governing Council. (April 28, 2008). Investment, Delegation of Authority to the University of Toronto Asset Management Corporation (UTAM). University of Toronto. Retrieved from: <http://www.governingcouncil.utoronto.ca/Assets/Governing+Council+Digital+Assets/Policies/PDF/investutam.pdf>

Section 2: Social Injury: Human Rights Abuses and Violations of International Law

According to the University of Toronto's *Policy on Social and Political Issues With Respect to University Divestment*, social injury is the

injurious impact which the activities of a company are found to have on consumers, employees, or other persons, particularly including activities which violate, or frustrate the enforcement of rules of domestic or international law intended to protect individuals against deprivation or health, safety or basic freedoms . . .⁴

Numerous respected international authorities have concluded that the systematic violence the Israeli Defense Force (IDF) employs against Palestinians constitutes grave human rights abuses, flagrant violations of international law and war crimes. By providing arms, weapons, and military surveillance equipment and programs to the IDF, Lockheed Martin, Northrop Grumman and Hewlett Packard should be considered to be committing grave social injury. The prospect of changing this behavior through engagement or dialogue appears to be nil. UofT's divestment from these three companies will increase international calls to end Israel's human rights abuses and violations of international law, which include the following:

- The post-1967 occupation of the West Bank and Gaza;
- The settlement infrastructure in the West Bank;
- The refusal to recognize the rights of Palestinian refugees and internally displaced Palestinians to return or receive compensation;
- Systematic discrimination against Palestinian citizens of Israel;
- Arbitrary detention, torture, and collective punishment of Palestinians;
- The destruction of infrastructure and the economy of Palestinian people in the OPT, inside Israel and in southern Lebanon;
- The siege on the Gaza Strip; and
- Numerous alleged war crimes committed against the Palestinian people in the occupied West Bank, in Lebanon, and especially during the bombardment of Gaza in 2008/09, as well as most recently in July/August 2014.

In this section, we will briefly define several key areas of concern that hold consequences for Palestinian rights.

Establishment of Jewish-only Colonies ("Settlements")

Since its 1967 occupation of the West Bank and Gaza Strip, Israel has been building settlements on occupied Palestinian land. At the end of 2012, Jewish settlers lived in 121 Israeli-government officially recognized colonies in the West Bank, occupied East Jerusalem and the Golan Heights. As will be detailed below, although these colonies are officially recognized by Israel, they are illegal under international law. There were also approximately 100 so-called "illegal" outposts, which are illegal under Israeli law and international law. As of July 2012, according to the Israeli Interior Ministry,

⁴ See Appendix A for the full policy document.

350,150 Jewish settlers live in officially recognized settlements in the West Bank; 300,000 in East Jerusalem; and 20,000 in the Golan Heights.⁵

Settlers have virtual impunity in the West Bank. They regularly commit violent attacks against Palestinians and their property, without fear of repercussions, often with support from the military itself.⁶

These colonies clearly violate two articles of the Fourth Geneva Convention; namely:

Article 49 which states: "...The Occupying Power shall not deport or transfer parts of its own civilian population in territory it occupies."⁷

On December 5, 2001, 114 of the "High Contracting Parties" (i.e. the sponsors) of the Fourth Geneva Convention unanimously "re-affirmed the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem."⁸ In addition, they "reaffirmed the illegality of the settlements in the said territories and the extension thereof."⁹

Moreover, the Oslo Accords stipulated that neither side would take any step that would change the status of the West Bank and the Gaza Strip pending the outcome of permanent status negotiations. However, the colonization of the OPT has continued unabated. Even admonitions from the U.S. State Department have not stopped Israel from continuing its settlement construction.^{10 11} Settlement construction also includes the building of Israeli-only by-pass roads from Israel to the settlements and between settlements, as well as the Jerusalem Light Rail connecting Jerusalem to these illegal settlements.^{12 13} At present, based on the result of numerous UN resolutions that cite Article 49 of the Geneva Convention, the consensus of the international community is that Israeli settlements are illegal and constitute a violation of international law.^{14 15} According

⁵ Sherwood, Harriet. "Population of Jewish settlements in West Bank up 15,000 in one year." The Guardian (London): <http://www.theguardian.com/world/2012/jul/26/jewish-population-west-bank-up>

⁶ UN Office for the Coordination of Humanitarian Affairs occupied Palestine territories (Dec. 2008) Unprotected: Israeli settler violence against Palestinian civilians and their property. Retrieved from: <http://unispal.un.org/UNISPAL.NSF/0/665317F0F18D199B852575230075076D>

⁷ The articles of the Fourth Geneva Convention may be viewed at the International Committee of the Red Cross website - <http://www.icrc.org/ihl/INTRO/380>.

⁸ "Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports." International Court of Justice, 2004, p. 136. ISBN 92-1-070993-4

⁹ Ibid.

¹⁰ I24 News (2013) Israel to announce construction despite US warning. Retrieved from: <http://www.i24news.tv/en/news/israel/diplomacy-defense/131225-israel-to-announce-construction-despite-us-warning>

¹¹ The Telegraph (2013) Israel to announce settlement building despite pleas. Retrieved from: <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/10538192/Israel-to-announce-settlement-building-despite-pleas.html>

¹² B'Tselem (2004) Forbidden Roads: Israel's Discriminatory Road Regime in the West Bank. Retrieved from: http://www.btselem.org/download/200408_forbidden_roads_eng.pdf

¹³ Jews for Justice for Palestinians (2014) The Jerusalem Light Railway (JLR) and Veolia's other business activities in the Occupied Palestinian Territory [updated 13th June 2014. Retrieved from: http://jffjp.com/?page_id=30824

¹⁴ Emma Playfair (Ed.) (1992). International Law and the Administration of Occupied Territories. USA: Oxford University Press. p. 396.

¹⁵ Roberts, Adam (1990-01-01). "Prolonged Military Occupation: The Israeli-Occupied Territories Since 1967". The American Journal of International Law 84 (1): 44–103 [69].

to the BBC, every government in the world, except Israel, considers the settlements to be illegal.¹⁶

Checkpoints and Movement Restrictions

Checkpoints and other obstacles to free movement restrict many of the main routes in the occupied West Bank, making travel to school, work, places of trade, or medical care extremely difficult, time-consuming, humiliating, and dangerous for Palestinians, as well as shackling the Palestinian economy by restricting both internal and external trade.¹⁷ The checkpoint regime and the movement restrictions are part of what Jeff Halpern, Director of the Israeli Committee Against House Demolitions, calls a “matrix of control,” “that serves to perpetuate the Occupation, to administer it with a minimum military presence.”¹⁸ The checkpoints not only severely restrict Palestinian daily life, but they are the infrastructure that facilitates Israel’s ongoing occupation and colonization of Palestinian land. The checkpoint regime and Israel’s separation wall (see below) confine Palestinians within smaller and smaller isolated and fragmented parcels of territory as Israel expands illegal colonies on occupied Palestinian land.

According to B’Tselem, an Israeli human rights organization, there were 99 fixed checkpoints in the West Bank in February 2014, in addition to 174 surprise flying checkpoints that deprive Palestinians of the basic right to freedom of movement. In August 2013, 288 flying checkpoints were counted. At the close of 2012, the UN Office for the Coordination of Humanitarian Affairs counted an average of 532 physical obstructions a month, including roadblocks, earth mounds, earth walls, road gates, road barriers, and trenches.¹⁹ The 99 permanent checkpoints “form the most severe restriction on movement of Palestinians, who are subjected to checks that often cause prolonged delays. At some checkpoints, soldiers bar all Palestinians from crossing except for those who have special permits.”²⁰

The barriers have severely damaged the Palestinian economy, especially farming, tourism, and access to jobs.²¹ They also greatly impede Palestinians’ ability to obtain proper medical treatment in several ways. For instance, Palestinians, including pregnant women, must get permits (which are valid only for a few days) to get to hospitals in East Jerusalem. In emergencies, this is often impossible. According to B’Tselem:

In many cases, the way to the hospital is blocked, so the sick and injured have to travel on long, winding, and worn roads. These alternate roads often lead to a staffed checkpoint, where they are forced to wait and undergo checks. In other cases, access to medical treatment is prevented, as ill and wounded persons are unable to receive emergency medical treatment when checkpoints are closed at night, and whole

¹⁶ BBC (2008) Concern over Israel settlement exports. Retrieved from: <http://news.bbc.co.uk/2/hi/7708244.stm>

¹⁷ UN Office for the Coordination of Humanitarian Affairs occupied Palestine territories (Jun 2010) West Bank Movement and Access Update. Retrieved from: <http://domino.un.org/unispal.nsf/0/4694c27bf640414685257744004ace17?OpenDocument>

¹⁸ Halpern, Jeff “The Matrix of Control: An Introduction.” Retrieved from: <http://www.icaqd.org/node/398>

¹⁹ B’Tselem (2013) Checkpoints, Physical Obstructions, and Forbidden Roads. updated November 2013. Retrieved from: http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads

²⁰ B’Tselem (2009) Restrictions on Movement: Information on checkpoints and roadblocks. Retrieved from: http://www.btselem.org/English/Freedom_of_Movement/Statistics.asp

²¹ United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian Territory (July 2009) Five Years after the International Court of Justice Advisory Opinion: A Summary of the Humanitarian Impact of the Barrier. Retrieved from: <http://unispal.un.org/UNISPAL.NSF/0/28D7DCBF88FAB7228525760E0062F46D>

Palestinian communities are blocked from entering or leaving by vehicle, including by ambulance.²²

The Palestinian Red Crescent Society recorded 440 delays and denials of ambulances in 2009 alone.²³

Although Israel claims these measures are necessary to bolster Israel's security, the vast majority of the obstacles are scattered within the West Bank and are not limited to the border itself. Most of the 39 checkpoints leading to Israeli territory "are located well inside the West Bank, up to several kilometres from the Green Line."²⁴ Furthermore, despite the fact that, in late 2009, Israel eliminated some barriers, the United Nations Office for the Coordination of Humanitarian Affairs in the OPT concluded that this had not significantly improved Palestinian access to their land.²⁵ Moreover, the International Court of Justice (ICJ) has ruled that Israel violates basic human rights by impeding liberty of movement and the inherent right to work, education, and adequate standard of living.^{26 27}

Home Demolitions and Other Collective Punishment

According to the Israeli Committee Against Home Demolitions, the Israeli government has demolished 27,000 Palestinian homes and other structures (livestock pens and fences, crucial for livelihood) in the OPT including East Jerusalem.²⁸ Vast areas of cultivated land, hundreds of factories and other commercial properties, roads and public buildings have also been destroyed.

In addition to the homes Israel has destroyed, thousands of Palestinian homes have been ruined or significantly damaged by Israel's bombing or shelling. The UN Office for the Coordination of Humanitarian Affairs reports that during Israel's 'Operation Cast Lead' assault on Gaza from December 27, 2008 to January 18, 2009, "3,540 homes were destroyed in the course of hostilities, 2,870 homes were severely damaged and 52,900 homes sustained minor damage. Some 2,618 homes destroyed or damaged beyond repair during 'Cast Lead' await rebuilding, primarily due to the blockade and restrictions on the entry of construction materials through the Kerem Shalom crossing."²⁹ In Israel's latest military aggression against Gaza 'Operation Protective Edge' in 2014, the Palestinian Minister of Public Works has said that over 10,000 homes were destroyed and an additional 30,000 or more partially damaged, while reports estimate over 450,000 Palestinians have been

²² B'Tselem (2009) Infringement to the Right to Medical Treatment in the West Bank. Retrieved from: http://www.btselem.org/english/Medical_Treatment/Index.asp

²³ Palestinian Red Crescent Society (2009) Humanitarian Duty Report 2009. Retrieved from: <http://www.palestinercs.org/reports/PRCSHumanitarianDutyReport2009.pdf>

²⁴ B'Tselem (2009) Restrictions on Movement: Information on checkpoints and roadblocks. Retrieved from: http://www.btselem.org/English/Freedom_of_Movement/Statistics.asp

²⁵ United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian Territories (Nov. 2009) West Bank Movement and Access Update. Retrieved from: http://www.ochaopt.org/documents/ocha_opt_movement_access_2009_november_english.pdf

²⁶ International Court of Justice (2004) Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Request for advisory opinion). Retrieved from: <http://www.icj-cij.org/docket/files/131/1677.pdf>

²⁷ Hassan Ould Moctar (2014) The Apartheid Wall: Israel Continues to Defy the International Court of Justice (ICJ) with Impunity. Centre for Research on Globalization. Retrieved from: <http://www.globalresearch.ca/the-apartheid-wall-israel-continues-to-defy-the-international-court-of-justice-icj-with-impunity/5390862>

²⁸ Israeli Committee Against House Demolitions (2014). "Get the Facts." <http://www.icahd.org/the-facts>

²⁹ United Nations Office for the Coordination of Humanitarian Affairs (2012). "Military operations displacing Palestinians": <http://www.ochaopt.org/annual/c2/8.html>

displaced, with the UN calling the level of destruction “unprecedented.”^{30 31 32}

Israel's policies of home demolitions and other forms of collective punishment again violate articles of the Fourth Geneva Convention; namely:

Article 33, which stipulates: "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited...Reprisals against protected and their property are prohibited."

Article 33, which states: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons...is prohibited, except where such destruction is rendered absolutely necessary by military operations."

Yet, the reality is that Israel systematically uses policies of collective punishment against the Palestinian people in violation of international law. Israel's “Dahiya Doctrine”, a military doctrine of disproportionate force that guided Israel's military operations against Gaza in 2008 and in 2014, explicitly calls for “the destruction of the national [civilian] infrastructure, and intense suffering among the [civilian] population,” as part of its military strategy.³³ During the latest Israeli attack on Gaza, Israel deliberately inflicted unimaginable devastation on civilian areas by systematically bombing civilian homes, killing family after family inside their own houses, bombarding residential areas, and razing entire neighbourhoods to the ground,³⁴ in addition to bombing the UN schools where civilians had fled and sought refuge,³⁵ all of which constitute egregious violations of international law.

Israel's Separation Wall

Plans for Israel's Separation Wall, known colloquially to Palestinians as the "Apartheid Wall", were prepared by former Israeli prime minister Ariel Sharon and actual construction began in 2002. The Wall is a complex aggregation of fences, concrete, barbed wire, sensors, electronic devices, roads and towers extending over 720 kilometres (five times the length of the Berlin Wall), and 8 meters high (while the average height of the Berlin Wall was 3.6 meters). The Wall isolates dozens of Palestinian towns and villages from their farmland, encircles some of them completely leaving only one entrance, usually a gate that is controlled by the Israeli military that is only opened for a few hours each day. The wall severely hinders the movement of Palestinian civilians making education, medical treatment, trade and daily life very difficult, and often impossible, in addition to threatening the survival of Palestinian communities that are enclosed behind the wall by depriving them of access to their land, resources and markets.

³⁰ Ma'an News Agency (2014) Israel has caused '\$5 billion' damage to Gaza homes, infrastructure. Retrieved from: <http://www.maannews.net/eng/ViewDetails.aspx?ID=718079>

³¹ Alternative Information Center (2014) Statistics on the Israeli offensive against Gaza. Retrieved from: <http://www.alternativenews.org/english/index.php/politics/politico/8369-statistics-on-the-israeli-offensive-against-gaza>

³² The Guardian (2014) Gaza homes 'uninhabitable' as tens of thousands come back to rubble. Retrieved from: <http://www.theguardian.com/world/2014/aug/11/damage-gaza-homes-israel-hamas-conflict>

³³ SOAS Palestine Society (2009) Tel Aviv University – A Leading Israeli Military Research Centre. Retrieved from: <http://pacbi.org/pics/file/SOAS-Palestine-Society-Paper-TAU-Military-Complicity-Feb-2009.pdf>

³⁴ Palestinian Center for Human Rights (2014) Press Release On the 27th Day of the Israeli Offensive. Retrieved from: http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=10561:on-the-27th-day-of-the-israeli-offensiverafah-under-israeli-fire-war-crimes-committed-against-palestinian-civilians-complete-families-annihilated&catid=36:pchrpressreleases&Itemid=194

³⁵ Sherwood, Harriet (2014) UN Dragged into Conflict Between Israel and Hamas in Gaza. Retrieved from: <http://www.theguardian.com/world/2014/aug/04/un-dragged-conflict-israel-hamas-gaza>

The Israeli government claims that the Apartheid Wall is ostensibly to prevent “uncontrolled entry of Palestinians into Israel.”³⁶ However, this assertion is belied by the wall’s annexation of Palestinian land and water resources. The wall is effectively an instrument of colonization; it expropriates Palestinian land and confiscates Palestinian natural resources. Once completed, approximately 86 percent of the Wall will be inside the occupied West Bank, expropriating a further 11.8 percent of West Bank land, in addition to main Palestinian water aquifers in the West Bank and directly restricting the lives of almost half a million Palestinians.³⁷ Together with the settlements, military zones, ditches and settler-only bypass roads, the wall will de facto annex nearly 50 percent of West Bank land and divide the territory into six ghettos.

The Wall also destroys land and trees while isolating thousands of dunums³⁸ for the use of settlements. In 2007 alone, 3,143 dunums of land were confiscated, and over 2,480 olive trees were uprooted.³⁹ Since October 2003, the land between the Wall and the Green Line in the northern part of the West Bank has been declared a closed military area, and the people living there are now required to obtain “permanent resident permits” or leave, and others must get special permits to even enter the area.⁴⁰ In January 2009, additional areas in the central and southern part of the West Bank were declared closed military zones and farmers have had to request “visitor permits” to access their own olive groves.⁴¹

The Wall also serves as a pretext for home demolitions. Demolition orders can be issued to any family whose home is in the path of the Wall or is deemed to be too close to the Wall, regardless of the fact that most of these homes were built long before the Wall was constructed. From 2005 – 2008, 166 houses in the vicinity of the wall and in its path were destroyed and another 754 houses are anticipated to be demolished.⁴²

In 2004, the International Court of Justice declared in a vote of fourteen to one that the Wall constitutes a violation of international law. They stated:

The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law;

Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;

Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Territory, including in and around East Jerusalem . . .

³⁶ B’Tselem (2009) Separation Barrier. Retrieved from: http://www.btselem.org/English/Separation_Barrier/

³⁷ B’Tselem (2009) Separation Barrier Statistics. Retrieved from: http://www.btselem.org/english/Separation_Barrier/Statistics.asp

³⁸ A dunum is a unit of measurement equalling 1,000 square metres.

³⁹ Stop the Wall Campaign. (2008) 2007: Apartheid Wall and Colonial Settlements. Retrieved from: <http://www.stophthewall.org/downloads/pdf/FS07.pdf>

⁴⁰ B’Tselem (2009) Separation Barrier. Retrieved from: http://www.btselem.org/English/Separation_Barrier/

⁴¹ United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian Territory (Nov. 2009) West Bank Movement and Access Update. Retrieved from:

http://www.ochaopt.org/documents/ocha_opt_movement_access_2009_november_english.pdf

⁴² Retrieved from <http://english.dohainstitute.org/release/362ac796e08647f1b49f940fd01ef7ac>

Theft of Palestinian Water

Many settlements are built on prime agricultural land confiscated from Palestinians, or on land that sits above key water resources such as the Western Aquifer basin, springs and wells. Israel retains control over all sources of water in the West Bank and retains significant control over water resources in the Gaza Strip. Israel extracts close to ninety per cent of the water from the aquifer under the West Bank.⁴³ Between 1956 and 1997, Israel took over all water resources through a series of military orders, and prime minister Ariel Sharon handed over control of Palestinian water infrastructure to the Israeli company Mekorot.

Israel and Israeli settlers have also severely and disproportionately strained water resources: Israeli settlers consume 350 litres of water per person a day, while Palestinians consume just 76 litres per person per day.⁴⁴ The World Health Organization defines 100 litres per person as the minimum amount necessary for basic human health. Israel uses 83 percent of Palestinian water in the West Bank, leaving only 17 percent for Palestinians, who make up the majority in the occupied territory.⁴⁵

In the Gaza Strip, the coastal aquifer is Gaza's sole source of fresh water; however, in 2012 the United Nations estimated that 90% of the water aquifer is not safe for drinking and forecast that by 2016 the water from Gaza's only aquifer will be unsuitable for human consumption.⁴⁶ This will leave the over 1.8 million inhabitants in the Strip no alternative but to depend on polluted desalinated brackish water for drinking. The siege and restrictions that prevent the rehabilitation of the water network have led to severe contamination of Gaza's water supply; the UN estimates that the damage will become irreversible by 2020. While Israeli authorities publicly advocate for private water desalination in Gaza, which would require the use of a significant amount of electricity, the blockade they have imposed on Gaza and bombardments in 2008/2009 and 2014, renders this effectively impossible. There is an electricity shortage in Gaza and Israel prevents the entry of essential materials necessary for the construction and rehabilitation of the water network. Currently, eighty per cent of the people in Gaza are forced to buy water from trucks, but with approximately 1.1 million Palestinians in Gaza relying on food aid,⁴⁷ many Palestinians in Gaza are being deprived of the basic right to access uncontaminated drinking water.

Because of Israel's control of Palestinian water, Palestinian citizens of both the West Bank and the Gaza Strip are being told that they must buy desalinated water instead of relying on their rightful access to their own water aquifers.

Furthermore, sixty-nine per cent of the homes in the West Bank are not connected to a main sewage line and instead are dependent on cesspits and septic tanks which are often emptied directly into the surrounding environment. This situation is a direct result of the inability to develop adequate sewage and wastewater treatment and management because of Israeli restrictions. In the Gaza Strip, sixty per cent of households are connected to the sewage network, but the sewage treatment plants are stretched beyond capacity so sewage is dumped directly into the sea daily leading to negative impacts on health.

In addition to the obvious health consequences that stem from such natural resource-related inequalities, this vast disparity has a devastating impact on the Palestinian economy.

⁴³ Thirsting for Justice: Israel's control of water in the occupied Palestinian territory (2013): www.thirstingforjustice.org/.../The-Water-and-Sanitation-Crisis-in-the-oP

⁴⁴ Palestine Hydrology Group. (2006). "Water for Life: The Dilemma of Development Under Occupation." Retrieved from: <http://www.phg.org/wash-mp/index.asp?i=39>

⁴⁵ World Health Organization (April 28, 2005) Health conditions of, and assistance to, the Arab population in the Occupied Arab Territories including Palestine. 58th World Health Assembly Agenda Item 15. Retrieved from: http://apps.who.int/iris/handle/10665/20386?mode=full&submit_simple>Show+full+item+record

⁴⁶ United Nations (2012) Gaza in 2020: A Livable Place? A Report by the United Nations Country Team in the Occupied Palestinian Territory: p. 9. Retrieved from <http://www.unrwa.org/userfiles/file/publications/gaza/Gaza%20in%202020.pdf>

⁴⁷ Ibid: p. 6.

Article 33 of the Fourth Geneva Convention prohibiting pillage by the occupying power applies to Israel's extensive use of Palestinian water resources, especially as the water is denied to the local population.

Detention and Inhumane Treatment of Civilians

Currently 5,023 Palestinian prisoners are held in Israel's jails. These include 17 female prisoners; 154 children (14 of whom are under the age of 16); 12 members of the Palestinian Legislative Council (PLC); and 155 individuals are held under "administrative detention" (these include 10 PLC members) by which Israel arrests and detains prisoners without trial. According to the Addameer prisoner support organization, Israel has detained 800,000 Palestinians since 1967 representing twenty percent of the Occupied Territories and forty per cent of the total male population.⁴⁸

Palestinian prisoners are routinely ill-treated. Palestinians are housed in four interrogation centers, and three detention centers located within the territory of Israel, a violation of Article 47 of The Fourth Geneva Convention which states that "Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein"⁴⁹ (furthermore, Palestinians must obtain permits to enter Israel and their visits are often denied due to "security reasons"). Palestinian prisoners can be interrogated for ninety days and can be denied visits from a lawyer for sixty days. Israeli treatment of prisoners includes physical and psychological torture including isolation and solitary confinement, tying prisoners in stress positions, sleep and sensory deprivation, and making threats against the lives of family members. Since September 29, 2000, 73 Palestinian detainees have died in custody due to torture. Moreover, in the same period, approximately 8,000 children have been detained for various periods of time, subject to harsh mistreatment and interrogation, with over 75% experiencing physical violence.⁵⁰

Forcible Transfers

In July 2002, the Israeli authorities announced their intention to forcibly transfer from the West Bank to the Gaza Strip relatives of people known or suspected of having organized or carried out attacks against Israelis. On August 1, 2002, the IDF West Bank Commander signed an amendment to the Military Order 378 (of 1970, concerning security regulations), which provides for the forcible transfer of Palestinians from the West Bank to the Gaza Strip. This military order has been applied repeatedly since then.

Again, forcible transfer is subject to articles of the Fourth Geneva Convention; namely:

Article 49: "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive."

Article 76: "Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein."

Killing and Maiming of Palestinian Civilians

Since September 29, 2000, at least 9028 Palestinians have been killed due to Israeli-government violence.

⁴⁸ Addameer Prisoner Support and Human Rights Association (2014): <http://www.addameer.org/>

⁴⁹ Addameer Prisoner Support and Human Rights Association (2014): <http://www.addameer.org/>

⁵⁰ Ibid.

Although some Palestinians have died during armed confrontation, the overwhelming majority of the killings by the IDF have been civilians, and over 2000 have been children. Meanwhile, over 69, 276 Palestinians have been injured since 29 September 2000.^{51 52 53}

The report of the United Nations fact-finding investigation surrounding the events in Gaza also concluded that the blockade of Gaza since 2007 has constituted a violation of Israel's obligations as an occupying power.⁵⁴ The naval and land blockade Israel imposes on Gaza has been condemned by United Nations envoy Desmond Tutu, United Nations Human Rights Council Head Navi Pillay, the International Committee of the Red Cross, and other human rights experts who consider the blockade illegal.^{55 56 57}

The detainment of Palestinians without trial, torture of Palestinian prisoners, forcible transfers, and killing of civilians in the OPT are so severe as to be considered "grave breaches" of the Fourth Geneva Convention and are thus legally pursuable as war crimes. Article 14 of the Fourth Geneva Convention, for example, states: "Grave breaches...against persons or property protected by the present Convention [are]: willful killing, torture or inhuman treatment...unlawful deportation or transfer of unlawful confinement of a protected person."

The Gaza Blockade and Operation Cast Lead

More than three-quarters of the 1.8 million people in Gaza are refugees as a result of the 1948 war, known as the Nakba, or the Catastrophe, to Palestinians. Gaza has become one of the most densely populated areas in the world. Prior to the blockade established by Israel in 2006, Gaza had a vibrant economy and most Gazans were self-supporting.⁵⁸

On September 12, 2005, Israeli PM Ariel Sharon unilaterally removed Israeli settlements and troops from Gaza. However, Israel retained full military control over Gaza's land borders, air space, and territorial waters.

In an internationally monitored, democratic election in January 2006, the Change and Reform Party (largely composed of Hamas members) defeated the Fatah party by winning 74 of 134 seats in the Palestinian Legislative Council of the Palestinian Authority, a self-rule body created in 1994, and it formed the new Palestinian government. On March 12, 2006, Israel and its Canadian, US, and EU allies imposed a blockade and boycott on the Gaza Strip until the Hamas government agreed to recognize "Israel's right to exist [as a Jewish state]," renounce violence, and accept agreements made under the previous Fatah-led administration. Israel characterized Hamas as a "terrorist" organization

⁵¹ If Americans Knew (2014). The Impact of the Conflict on Children. Retrieved from:

<http://www.ifamericansknew.org/stat/children.html>

⁵² If Americans Knew (2014) Israelis and Palestinians killed in the current violence. Retrieved from:

<http://www.ifamericansknew.org/stat/deaths.html>

⁵³ If Americans Knew (2014) Israelis and Palestinians injured in the current violence. Retrieved from:

<http://www.ifamericansknew.org/stat/injuries.html>

⁵⁴ UN OCHR (2009) United Nations Fact Finding Mission on the Gaza conflict

⁵⁵ UN News Centre (2012) UN agencies join in shared call for end to Israeli blockade of Gaza. Retrieved from:

http://www.un.org/apps/news/story.asp?NewsID=42227#.U_0eR00g-70

⁵⁶ BBC News (2008) Tutu: Gaza blockade abomination. Retrieved from:

http://news.bbc.co.uk/2/hi/middle_east/7425082.stm

⁵⁷ BBC News (2014) UN's Navi Pillay warns of Israel Gaza 'war crimes' Retrieved from:

<http://www.bbc.com/news/world-middle-east-28437626>

⁵⁸ Lendman, Stephen. (2009). A UN Special Focus on Gaza Under Siege. Centre for Research on Globalization.

Retrieved from: <http://www.globalresearch.ca/index.php?context=va&aid=15020>

and illegally withheld all Palestinian tax revenues, which are paid by Palestinians but collected by Israel. On June 26, 2006, Israel launched “Operation Summer Rain,” extensively bombing Gaza’s civilian infrastructure.

On September 19, 2007, Israel declared Gaza a “hostile territory,” (a term without meaning under international law),⁵⁹ and severely tightened its blockade of Gaza, which severely restricts the amount of goods that are allowed to enter Gaza and bars all exports from the coastal strip, creating the world’s largest open-air prison. Dov Weisglass, advisor to Ehud Olmert the prime minister at the time, ominously described Israel’s policies as putting “the Palestinians on a diet;.” It has since been revealed that Israel has calculated the minimum daily calorie intake that is needed to avoid malnutrition and has often reduced the amount of goods that enter Gaza below this minimum requirement.⁶⁰

Immediately, after the imposition of the siege the people of Gaza were plunged into a severe humanitarian crisis. More than 70 percent of the population became dependent on food aid. The siege has rendered Gaza’s economy “unviable” according to the UN⁶¹, while water and sanitation systems have virtually collapsed.⁶² Mary Robinson, former UN High Commissioner for Human Rights, has voiced alarm that the situation in Gaza was far worse than in towns in the West Bank, suggesting, “Their whole civilisation has been destroyed.”⁶³

On December 27, 2008, Israel launched “Operation Cast Lead,” an unprovoked 23-day massive military assault on the population of Gaza, which left 1,400 people dead, 5,300 injured (most of whom were civilians), and essential infrastructure, industry, and housing destroyed.⁶⁴ The United Nations Human Rights Council (UNHRC) fact-finding mission to Gaza issued a report (which has come to be known as the “Goldstone Report”) on 15 September 2009 concluding that the IDF had committed war crimes and possibly crimes against humanity during Operation Cast Lead.⁶⁵ While the report condemned violations by both sides, it differentiated between the moral and legal severity of the violations of the Israeli forces compared to Hamas and other Palestinian armed groups. The report maintained that Israel had deliberately targeted civilians in violation of the Fourth Geneva Convention, and it disputed Israel’s claim that the Gaza war had been conducted as a response to rockets fired from the Gaza Strip, stating that the war was targeted against the “people of Gaza as a whole”. It further stated that the assault on Gaza was designed to “humiliate and terrorize a civilian population.” The report concluded that Israel had committed war crimes and possible crimes against humanity. Some of the war crimes that were condemned in the report include the deliberate targeting of 500 civilians praying at the Al-Muqadamah mosque, an attack which killed 15 people and wounded 40; the killing of 21 members of the al-Samouni family via a missile probably fired from an Apache helicopter; and the IDF’s

⁵⁹ Al-Haq (2008) Legal Questions and Answers Related to Israeli Policy in the Gaza Strip. Retrieved from: <http://www.alhaq.org/pdfs/qa-gaza.pdf>

⁶⁰ Cook, Jonathan (2012) “Israel’s Starvation Diet for Gaza.” Retrieved from: <http://electronicintifada.net/content/israels-starvation-diet-gaza/11810>

⁶¹ United Nations (2012) Gaza in 2020: A Livable Place? A Report by the United Nations Country Team in the Occupied Palestinian Territory: p. 2. Retrieved from <http://www.unrwa.org/userfiles/file/publications/gaza/Gaza%20in%202020.pdf>

⁶² Butcher, Tim (Mar. 6, 2008) Human Crisis in Gaza ‘is worst for 40 years.’ Telegraph.co.uk. Retrieved from: <http://www.telegraph.co.uk/news/worldnews/1580933/Human-crisis-in-Gaza-is-worst-for-40-years.html>

⁶³ Gaza Residents ‘terribly trapped’ (Nov. 4, 2008) BBC News. Retrieved from: http://news.bbc.co.uk/2/hi/middle_east/7708670.stm

⁶⁴ Journal of Palestine Studies, 38(3), Special Focus: Operation Cast Lead.

⁶⁵ A copy of the Goldstone Report can be found here: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>.

mortar shelling near the United Nations-run Al-Fakhura School in the Jabaliya Refugee Camp (which was sheltering 1300 people) killing 35 and wounding 40.⁶⁶

Following “Cast Lead,” Israel continued its stranglehold blockade of Gaza, preventing reconstruction and continuing to impose severe collective punishment on the civilians of Gaza. According to a report released in January 2010 by more than 80 humanitarian organizations, including the World Health Organization and UN agencies, the health of 1.4 million people is being put at risk by the continuing siege of Gaza.⁶⁷

Operation Protective Edge (2014)

In July 2014, Israel began its most recent invasion of Gaza, killing over 2,100, including approximately 500 children, and injuring over 10, 000 people – mostly civilians. During “Operation Protective Edge”, Israel has used various weapons that were used during Cast Lead, in addition to some new/modified weaponry that has caused severe death and destruction of civilian life and infrastructure. Medical personnel in Gaza believe that the unusual injuries they are seeing while treating victims are a result of Israel’s *experimental use* of Dense Inert Metal Explosives (DIME).⁶⁸ Hellfire rockets connected to Israel’s drones carry DIME bombs and are dropped on densely populated areas which primarily constitute civilians.⁶⁹ Physicians in the Gaza Strip are witnessing “gruesome amputations caused by a metal vapor or residue which indicate the detonation of an extreme force in a small radius”.⁷⁰ Physicians in the Gaza Strip have observed how “entire bodies have been cut in half, shattered bones, and skin, muscle and bones turned into charcoal due to the destructive burns associated with the weaponry’s extreme force and high temperature”⁷¹. DIME is a recently developed weapon by the United States army that is not yet regulated, however there are fears that “Israel may have received a green light from the US military to treat Gaza as a testing ground”^{72 73}. Although this is not the first time that DIME has been said to be used by the Israeli army, Norwegian doctor, Mads Gilbert, reported that many of the injuries he has treated in Gaza (during Operation Protective Edge) are consistent with the use of DIME.⁷⁴ Additionally, doctors and medical staff working in Gaza are seeing injuries and casualties caused by white phosphorous, flechettes, and toxic gas.⁷⁵ A spokesperson of the Palestinian Health Ministry said: “toxic gas is being used by the Israeli army...Palestinian casualties that have arrived at the hospital are suffering from suffocation after inhaling a white gas fired by the Israeli forces”.⁷⁶ Firing such weapons at non-combatants under international law is illegal. Despite its illegality, Desai (Forthcoming) explains that during Operation Protective Edge, the U.S. (government) allowed

⁶⁶ United Nations Human Rights Council (2009). Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>

⁶⁷ James Surcke (January 20, 2010). “Gaza Blockade threatens health of 1.4 million, aid agencies warn.” The Guardian. Retrieved from: <http://www.guardian.co.uk/world/2010/jan/20/gaza-blockade-health-risk-report>

⁶⁸ Desai, C. (Forthcoming). Refusing the settler colonial, imperial weapons laboratory in Palestine.

⁶⁹ Desai, C. (Forthcoming). Refusing the settler colonial, imperial weapons laboratory in Palestine.

⁷⁰ (2014). *Al-Haq Briefing II: The Illegality of Israel’s use of DIME weapons*. Retrieved on July 30, 2014 from <http://www.alhaq.org/advocacy/topics/gaza/835-briefing-note-ii-the-illegality-of-israels-use-of-dime-weapons>

⁷¹ Ibid.

⁷² Cook, J. (2009). *Is Gaza a testing ground for experimental weapons?* Global Research. Retrieved on July 20th, 2014 from <http://www.globalresearch.ca/is-gaza-a-testing-ground-for-experimental-weapons/11770>

⁷³ Desai, C. (Forthcoming). Refusing the settler colonial, imperial weapons laboratory in Palestine.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Press TV interview. (2014a). *Chemical Weapons Found in Gaza*.

<http://www.veteranstoday.com/2014/07/26/chemical-weapon-use-in-gaza-found/>

Israel access to a stockpile of 40mm grenades and 120mm mortar rounds to refresh stocks that were being depleted in Gaza.⁷⁷ As well, the U.S. State Department approved over \$500 million in sales of AIM-9x sidewinder missiles which are used to hit ground targets.⁷⁸

The assault has again devastated the infrastructure of Gaza, including destroying Gaza's only power plant, and destroying or damaging 24 health centres, 167 schools, 6 universities, 20 charities, eight water pumping/sewage stations and much more.⁷⁹ Israel has demolished thousands of homes, destroying entire neighbourhoods while massacring civilians.⁸⁰ The assault has forced hundreds of thousands of Palestinians to seek refuge in schools run by the UN Relief and Works Agency.⁸¹ Two of these schools, in Jabaliya refugee camp and Beit Hanoun, where thousands of Palestinians were taking refuge, were attacked along with 101 other UN facilities.

UN Human Rights Commissioner, Navi Pillay, has stated that there is a strong possibility of Israeli war crimes during Operation Protective Edge, with the UN Rights Council agreeing to probe into it.⁸² Human Rights Watch stated that there were indiscriminate attacks by Israeli soldiers shooting and killing Palestinian civilians fleeing the assault.⁸³ The number of Palestinians displaced by the Israeli assault now stands at over 450,000, out of a population of around 1.8 million. This has been the latest in a pattern of gratuitous human rights violations and crimes against humanity that Israel has perpetrated on Palestinian civilians for decades.

Extrajudicial Killings

Throughout its history, Israel has willfully and systematically carried out explicit high-level killings of Palestinians and other Arabs as official state policy. These policies have been carried out with explicit high-level judicial and military authorization, allegedly in "self-defense" against individuals deemed to threaten Israel's security. Dan Haluts, former Israeli Army Chief of Staff, told the Washington Post in August 2006 that "Targeted killing is the most important method in the fight against terrorism." On May 2007 on Israeli Army Radio, former Israeli Infrastructure Minister and Defense Minister, Binyamin Ben Eliezer, defended the practice saying: "We decided to carry out more physical liquidation operations against Palestinian 'terrorists'...I think this will eliminate the damage caused to Israeli territory due to the launching of Palestinian rockets."⁸⁴

Israeli government and military officials rarely show evidence that targeted persons acted violently or threatened Israeli citizens. It is enough to simply call them "terrorists", leaving the persons targeted with no recourse to due process. International law bans the practice of extrajudicial killings for any reason. For instance, the first principle of the 1989 Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Execution states:

Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure

⁷⁷ Desai, C. (Forthcoming). Refusing the settler colonial, imperial weapons laboratory in Palestine

⁷⁸ Ibid.

⁷⁹ Alternative Information Center (2014) Statistics on the Israeli offensive against Gaza. Retrieved from: <http://www.alternativenews.org/english/index.php/politics/politico/8369-statistics-on-the-israeli-offensive-against-gaza>

⁸⁰ Desai, C. (Forthcoming). Refusing the settler colonial, imperial weapons laboratory in Palestine

⁸¹ UN News Centre (2014) As civilian casualties rise in Gaza, UN Rights Council agrees probe into alleged 'war crimes'. Retrieved from: http://www.un.org/apps/news/story.asp?NewsID=48330#.U_0p8k0g-70

⁸² BBC News (2014) UN's Navi Pillay warns of Israel Gaza 'war crimes' Retrieved from:

<http://www.bbc.com/news/world-middle-east-28437626>

⁸³ Human Rights Watch (2014) [Gaza: Israeli Soldiers Shoot and Kill Fleeing Civilians](#). Retrieved from:

<http://www.hrw.org/news/2014/08/04/gaza-israeli-soldiers-shoot-and-kill-fleeing-civilians>

⁸⁴ Palestinian Centre for Human Rights (2008). Extrajudicial executions as Israeli government policy. Palestinian Centre for Human Rights (Ramallah): 5: http://www.pchrgaza.org/files/Reports/English/pdf_killing/killing%20report9.pdf

that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offenses. Exceptional circumstances, including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions.⁸⁵

Meanwhile, the Fourth Geneva Convention, Article 3, prohibits: "The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees...recognized as indispensable by civilized peoples."

Assaults and Harassment of Medical Units and Personnel

Employees and mobile units of the Palestinian Red Crescent Society (PRCS) and the International Committee of the Red Cross (ICRC) are regularly detained and harassed. Some noteworthy violations include a PRCS ambulance used as an assault shield by the IDF on January 8, 2004, and a tank assault on a PRCS ambulance, shattering the front windshield and injuring the driver on January 28, 2004. During the destruction of the Jenin Refugee Camp in April 2002, the ICRC was prevented from offering services to the injured and dying for six days.⁸⁶ In the latest assault on Gaza, the Israeli military shelled Gaza's only rehabilitation hospital, Al-Wafa Hospital in the densely populated Shuja'iyya neighbourhood,⁸⁷ one of 34 Israeli attacks on hospitals and medical facilities in Gaza during the military onslaught.⁸⁸

These actions once again defy the Geneva Conventions, most notably:

Article 19, First Geneva Convention which states: "...Mobile medical units of the Medical Services may in no way be attacked..."

Article 24, First Geneva Convention: "Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick...shall be respected and protected in all circumstances..."

Colonialism and Apartheid

In addition to occupation, there is strong evidence that Israel practices colonialism and apartheid with respect to the West Bank and Gaza Strip. This position was given further credence in a report by the Human Sciences Research Council of South Africa released in May 2009. The study, conducted by a team of international legal scholars and practitioners from South Africa, the United Kingdom, Israel and the West Bank, found that, "Israel is practicing both colonialism and apartheid in the Occupied Palestinian Territories (OPT)."⁸⁹ Notably, Israel has been described as an "apartheid state" by former U.S President Jimmy Carter, and prominent South Africa leaders, including Nelson Mandela, Desmond Tutu, and the current president of the Congress of South African Trade Unions, Sidumo Dlamini. The

⁸⁵ Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. *United Nations Rule of Law*. Retrieved from: <http://www.unrol.org/doc.aspx?d=2243>

⁸⁶ Canadians for Justice and Peace in the Middle East (2004). Factsheet: The Geneva Conventions and the Israeli occupation of Palestine: <http://www.cjpmo.org/DisplayDocument.aspx?DocumentID=12>

⁸⁷ Middle East Monitor (2014) Israel shells hospital in Gaza. Retrieved from: <https://www.middleeastmonitor.com/news/middle-east/12830-israel-shells-hospital-in-gaza>

⁸⁸ Mondoweiss (2014) Israeli military announces they will bomb al-Shifa hospital in Gaza. Retrieved from: <http://mondoweiss.net/2014/08/military-announce-hospital.html>

⁸⁹ Virginia Tilley, (May 2009). Report: Israel Practicing Apartheid in Palestinian Territories. *Human Science Research Council*. Retrieved from: <http://www.hsrb.ac.za/en/media-briefs/democracy-governance-and-service-delivery/report-israel-practicing-apartheid-in-palestinian-territories>

term “apartheid” is also commonly used within public discourse by Israeli politicians, including Yossi Sarid, Shulamit Alon and Ehud Barak, Israel's defence minister.⁹⁰

On the subject of colonialism, the study determined that Israel is in violation of the international prohibition on colonialism, enshrined in the Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960. Examples of Israel's colonial policies and practices as cited in the report include the expropriation and fragmentation of Palestinian land, the appropriation of water and other natural resources, and the establishment of a system of subjugation and domination.

As for apartheid, the study concludes that Israel's laws and policies in the OPT are congruent with those which are expressly prohibited by the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973). The Convention defines the crime of apartheid as “inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.”⁹¹ It also affirms that such a crime is not necessarily a distinctly South African phenomenon, but includes “similar policies and practices of racial segregation and discrimination as practiced in southern Africa.”

In this regard, the report indicates that Israel's practices in the OPT can be defined by the same three pillars of apartheid instituted by the South African regime: (1) an institutionalized system of benefits and discrimination based on preferred and non-preferred racial groups, (2) geographical segregation of the population according to those belonging in a racial group, and (3) a “matrix of draconian ‘security’ laws and policies” employed to maintain domination and suppress dissent.⁹² Israel's incarnation of apartheid affords preferential legal status and material benefit to Jews over non-Jews; it has isolated the Gaza Strip and fragmented the West Bank into a “well-serviced network of connected settlements for Jewish-Israelis and an archipelago of besieged and non-contiguous enclaves for Palestinians”; and it frequently invokes “security” to excuse gross violations of Palestinian human rights and to suppress dissent.

⁹⁰ Edward Corrigan. (2010). Israel and apartheid: A fair comparison? Rabble. Retrieved from: <http://www.rabble.ca/news/2010/03/israel-and-apartheid-fair-comparison>

⁹¹ John Dugard. (2008) “The International Convention on the Suppression and Punishment of the Crime of Apartheid.” UN Audiovisual Library of International Law. Retrieved from: <http://legal.un.org/avl/ha/cspca/cspca.html>

⁹² Human Science Research Council. (May 2009). Occupation, Colonialism, Apartheid?: A re-assessment of Israel's practices in the occupied Palestinian territories under international law. Retrieved from: <http://www.hsrc.ac.za/en/media-briefs/democracy-governance-and-service-delivery/report-israel-practicing-apartheid-in-palestinian-territories>

Section 3: Further Elaboration on the Legal and Political Context of Israeli Occupation

All people and organizations—including the University of Toronto—are bound by the principles of international law. This report demonstrates the ways in which Northrop Grumman, Hewlett Packard and Lockheed Martin, all companies that are part of UofT’s investments, are complicit in violations of international law in the OPT. The following is a further elaboration of the specific laws and legal principles that are at issue and their violations by Israel. Following this explanation of the political-legal context, we outline UofT’s obligations under international and domestic law.

2004 Advisory Opinion of the International Court of Justice

The 2004 advisory opinion of the International Court of Justice (ICJ) on the construction of the Wall in the OPT confirmed that the Wall and its associated regime is contrary to international law. The ICJ ruled that Israel should immediately terminate its construction of the Wall, dismantle those parts that have already been built, and make reparations for all damages caused by its construction.⁹³

The ICJ specifically ruled that:

[a]ll States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction. The Court further finds that it is for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, in the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all State parties to the Fourth Geneva Convention are under an obligation, while respecting the Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.⁹⁴

Article 49 of the Fourth Geneva Convention

Article 49 of the Fourth Geneva Convention stipulates that the occupying power is not permitted to change the demographic composition of the occupied territory and must not interfere, in an arbitrary manner, in the lives of the occupied civilian population.⁹⁵ The construction and development of settlements in the OPT is a clear violation of this provision, as the settlements involve the illegal confiscation of Palestinian land as well as a transfer of the Israeli civilian population onto those occupied lands.

Israel’s settlement enterprise entails not only the settlements themselves (built on confiscated Palestinian land), but also the creation of military zones, buffer zones, checkpoints and permit systems. Together they seriously infringe upon the human rights of the Palestinian population, and contribute to

⁹³ International Court of Justice. (July 9, 2004) Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Retrieved from: <http://www.icj-cij.org/docket/?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4>

⁹⁴ International Court of Justice. (July 9, 2004) Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Retrieved from: <http://www.icj-cij.org/docket/?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4>

⁹⁵ International Committee of the Red Cross. (August 12, 1949). Convention (IV) relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Retrieved from: <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>

the de-development of the Palestinian economy as a whole, thus creating, in certain instances, humanitarian crises.⁹⁶

Article 147 of the Fourth Geneva Convention

Article 147 of the Fourth Geneva Convention defines acts that are considered to be “grave breaches” of international law. These include the “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”⁹⁷ Israel’s construction of the Wall and its settlements clearly violates this Article, as they involve both extensive destruction of Palestinian property, as well as the appropriation of vast swaths of Palestinian land.⁹⁸

In applying Article 147 to the construction of the Wall, it is important to note that:

i) The Wall’s path does not follow the internationally recognized border between Israel and the OPT.

ii) The Wall has not been proven to improve the security of Israel. (The Israeli security service Shin Bet itself attributed the main cause for reduced Palestinian attacks in 2006 to the ceasefire unilaterally implemented by the Palestinians.⁹⁹)

iii) The Wall’s main designer confirmed in 2007 that the most important criteria were including as many Israelis inside it and as many Palestinians outside it as possible.¹⁰⁰

Other examples of grave breaches of international law include “willful killing, torture or inhuman treatment” and “willfully causing great suffering or serious injury to body or health.”¹⁰¹ During the 2008/09 bombardment of Gaza, multiple organizations including Amnesty International, Human Rights Watch, and a UN fact-finding mission accused Israel of targeting civilians and committing war crimes.¹⁰² The same is likely to be found following Israel’s 2014 attack on Gaza.

United Nations Security Council Resolutions 446, 452, 465, and 471

All the above-noted UN Security Council resolutions condemn Israel’s settlement activity in the OPT, including East Jerusalem. They confirm that the settlements have no legal validity and constitute a serious impediment to achieving a just and lasting peace. They also affirm that settlement construction

⁹⁶ Stop the Wall Campaign. (n.d.) Development or Normalization? A Critique of West Bank Development Approaches and Projects. Retrieved from: <http://www.stopthewall.org/downloads/PRDPCritique.pdf>; Stop the Wall Campaign(n.d.) Rights Without Remedy. Retrieved from: <http://www.stopthewall.org/downloads/pdf/ICJReport.pdf>

⁹⁷ International Committee of the Red Cross. (August 12, 1949). Convention (IV) relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Retrieved from: <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>

⁹⁸ International Court of Justice. (July 9, 2004) Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Retrieved from: <http://www.icj-cij.org/docket/?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4>

⁹⁹ Amos Harel, (January 2, 2006). “Shin Bet: Palestinian truce main cause for reduced terror.” Ha’aretz. Retrieved from: <http://www.haaretz.com/print-edition/news/shin-bet-palestinian-truce-main-cause-for-reduced-terror-1.61607>

¹⁰⁰ Wilson, Scott (August 7, 2007). “Touring Israel’s barrier with its main designer.” Washington Post. Retrieved From: <http://www.washingtonpost.com/wp-dyn/content/article/2007/08/06/AR2007080601661.html>

¹⁰¹ International Committee of the Red Cross. (August 12, 1949). Convention (IV) relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Retrieved from: <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>

¹⁰² Ibid.

is indeed a flagrant violation of the Fourth Geneva Convention, and they call upon Israel, as the Occupying Power, to comply with the Convention by refraining from changing the demographic composition of the OPT by transferring parts of its population into the Territories.

Article 8 of the Rome Statute of the International Criminal Court

In addition to Article 147 of the Fourth Geneva Convention, the prohibition of the transfer of settlers to occupied territory was confirmed as an international crime in 1998 by its inclusion as Article 8(2)(b)(viii) of the Rome Statute of the International Criminal Court.

Article 8(2)(b)(viii) defines “[t]he transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory”¹⁰³ as a war crime.

Israel’s settlement project explicitly involves encouraging the transfer of a significant portion of its civilian population into the occupied West Bank, thus violating Article 8.

Report of the UN Fact Finding Mission on the 2008/2009 Gaza war: The Goldstone Report

The Goldstone Report concluded that the 2008/2009 attack on Gaza “was a deliberately disproportionate attack designed to punish, humiliate and terrorize a civilian population, radically diminish its local economic capacity both to work and to provide for itself, and to force upon it an ever increasing sense of dependency and vulnerability.”¹⁰⁴ It found clear evidence that Israel had committed major war crimes in its siege of Gaza and even more during its assault on Gaza, known as Operation Cast Lead, from December 27, 2008, to January 18, 2009. These crimes include:

- Attacks by Israeli forces on civilian government buildings and members of the Gaza authorities, including police non-combatants;
- Attacks on schools and universities, including the Islamic University of Gaza;
- Indiscriminate attacks by Israeli forces resulting in the loss of life and injury to civilians;
- Deprivation of liberty: Gazans detained during the Israel’s operation;
- Deliberate attacks against the civilian population;
- The use of certain prohibited weapons;
- Attacks on the foundations of civilian life in Gaza: destruction of industrial infrastructure, food production, water installations, sewage treatment and housing; and
- The use of Palestinian civilians as human shields.

The Nuremberg Principles

The Nuremberg Principles I and II emphasize that individuals and organizations are responsible for complying with the principles of international law. Furthermore, Principle VII states that “complicity in the commission of a crime against peace, a war crime, or a crime against humanity. . . is a crime under international law.”¹⁰⁵

¹⁰³ Rome Statute of the International Criminal Court. (July 2002) Retrieved from: <http://www.icc-cpi.int/nr/rdonlyres/add16852-ae9-4757-abe7-9cdc7cf02886/283503/romestatuteng1.pdf>

¹⁰⁴ Goldstone, Richard. (September 2009) Report of the United Nations Fact Finding Mission on the Gaza Conflict. Retrieved from: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>

¹⁰⁵ International Committee of the Red Cross. (2005). Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal, 1950. Retrieved from: <http://www.icrc.org/ihl.nsf/full/390>

Since UofT has a responsibility to comply with the principles of international law, it has a legal obligation not to invest in companies or organizations that may be complicit in the commission of these crimes. Indeed, the current investments held in the three companies listed here strongly suggest that UofT is in violation of the Nuremberg Principles, thus rendering it potentially complicit in crimes under international law.

Canadian Domestic Law

In June 2000, Canada passed the Crimes Against Humanity and War Crimes Act, which officially incorporated the Rome Statute of the International Criminal Court into its domestic laws. The Act explicitly states that war crimes, crimes against humanity, and genocide are crimes under domestic law, and that a person in Canada may be prosecuted for these crimes even if they were committed outside the country. The Act asserts that its definition of a war crime is the same as Article 8(2) of the Rome Statute,¹⁰⁶ which, as discussed above, renders Israel's Jewish-only settlements illegal.

Similarly, the 1985 Geneva Conventions Act incorporated the Geneva Conventions into Canadian domestic law.¹⁰⁷ Thus, not only are violations of the Fourth Geneva Convention – including Articles 49 and 147 – breaches of international law, but they are also crimes under Canadian law as well.

Detailed in the subsequent sections, all of these crimes were aided and abetted by the weapons and equipment produced by Northrup Grumman, Hewlett Packard, and Lockheed Martin, companies in which the UofT pension plan and endowment funds are currently invested.

It is therefore incumbent upon UofT to end its investments in these three companies, as well as all companies implicated in violations of international law. This includes any company that explicitly supports the illegal occupation of Palestinian land and directly benefits from the Wall and Israeli settlements through the exploitation of the land and labour of Palestinians living in the OPT. UofT is under a legal and, arguably, a moral obligation to divest from these companies.

¹⁰⁶ Minister of Justice. (2000). Crimes Against Humanity and War Crimes Act. Retrieved from: <http://laws.justice.gc.ca/PDF/Statute/C/C-45.9.pdf>

¹⁰⁷ Minister of Justice. (1985) Geneva Conventions Act. Retrieved from: <http://laws.justice.gc.ca/PDF/Statute/G/G-3.pdf>

Section 4: The University of Toronto's Investment in Northrop Grumman: Human Rights and International Law Violations in the Occupied Palestinian Territories

1. The Company

Northrop Grumman is one of the largest weapons manufacturers in the world, employing 120,000 people in 25 countries. The net sales of this US corporation, based out of Los Angeles, California, were \$24.6 billion in the 2013 fiscal year.¹⁰⁸ The company has five business sectors: aerospace, electronics, information systems, shipbuilding and technical service.

2. How the University of Toronto is invested

As of December 31, 2013, UofT invests \$2,264,980 in Northrop Grumman with \$954,553 in the Long-term Capital Appreciation Pool and \$1,310,427 in the Pension Master Trust.¹⁰⁹

3. Northrop Grumman's Violations of Human Rights and International Law

Northrop Grumman provides technology used by the Israeli military against Palestinian civilians, including technology that was used in Israel's 2008/09 "Operation Cast Lead" in the Gaza Strip, when, as discussed above, international agencies have concluded war crimes and possible crimes against humanity were carried out.

Northrop Grumman produces the fuselage, wings, tail, engine cowlings, canopies and avionics containers, as well as the optional Longbow mast-mounted 360° radar for the Apache AH64D Longbow Helicopter.¹¹⁰ Amnesty International has described the Apache AH64 Helicopters as a piece of "key equipment used by the IDF in the Gaza bombing campaign."¹¹¹

Northrop Grumman also produces the Longbow Hellfire 2 missiles, in a joint venture with Lockheed Martin.¹¹² The wide use of Hellfire 2 missiles by the Israeli military against Palestinian civilians during Operation Cast Lead has been clearly documented.¹¹³

Northrop Grumman is also the sole provider of radars for the F-16 combat aircraft.¹¹⁴ The Israeli Air Forces (IAF) has the largest fleet of F-16's outside of the US.¹¹⁵ According to Amnesty International,

¹⁰⁸ Northrop Grumman. (30 January 2014) "Northrop Grumman Reports Strong Fourth Quarter and 2013 Financial Results." Retrieved from: <http://investor.northropgrumman.com/phoenix.zhtml?c=112386&p=irol-newsArticle&ID=1895208&highlight=>

¹⁰⁹ Email correspondence from Shiela Brown, UofT's Chief Financial Officer to Rastko Cvekic, Governing Council member in early 2014.

¹¹⁰ IHS Jane's. (October 13, 2000). Boeing AH-64 Apache. Retrieved from: http://www.janes.com/defence/air_forces/news/jawa/jawa001013_1_n.shtml

¹¹¹ Daniel Luban, (February 23, 2009). "Politics: Rights Group Calls for Israel/Hamas Arms Embargo." Inter Press Service News Agency. Retrieved from: <http://ipsnews.net/news.asp?idnews=45860>

¹¹² IHS Jane's. (October 13, 2000). AGM - 114 Hellfire. Retrieved from: http://www.janes.com/defence/air_forces/news/jalw/jalw001013_1_n.shtml

¹¹³ Amnesty International. (2009) Fuelling Conflict: Foreign Arms Supplies to Israel/Gaza. Retrieved from: <http://www.amnesty.org/en/library/asset/MDE15/012/2009/en/5be86fc2-994e-4eeb-a6e8-3ddf68c28b31/mde150122009en.html>

¹¹⁴ Northrop Grumman. (July 23, 2009). "Northrop Grumman Performs Successful SABR Fit-Check Aboard F-16 Fighter At Edwards Air Force Base". Retrieved from: http://www.irconnect.com/noc/press/pages/news_releases.html?d=169638

Israel's F-16 combat aircraft played a central role in the killing of Palestinian civilians and the wholesale destruction of Palestinian civilian and economic infrastructure.¹¹⁶

This is not the first time F-16s have been implicated in Israel's violations of international law in the OPT. For instance, on 20 May 2007, an Israeli F-16 jet plane fired a missile towards a family gathered in Gaza City, killing eight people—none of them combatants.¹¹⁷ F-16s were also widely used by Israel in its war on Lebanon in 2006, including its attack against Qana on July 30, 2006, that resulted in over 28 civilian deaths. Many of Israel's air attacks on Lebanon were directed in areas where there was no combatant activity and seemed deliberately targeted at civilians—a violation of the international laws of war.¹¹⁸

Northrop Grumman also supplied Apache helicopters and Sa'ar V Millile cruiser ships which were used in IDF mission, "Sea Breeze."¹¹⁹ This mission resulted in the 2010 Flotilla raid where nine activists were killed trying to bring humanitarian relief to the besieged Gaza Strip.¹²⁰

These technologies and weapons are part of the Electronic Systems segment of the Northrop Grumman corporation. Electronic systems brings in over 28% of total revenues for Northrop Grumman.¹²¹

4. Ongoing Divestment Actions

On January 5, 2005, the University of Wisconsin at Platteville's Faculty University Senate voted to recommend that the University of Wisconsin "divest from companies that provide the Israeli army with weapons and other supplies," including Northrop Grumman.¹²²

On December 31, 2005, the Norwegian Ministry of Finance included Northrop Grumman in a list of companies that were excluded from the Government Pension Fund due to violations of its ethical guidelines.¹²³

¹¹⁵ Airforce-Technology.Com. (2009) F-16 Fighting Falcon Multi-Role Fighter Aircraft, USA. Retrieved from: <http://www.airforce-technology.com/projects/f16/>

¹¹⁶ Amnesty International. (July 2009). Israel/Gaza: Operation 'Cast Lead': 22 Days of Death and Destruction. Retrieved from: <http://www.amnesty.org/en/library/asset/MDE15/015/2009/en/8f299083-9a74-4853-860f-0563725e633a/mde150152009en.pdf>

¹¹⁷ Defence for Children International: Palestine Section. (2007). Israeli Violations of the Right to Life: Palestinian child fatalities in the Occupied Palestinian Territory during the First Half of the Year 2007. Retrieved from: <http://www.crin.org/docs/DCInov10.pdf>; B'Tselem. (January 2008). Annual Report 2007. Retrieved from: http://www.btselem.org/Download/200712_Annual_Report_eng.pdf

¹¹⁸ Brookes, Andrew. (August 8, 2006). Air War Over Lebanon. The International Institute for Strategic Studies. Retrieved from: <http://www.iiss.org/programmes/defence-analysis-programme/analysis-archive/air-war-over-lebanon/>; Human Rights Watch. (August 2, 2006). Lebanon/Israel: IDF fails to explain Qana Bombing. Retrieved from: <http://www.hrw.org/en/news/2006/08/02/lebanonisrael-idf-fails-explain-qana-bombing>; Human Rights Watch. (August 2006). Fatal Strikes: Israel's Indiscriminate Attacks Against Civilians in Lebanon. Retrieved from: <http://www.hrw.org/sites/default/files/reports/lebanon0806webwcover.pdf>

¹¹⁹ Abunimah, Ali; Broek, Martin; Tombola, Carlo. (2010). European and US weapons in Israeli attack on Gaza Flotilla. Retrieved from: <http://wri-irg.org/node/10342>

¹²⁰ Ibid.

¹²¹ Retrieved from <http://csimarket.com/stocks/segments.php?code=NOC>

¹²² The Michigan Daily. (February 4, 2005). Faculty senate in Wisc. passes divestment bill. Retrieved from: <http://www.michigandaily.com/content/faculty-senate-wisc-passes-divestment-bill>

¹²³ Norges Bank. (2007) NBIM Annual Report 2007. Retrieved from: http://www.norges-bank.no/upload/nbim/reports/2007_percent20part4.pdf

In its June 2007 Report and Recommendations to the United Methodist Church's New England Conference, the United Methodist Church's Divestment Task Force recommended that the Church divest from Northrop Grumman because it was deemed to "support in a significant way the Israeli occupation of Palestinian territories."¹²⁴

¹²⁴ New England Conference of the United Methodist Church Divestment Taskforce. (June 5, 2007) Report and Recommendations. Retrieved from:
http://neconference.brickriver.com/files/oFiles_Library_XZXLCZ/NEUMC_Divestment_Report_-FINAL_060407-img_PM2YX4SR.pdf

Section 5: The University of Toronto's Investment in Hewlett Packard: Violations of Human Rights and International Law in the Occupied Palestinian Territories

1. The Company

Hewlett Packard (HP)¹²⁵ is among the world's largest information technology (IT) companies, with revenues amounting to over \$112 billion for the 2013 fiscal year, which is \$3 billion less than 3 years ago.¹²⁶ Commonly known for its personal computing devices, printers, and digital cameras, HP is involved in a wide range of services including the design, implementation, and maintenance of IT infrastructure. HP operates in more than 170 countries, both under the HP label and through its various subsidiaries. HP's international presence is amplified further through the other IT companies it owns and the companies to which it outsources.

2. How the University of Toronto is Invested

As of December 31, 2013, UofT invests \$769,975 in HP with \$324,498 in the Long-term Capital Appreciation Pool and \$445,477 in the Pension Master Trust.¹²⁷

3. Hewlett Packard's Complicity in Israel's Human Rights and International Law Violations

Israel is one of the countries where HP has a "massive presence," including five subdivisions ranging from manufacturing and research to sales and marketing.¹²⁸ Of HP's 324,600 employees worldwide, 5,700 are based in Israel (1.75%).¹²⁹ HP has invested \$6 billion (USD) in Israel in the past decade in mergers, acquisitions and new developments.¹³⁰ HP is the second largest investor in IT in Israel.¹³¹ HP and its subsidiaries are involved in several aspects of Israel's occupation of the West Bank and Gaza Strip. The following is an overview of HP's most egregious practices and the ways in which these contribute to grave breaches of international law and systematic violations of human rights.

3.1 Biometric Identification Systems at Checkpoints

HP is implicated in facilitating Israel's checkpoint system through its ownership of Electronic Data Systems (EDS).¹³² Its Israeli subsidiary, EDS Israel, works with the Israeli Ministry of Defense on the development, installation and maintenance of technologically advanced monitoring systems used at

¹²⁵ Although the official name of the company on the New York Stock Exchange became HPQ when it merged with Compaq in 2002, it is still widely known by its original name.

¹²⁶ Hewlett Packard. 2013 Annual Report. Retrieved from: <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MjE4NDAlfENoaWxkSUQ9LTF8VHlwZT0z&t=1>

¹²⁷ Email correspondence from Shiela Brown, UofT's Chief Financial Officer to Rastko Cvekcic, Governing Council member in early 2014.

¹²⁸ Information found on HP's website at <http://www8.hp.com/il/en/hp-information/itd/about.html>

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² In 2008, HP completed the purchase of global IT giant EDS, making it part of HP. Hewlett Packard Newsroom (13 May 2008). HP to Acquire EDS for \$13.9 Billion. Retrieved from: <http://www.hp.com/hpinfo/newsroom/press/2008/080513a.html>.

several new checkpoint terminals, including many within the West Bank. Some of these checkpoints also constitute part of Israel's wall, which as previously discussed was declared illegal by the International Court of Justice in 2004. In its construction of the wall and the checkpoints in its path, Israel has hired various contractors and consultants, among them EDS Israel.

Specifically, EDS Israel heads a consortium that has introduced the Basel System, an automated biometric access control system developed by the Israeli company, On Track Innovations (OTI). This system reads the facial dimensions and hand geometry of Palestinian workers seeking to cross into Israel at checkpoints in the West Bank and Gaza.¹³³ B'Tselem writes that these workers who are forced to cross at checkpoints operated by Israeli soldiers, “frequently fall victim to exploitation by their employers” and to “violent assaults and severe maltreatment by police officers and soldiers.”¹³⁴ “The permits system is directly related to another control mechanism HP is involved in: Israel's ID card system, which, according to a published paper by Tawli-Souri¹³⁵, reflects and reinforces its political and economic asymmetries, tiered citizenship structure and restrictions on movement and access.¹³⁶ HP was contracted by the ministry of defense to develop, operate and maintain the Basel system until at least the end of 2013.¹³⁷

3.2 Outsourcing of IT Services to Illegal Settlements

HP helps to sustain Israel's occupation through its indirect relationship to employment in the illegal West Bank settlement of Modi'in Ilit. The HP subsidiary, HP Invent, outsources IT services to Matrix, which carries out much of its work in Modi'in Ilit through its subsidiary, Talpiot.¹³⁸ Matrix/Talpiot's operations employ Israeli settlers at low-wages subsidized by the Israeli government.¹³⁹ Through its relationship to Talpiot, HP is profiting from Israel's occupation and is helping to ensure its economic viability. Additionally, HP supplies a shared storage system to the municipality of the illegal settlement of Ariel in the West Bank.¹⁴⁰ In 2005, the Israeli government chose the settlement of Ariel to be a pilot city for the government smart city program. The pilot included municipal wireless network system to deliver high-speed broadband wireless access and wireless services to residents and municipal employees.

3.3 Management of the Israeli Navy's IT Infrastructure

HP assists in facilitating the illegal naval blockade off the coast of the Gaza Strip through its management of the Israeli Navy's IT infrastructure.¹⁴¹ Since coming into effect in 2006, the blockade has reduced exports to a trickle, while preventing humanitarian aid, including much needed medicines

¹³³ Israel High-Tech and Investment Report (January 2004). On Track to Install ID Systems at Gaza Checkpoint. Retrieved from: <http://ishitech.co.il/0104ar1.htm>.

¹³⁴ B'Tselem: The Israeli Center for Human Rights in the Occupied Territories. Economic and Social Rights: Workers from the Occupied Territories. Retrieved from: <http://www.btselem.org/english/Workers/Index.asp>.

¹³⁵ Helga Tawil-Souri, 2011. Colored Identity: The Politics and Materiality of ID Cards in Palestine/Israel. *Social Text* 107, 29 (2): 78.

¹³⁶ Coalitional of Women for Peace (Dec. 2011). Technologies of Control: The Case of Hewlett Packard. p.7. Retrieved from http://www.whoprofits.org/sites/default/files/hp_report-_final_for_web.pdf.

¹³⁷ Retrieved March 25, 2014 from <http://www.whoprofits.org/company/hewlett-packard-hp>

¹³⁸ Talpiot. Clients List. Retrieved from: www.talpiot-it.com/clients.html

¹³⁹ Algazi, Gadi (August 2006). Commercial and Political Exploitation of Stolen Land: Offshoring to the West Bank. *Le Monde Diplomatique*. Retrieved from: <http://mondediplo.com/2006/08/05offshoring>

¹⁴⁰ Retrieved March 18, 2014 from “Technologies of Control: The Case of Hewlett Packard” Coalitional of Women for Peace <http://www.bdsmovement.net/2012/technologies-of-control-the-case-of-hewlett-packard-hp> p.25-26

¹⁴¹ Business Monitor International. (24 July 2008). Israel Information Technology Report Q3 2008: IT Services. Retrieved from: <http://www.marketresearch.com/product/display.asp?productid=1830025&g=1>.

and construction materials, from entering the Gaza Strip.¹⁴² In enforcing the blockade, the Israeli Navy has not only turned back humanitarian aid vessels, but has also attacked them. Most recently, they attacked the aid vessel the Mavi Marmara, killing 9 international peace activists and aid workers, and injuring dozens more.¹⁴³ The Israeli Navy has also prevented fishermen from fishing within Gaza's territorial waters. Gazans are now prohibited from going more than 3 nautical miles off the coast, despite agreements signed as part of the Oslo peace process allowing them to fish up to 20 nautical miles away.¹⁴⁴

3.4 Technology Provision to the Israeli Defense Forces

HP aids the IDF in its occupation of the West Bank and Gaza Strip by supplying it with personal computers, servers, and virtualization systems.¹⁴⁵ In 2009 HP won an Israeli army contract for a 15 million USD “virtualization project”, implementing the same technology as was implemented with the Israeli Navy.¹⁴⁶ In the same year, HP Global won another contract to supply all computer equipment to the Israeli military.¹⁴⁷ Additionally, since January 2011, HP has been providing the Israeli Army’s secret IT unit with CMDB (Configuration Management Database), worth several million NIS and since May 2011, HP has been providing the Israeli army with an ERP (Enterprise Resource Planning) System estimated in hundreds of millions NIS.¹⁴⁸

3.5 IT services to Israel’s Prison System

According to a response received on December 2013, from the Israel Prison Service (IPS) to a freedom of information request by Who Profits, HP is contracted to provide printers and maintenance of HP systems and central servers until 2016, in the amount of tens of millions of shekels (NIS) and has paid out 126 million NIS for a separate HP contract that was in place from 2007-2013 for prisoner management and intelligence systems.¹⁴⁹

4. Ongoing Divestment Actions

HP is targeted in several campaigns calling for divestment from companies involved in the Israeli occupation. HP was added to a list of companies highlighted by the New England Conference of the United Methodist Church for divestment. In 2005, the New England Annual Conference passed a resolution calling for divestment from companies that support Israel’s occupation in a significant way.¹⁵⁰ HP has been the subject of the San Francisco Bay Area campaign “Don't Buy Into

¹⁴² B'Tselem: The Israeli Center for Human Rights in the Occupied Territories. (31 May 2010). The Gaza Strip: The siege on the Gaza Strip: 1.5 million people imprisoned. Retrieved from:

http://www.btselem.org/English/Gaza_Strip/20100531_The_Siege_on_Gaza.asp.

¹⁴³ BBC News (31 May 2010). “Deaths as Israeli Forces Storm Gaza Aid Ship.” Retrieved from:

<http://www.bbc.co.uk/news/10195838>.

¹⁴⁴ B'tselem: The Israeli Center for Human Rights in the Occupied Territories. The Gaza Strip: Israel's Control of the Airspace and the Territorial Waters of the Gaza Strip. Retrieved from:

http://www.btselem.org/english/Gaza_Strip/Control_on_Air_space_and_territorial_waters.asp

¹⁴⁵ Shelah, Shmulik. (15 July 2009). “HP beats IBM in Army virtualization tender: IBM has been supplying the IDF with virtualization products until now”. Globes. Retrieved from: http://archive.globes.co.il/searchgl/IBM_percent20has_percent20been_percent20supplying_percent20the_percent20IDF_percent20with_-_link_does_not_work_percent20virtualization_s_hd_2L34nDJKrCbmnC30mD3WnCJOnBcXqRMm0.html

¹⁴⁶ Retrieved March 25, 2014 from <http://www.whoprofits.org/company/hewlett-packard-hp>

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Retrieved March 25, 2014 from <http://www.whoprofits.org/company/hewlett-packard-hp>

¹⁵⁰ New England Conference – The United Methodist Church. (May 2010). Divestment Task Force (2010): Report and Recommendations. Retrieved from: <http://www.neumc.org/pages/detail/375>.

Apartheid.”¹⁵¹ The Quaker Friends Fiduciary Corporation that serves 300 Quaker institutions in the US divested nearly \$400,000 from HP in 2012.¹⁵² The Presbyterian Church USA voted to divest its holdings in HP on June 20, 2014, at their General Assembly.¹⁵³ Jewish Voice for Peace, the largest U.S. national Jewish peace organization, is also currently directing some of their efforts towards divestment from HP.¹⁵⁴

¹⁵¹ US Campaign for the Cultural and Academic Boycott of Israel. (28 February 2010). BDS Bus Ad Sightings. Retrieved from: <http://usacbi.wordpress.com/2010/02/28/bds-bus-ad-sightings/>.

¹⁵² “Quakers Divest from Hewlett Packard and Veolia Environment” Retrieved March 25, 2014 from <http://quakerpi.org/news/divest.html>

¹⁵³ Goodstein, L. (2014, June 20). Presbyterians Vote to Divest Holdings to Pressure Israel. *The New York Times*. Retrieved from http://www.nytimes.com/2014/06/21/us/presbyterians-debating-israeli-occupation-vote-to-divest-holdings.html?_r=0 on Aug. 9, 2014.

¹⁵⁴ See <http://jewishvoiceforpeace.org/campaigns/hewlett-packard-harming-peace>.

Section 6: The University of Toronto's Investment in Lockheed Martin: Violation of Human Rights and International Law in the Occupied Palestinian Territories

1. The Company

Lockheed Martin is an arms manufacturer based in the United States. It focuses on the production of aeronautics and electronics, as well as research and development of information technology services and systems. The corporation describes itself as a “global security company” providing weaponry to national governments, with the majority of its business with the U.S. Department of Defence. Lockheed Martin also describes itself as the “largest provider of IT services, systems integration, and training to the U.S. Government.”¹⁵⁵ The company’s operations are divided into different business areas, including Missiles and Fire Control, with approximately \$7.7 billion sales in 2013.¹⁵⁶ Lockheed Martin currently stands as the world’s number one military contractor and the largest arms exporter,¹⁵⁷ receiving 84 percent of its revenue from the US government and the Pentagon.¹⁵⁸ Lockheed Martin has also been embroiled in controversies over fraud, overbilling of the federal government, questionable foreign payments, and employment discrimination.¹⁵⁹ For both the US and other governments, Lockheed Martin has produced combat ships, fighter jets, missiles, nuclear weapons and military electronics.¹⁶⁰

2. How the University of Toronto is Invested

As of December 31, 2013, UofT invests \$742,371 in Lockheed Martin. UofT’s Long-term Capital Appreciation Pool (LTCAP) holds investments in the amount of \$312,865. UofT’s Pension Master Trust (PMT) holds investments in Lockheed Martin in the amount of \$429,506.¹⁶¹

3. Lockheed Martin’s Complicity in Violations of International Law and Human Rights Abuses

Lockheed Martin is the largest overseas supplier for the Israeli armaments industry¹⁶², while its product sales contribute to 80-percent of the company’s net sales.¹⁶³ One of its contracts with Israel includes manufacturing F-16 fighter aircrafts for the Israeli Defense Forces, estimated \$1.8 billion in value. This is an ongoing contract with the Israeli Defense Forces and Israeli Defense Industries, and is

¹⁵⁵ Lockheed Martin, Who We Are. Retrieved from: <http://www.lockheedmartin.com/us/who-we-are.html>

¹⁵⁶ Ibid

¹⁵⁷ Corpwatch: Holding Corporations Accountable. Lockheed Martin. Retrieved from: <http://www.corpwatch.org/article.php?list=type&type=9>

¹⁵⁸ Crocodyl: Collaborative research on corporations. Lockheed Martin. Retrieved from: http://www.crocodyl.org/wiki/lockheed_martin

¹⁵⁹ Ibid. This employment discrimination is cited in a 1996 lawsuit filed by former workers related to age discrimination, settled by the corporation for 13 million dollars.

¹⁶⁰ Ibid.

¹⁶¹ Email correspondence from Shiela Brown, UofT's Chief Financial Officer, to Rastko Cvekic, Governing Council member in early 2014.

¹⁶² Hoder Investment Research (Oct. 2009). Companies Supporting the Israeli Occupation of Palestinian Land. Retrieved from: <http://www.interfaithpeaceinitiative.com/profitting.pdf>

¹⁶³ Lockheed Martin. (2013). *Lockheed Martin Corporation: 2013 Annual Report*. Retrieved from: www.lockheedmartin.com/content/dam/lockheed/data/corporate/documents/2013-Annual-Report.pdf

financed in part through U.S military aid to Israel.¹⁶⁴ As well, in 2013, Lockheed Martin's Aeronautics business segment was included as part of its 'international expansion', with the sale of F-16 planes and C-130J Super Hercules. The first of the latter aircrafts was delivered to Israel in 2013.¹⁶⁵

In 2004, F-16 planes were developed by Lockheed Martin to meet Israeli military specifications.¹⁶⁶ These planes feature synthetic aperture radar (SAR) to enable tracking of "ground targets," and conformal fuel tanks to extend flight range.¹⁶⁷ The F-16 planes fall under the Aeronautics business segment of the company. In 2013 the Aeronautics segment contributed to 14.1 billion dollars in net sales for the company, and 13-percent of consolidated net sales. Thirteen F-16s were sold in 2013, and according to the company's Annual Report there is a backlog for these planes until 2017.¹⁶⁸ Further, in a joint contract with Northrop Grumman, Lockheed Martin produced Hellfire missiles, which have been used against Palestinian civilians. During "Operation Grapes of Wrath" in Lebanon, Hellfire missiles fired from an Israeli Apache helicopter targeted an ambulance, killing 6 civilians.¹⁶⁹ They were also fired during the brutal military campaign "Operation Cast Lead" against Gaza in 2008/09.¹⁷⁰ Hellfire Missiles are part of the Missiles and Fire-Control business segment of the company, which contributed to 7.8 billion dollars in sales in 2013. This equates to 17-percent of total consolidated net sales.¹⁷¹

Prior to the recent assault on Gaza and the boarding of aid ships en route to Gaza, former UN Secretary-General Kofi Annan had already condemned the IDF's use of American built military weapons, stating that hundreds of Palestinian civilians had been killed or injured in Israeli attacks, citing tanks deployed in refugee camps and explosives dropped on heavily populated areas.¹⁷² Following "Operation Cast Lead" in 2008/09, the use of F-16 fighter jets and Hellfire missiles was well documented as contributing to the more than 1,000 confirmed Palestinian civilian deaths.¹⁷³ These F-16 fighter jets have long been connected to Israeli attacks on Palestinian and Lebanese villages. Organizations such as Human Rights Watch and Amnesty International have labeled such actions violations of human rights and insisted that they constitute war crimes, according to international law.¹⁷⁴

¹⁶⁴ Global Security. F-161 Sufa (Storm). Retrieved from: <http://www.globalsecurity.org/military/world/israel/f-16i.htm>

¹⁶⁵ Lockheed Martin. (2013). *Lockheed Martin Corporation: 2013 Annual Report*. Retrieved from: www.lockheedmartin.com/content/dam/lockheed/data/corporate/documents/2013-Annual-Report.pdf

¹⁶⁶ Global Security. F-161 Sufa (Storm). Retrieved from: <http://www.globalsecurity.org/military/world/israel/f-16i.htm>

¹⁶⁷ *ibid.*

¹⁶⁸ Lockheed Martin. (2013). *Lockheed Martin Corporation: 2013 Annual Report*. Retrieved from: www.lockheedmartin.com/content/dam/lockheed/data/corporate/documents/2013-Annual-Report.pdf

¹⁶⁹ Human Rights Watch. (2000). No Additional U.S Air-to-Ground Missiles to Israel. Retrieved From: <http://www.hrw.org/en/news/2000/05/22/no-additional-us-air-ground-missiles-israel>

¹⁷⁰ Hoder Investment Research (Oct. 2009). Companies Supporting the Israeli Occupation of Palestinian Land. Retrieved from: <http://www.interfaithpeaceinitiative.com/profitting.pdf>

¹⁷¹ Lockheed Martin. (2013). *Lockheed Martin Corporation: 2013 Annual Report*. Retrieved from: www.lockheedmartin.com/content/dam/lockheed/data/corporate/documents/2013-Annual-Report.pdf

¹⁷² William D. Hartung & Frida Berrigan (2002). Report: U.S Arms Transfers and Security Assistance to Israel .World Policy Institute Research Project. Retrieved from: <http://www.worldpolicy.org/projects/arms/reports/israel050602.html>

¹⁷³ Amnesty International. (July 2009). Israel/Gaza: Operation 'Cast Lead': 22 Days of Death and Destruction. Retrieved from: <http://www.amnesty.org/library/asset/MDE15/2009/en/8f299083-9a74-4853-860f-0563725e633a/mde150152009en.pdf>

¹⁷⁴ Campaign Against the Arms Trade. Arming the Occupation: Executive Summary. Retrieved from: <http://www.caat.org.uk/resources/countries/israel/2002-10.caat.arming-occupation-israel-and-arms-trade.pdf>; Amnesty International. (2009). Fueling Conflict: Foreign Arms Supplies to Israel/Gaza. Retrieved from:

In March 2010, amid criticisms of Israel's continued settlement housing construction in the occupied territories, the United States and Lockheed Martin signed a new agreement to provide Israel with several new Super Hercules tactical transport aircrafts.¹⁷⁵ In a \$2.7 billion deal, Israel has recently purchased 20 new F-35 fighter jets from Lockheed Martin for delivery between 2015 and 2017.¹⁷⁶

4. Ongoing Divestment Actions

Lockheed Martin has been a prominent target of many divestment campaigns concerned with Israel's treatment of Palestinians in the OPT and inside Israel proper. Lockheed Martin has been included in divestment campaigns at Stanford University, Columbia University, the University of California, Berkeley, University of Wisconsin, and York University.

Lockheed Martin was one of the companies named in a bill passed by the UC Berkeley student senate in favour of divesting the university from companies that provide military support to the Israeli occupation. The bill was later vetoed by UC Berkeley's Associated Student Body President.¹⁷⁷

Students at the University of Michigan have begun their own divestment campaign targeting Israel. It includes Lockheed Martin (U Michigan invests several million dollars in the company). Their student government has already passed a resolution to pressure the administration to divest from companies that benefit from the Occupation.¹⁷⁸

<http://www.amnesty.org/en/library/asset/MDE15/012/2009/en/5be86fc2-994e-4eeb-a6e8-3ddf68c28b31/mde150122009en.html>

¹⁷⁵ Jim Wolf. (March 26 2010). "US, Israel in pact for Lockheed planes". Reuters. Retrieved from http://www.reuters.com/article/2010/03/26/idUSN26203902.CH_2400

¹⁷⁶ Anshel Pfeffer. (August 15 2010). "Israel to purchase 20 Lockheed Martin F-35 fighter jets". Haaretz. Retrieved from: <http://www.haaretz.com/news/diplomacy-defense/israel-to-purchase-20-Lockheed-Martin-f-35-fighter-jets-1.308177>

¹⁷⁷ Youmna Derby & Dina Omar. "BDS at UC Berkeley: The Campaign, the vote and the veto". Retrieved from: <http://www.caldivestfromapartheid.com/>

¹⁷⁸ Global BDS Movement. (Feb. 2009). "Historic Student Divestment Resolution passed at the University of Michigan, Dearborn". Retrieved from: <http://bdsmovement.net/?q=node/647>

Section 7: Learning from History: International Law has Settled the Debate on Divestment

The UofT Policy on Social and Political Issues with respect to divestment states that the UofT will not take a position on “matters that are properly the subject of ongoing academic inquiry and debate.”¹⁷⁹ What this divestment brief has detailed regarding the violations of international law and human rights abuses in the OPT should demonstrate that this debate has already taken place within legitimate international bodies. The United Nations Security Council, UN fact-finding missions, the Fourth Geneva Convention, and other international bodies have all carried out debates over the legality or illegality of Israel’s occupation and the results of these debates have been detailed above. The international community set up these bodies and developed international laws following WWII for the purpose of governing and maintaining peaceful relations between sovereign nations around the world. When nations do not abide by international laws, non-violent actions such as divestment are among the least destructive ways of forcing nation states to comply.

Although the United States and Canadian governments continue to support Israel’s socially injurious activities and violations of international law in the OPT — with Canada doing so in violation of its own laws, as a result of the adoption of the Rome Statute of the International Criminal Court the Geneva Conventions Act, as detailed above — the majority of the rest of the world has begun to withdraw their support for Israel’s occupation. For example, since the beginning of Israel’s latest attack on the Gaza Strip, a large segment of the international community has issued condemnations of the attacks and has engaged in divestment or sanctioning of Israel to pressure the government to comply with international law. On July 30, 2014, Evo Morales, President of Bolivia, publicly endorsed the boycott, divestment, and sanctions movement and declared Israel a terrorist state.¹⁸⁰ Also in July 2014, El Salvador, Chile, Peru, Brazil, and Ecuador recalled their ambassadors from Israel, joining Venezuela and Bolivia which removed their ambassadors to Israel during Israel’s 2008-2009 attack on Gaza.¹⁸¹ More than a million people worldwide took to the streets at the end of July to protest Israel’s invasion into Gaza.¹⁸² Six Nobel Peace Laureates initiated a call for a military embargo on Israel and this has been signed by more than 45,000 people, including academics such as Noam Chomsky, Judith Butler, Hilary Rose, Ilan Pappé, and Juliane House.¹⁸³ Additionally, more than 40 Holocaust survivors plus more than 340 descendants of Holocaust survivors published a letter in the New York Times condemning the massacre of the people of Gaza and calling for a boycott of Israel.¹⁸⁴ Furthermore, the EU recently announced that it will ban all meat and dairy imports from Israeli settlements and Ireland’s largest food distributor, SuperValu, announced that it will no longer carry Israeli products.¹⁸⁵ These above named

¹⁷⁹ See Appendix A for the full policy document.

¹⁸⁰ Kozak, R. (July 30, 2014) Israel Faces Latin American Backlash: Some Governments Recall Diplomats, Issue Strongly Worded Statements. *Wall Street Journal Online*. Retrieved from <http://online.wsj.com/articles/israel-faces-latin-american-backlash-1406770021>

¹⁸¹ *ibid.*

¹⁸² Rachael Pells, Serina Sandhu, & Kitty Knowles, (July 27, 2014). Israel-Gaza conflict: More than a million people around the world take to the streets to protest at the horrific carnage unfolding in Gaza. *The Independent*. Retrieved from <http://www.independent.co.uk/news/world/politics/israelgaza-conflict-more-than-a-million-people-around-the-world-take-to-the-streets-to-protest-at-the-horrific-carnage-unfolding-in-gaza-9630883.html>

¹⁸³ (July 18, 2014). The Arms Trade and Israel’s Attack on Gaza. *The Guardian online*. Retrieved from <http://www.theguardian.com/world/2014/jul/18/arms-trade-israel-attack-gaza>

¹⁸⁴ (Aug. 23, 2014). Holocaust Survivors Condemn Israel for ‘Gaza Massacre,’ Call for Boycott. *Haaretz*. Retrieved from <http://www.haaretz.com/news/diplomacy-defense/1.612072>

¹⁸⁵ Finbar Bermingham (Aug. 18, 2014). EU to ban foods produced in Palestine’s Jewish settlements including West Bank and Golan Heights. *International Business Times, UK Edition*. Retrieved from <http://www.ibtimes.co.uk/eu-ban-food-produced-palestines-jewish-settlements-including-west-bank-golan-heights-1461662>

actions are only the latest boycotts, divestments, and sanctions which members of the international community have decided to carry out against Israel until Israel complies with international law.

The movement for boycott, divestment, and sanctions (BDS) of Israel has many similarities to the movement for BDS against South Africa in the 1980s. We end this section with a brief reflection on the University of Toronto's divestment from South African Apartheid.

Context

The mid-1980s saw a wave of activism on university campuses across Canada – and much of the world – in favour of divestment from Apartheid South Africa. Student groups formed to pressure their respective schools to sever all institutional links with South Africa – whether via pension funds, endowment funds, goods and services contracts, or other institutional links. Student groups calling for such action were formed in or around 1985 and, within a decade, they largely succeeded in their aims.

Anti-Apartheid Activism at the University of Toronto

In 1983, the UofT Divestment Committee, a group composed of students and faculty, began lobbying UofT's administration and the Governing Council to divest from companies that did business with Apartheid South Africa.¹⁸⁶ In November 1984, they submitted a detailed brief, titled "The Case for Divestment," to the Governing Council.¹⁸⁷ This brief argued that any investment in South Africa "inevitably serves to strengthen and perpetuate apartheid."¹⁸⁸ These lobbying efforts were, however, ignored, and UofT continued to purchase stocks in South Africa.

By 1987, the Arts and Science Students' Union, Graduate Students' Union, Native Students' Association, Canadian Union of Education Workers and the UofT Staff Association had all passed resolutions calling for total divestment.¹⁸⁹ An opinion poll conducted by the campus newspaper revealed that the majority of students at the university supported divestment.¹⁹⁰ Yet, despite this growing support, UofT President George Connell argued that the university should "not be committed to a particular political cause" and the Governing Council refused to shed UofT's \$5.5 million investments in South Africa.¹⁹¹ In response to the president's unwillingness to support divestment, more than 70 faculty members signed a letter openly calling for his resignation.¹⁹²

At a meeting on February 24, 1987, the Executive Committee of the Governing Council decided to not allow any discussion of its policy on investments in South Africa at its next meeting.¹⁹³ While the administration and the Governing Council may have been content with their investments policies, UofT

¹⁸⁶ Bogdan-Eduard Ghetu & Thomas Parkin. (March 20, 1987). "Student Group Defends U of T Protest." Toronto Star.

¹⁸⁷ Margaret Webb. (Spring, 2002). "The Age of Dissent". U of T Magazine.

¹⁸⁸ U of T Divestment Committee. (November, 1984). The Case for Divestment. Brief to the University of Toronto Governing Council.

¹⁸⁹ Bogdan-Eduard Ghetu & Thomas Parkin. (March 20, 1987). "Student Group Defends U of T Protest." Toronto Star

¹⁹⁰ Richard Ellis and Lori McDougall. (March 16, 1987). "Majority of students support divestment, poll says". The Varsity.

¹⁹¹ Akwatu Khenti & Carolyn Lynch. (March 5, 1987). "Connell's divestment stand ignores morality." The Varsity.

¹⁹² Undersigned. (March 5, 1987). "72 Professors support divestment". The Varsity.

¹⁹³ Bogdan-Eduard Ghetu & Thomas Parkin. (March 20, 1987). "Student Group Defends U of T Protest." Toronto Star.

students, according to Anti-Apartheid Network (ANN)¹⁹⁴ member Bogdan-Eduard Ghetu, did “not want to be accomplices to a crime against humanity.”¹⁹⁵ In light of this, and after all institutional channels for redress had been tried and had failed, 28 students and one professor occupied the president’s office on March 4, 1987.¹⁹⁶ The next day, 200 students attended the Governing Council meeting, and many rallied outside of Simcoe Hall, the university’s main administrative building, to demand that the Governing Council revoke the Executive Committee’s February 24 decision and discuss divestment.¹⁹⁷ While the meeting was quickly adjourned, this demonstration proved to be pivotal in escalating the momentum of anti-apartheid activism on campus.

The University Divests

After immense pressure from the UofT community, the administration was forced to reconsider its business relations with South Africa and appointed history professor Archie Thornton to prepare a report on UofT’s policy on investments in South Africa.¹⁹⁸ This report, completed in November 1987, reiterated precisely what the UofT Divestment Committee had argued in its brief prepared four years earlier. It urged the Governing Council to divest from South Africa, and argued that “keeping investment links with South Africa makes the university a "friend" of the government, strengthens its economy, and helps maintain the system of apartheid which oppresses the country's black majority.”¹⁹⁹ Finally in January 1988, the Governing Council voted to divest its holdings in South Africa.²⁰⁰

Apartheid Collapses

Two years after UofT took a firm stand against apartheid, the South African regime began to unravel – first with the release of Nelson Mandela in 1990, and then with the country's first multi-racial elections in 1994. In divesting from South Africa, UofT joined a global movement that helped force an end to a racist and abusive regime – unfortunately, not the last one in the world – that no one today would dare contemplate defending.

Lessons from History

Despite the Governing Council’s decision in 1988 to divest from South Africa, the administration under President Connell delayed full implementation of this decision for another two years.²⁰¹ This made UofT one of the last universities in Canada to divest from Apartheid South Africa. If there is anything that should be learned from this history, it is that only after years of concerted pressure from students, faculty and staff did the administration decide to divest from South Africa. If the current administration wants to avoid replicating its mistakes in the past, it is imperative that they take the initiative now and become the first, rather than the last, university in Canada to divest from companies benefitting from Israel’s war crimes, occupation, colonization, and apartheid.

¹⁹⁴ The Anti-Apartheid Network was the successor to the U of T Divestment Committee.

¹⁹⁵ Bogdan-Eduard Ghetu & Thomas Parkin. (March 20, 1987). “Student Group Defends U of T Protest.” Toronto Star.

¹⁹⁶ Jennifer Gould. (March 5, 1987). “Students storm President’s office”. The Varsity.

¹⁹⁷ Gary Feld. (March 9 1987). “Protestors break up GC meeting”. The Varsity.

¹⁹⁸ Andrea Jacobs. (September 24, 1987). “U of T appoints divestment officer”. The Varsity.

¹⁹⁹ Sandro Contenta. (November 25, 1987). “U of T urged to drop South Africa Investment”. Toronto Star.

²⁰⁰ Unknown Author. (January 25, 1988). “U of T decides to divest”. The Varsity.

²⁰¹ Linda Freeman. (1997). *The Ambiguous Champion: Canada and South Africa in the Trudeau and Mulroney Years*. Toronto: University of Toronto Press, 145-7.

Section 8: Call to Action

Based on the findings of the report and in the spirit of democratic governance, we call upon the University of Toronto to:

- 1) immediately divest of its stock in Northrop Grumman, Hewlett Packard and Lockheed Martin;
- 2) form a committee of governing council to review all companies involved in violations of international law around the world; and
- 3) refrain from investing in all companies involved in violations of international law. With respect to Palestine, this entails following the guidelines put forth by Students for Justice in Palestine in the historic divestment by Hampshire College²⁰²:

The University of Toronto should refrain from investing in companies that:

- a) Provide products or services that contribute to the maintenance of the Israeli military occupation of Gaza and the West Bank, including East Jerusalem, as well as the Syrian Golan Heights;
- b) Provide products or services that contribute to the maintenance and expansion of Israeli settlements in the occupied Palestinian territories;
- c) Establish facilities or operations in Israeli settlements in the occupied Palestinian territories;
- d) Provide products or services that contribute to the maintenance and construction of the Wall;
- e) Provide products or services that contribute to military aggressions that target Palestinian civilians.

²⁰²

Students for Justice in Palestine. (2008). Divestment! Retrieved from <http://www.hsjp.org/divestment/>

Appendix A: Policy on Social and Political Issues With Respect to University Divestment
March 4, 2008

To request an official copy of this, contact:

The Office of the Governing

Room 106, Simcoe Hall

27 King's College Circle

University of Toronto

Toronto, Ontario

M5S 1A1

Phone: 416-978-6576

Fax: 416-978-8182

E-mail: governing.council@utoronto.ca

Website: <http://www.governingcouncil.utoronto.ca>

Preamble

The University's core academic values include freedom of inquiry and open debate. As a general matter, the University does not take positions on social or political issues apart from those directly pertinent to higher education and academic research. Instead, its role is to provide a forum within which issues can be studied carefully and debated vigorously. Given these values, the University will not consider any proposals for restrictions on its investments that require the institution to take sides in matters that are properly the subject of ongoing academic inquiry and debate.

As a corollary, the University's response to any petition regarding divestment must be governed by the fundamental place of diversity of opinion within its community. Except in those situations in which the University must settle on an answer to controversial questions about how best to achieve its academic mission, the University risks abandoning its core values if it takes sides in ongoing debates and is perceived to be advancing a specific political or social position.

Principles

In responding to questions about social and political issues with respect to University investment, it is acknowledged that first and foremost, maximizing economic return consistent with the University's stated risk tolerance should be the criterion for purchase and sale of stock in all normal circumstances. In specific instances where the University's social responsibility as an investor is questioned, however, credible and effective procedures for responding should exist.

Responses should be based on the following principles:

- (i) prudent investment. The University has a fiduciary duty to manage investments responsibly to maximize return on its investments within a policy risk tolerance as approved by Business Board from time to time.
- (ii) the Yale University concept of social injury:

- (a) Social injury is the injurious impact which the activities of a company are found to

have on consumers, employees, or other persons, particularly including activities which violate, or frustrate the enforcement of, rules of domestic or international law intended to protect individuals against deprivation or [sic] health, safety, or basic freedoms; for purposes of this Policy, social injury shall not consist of doing business with other companies which are themselves engaged in socially injurious activities.

- (iii) actions taken by the Canadian government or other national or international bodies with regard to the particular issue of concern.

Consideration of questions about social and political issues with respect to University investment must take into account applicable legislative requirements and government or University policy, as well as the legal standards applicable to prudent institutional investors.

Advisory Committee

The President will establish an ad hoc committee of qualified individuals to review any investments claimed to be in conflict with University's social and political positions and to advise the President on possible actions to be taken. Chaired by a senior University officer designated by the President, the committee will consist of individuals with relevant expertise from among the teaching staff, students, administrative staff and alumni. The Executive Committee of the Governing Council will be asked to approve the appointments on the recommendation of the President.

In making recommendations regarding the membership, the President will take into account any potential conflicts of interest proposed members might be expected to have with a view to minimizing such conflicts of interest on the part of committee members

The committee's report and the President's decision will be reported to the Governing Council through the Executive Committee.

The President will issue procedures regarding the implementation of this policy. The first such procedures are included here for information, and the President will review any substantive changes in those procedures with the Executive Committee of the Governing Council.

Approved by Governing Council on March 4, 2008, replacing the Policy on Social and Political Issues with Respect to University Investment revised and approved by the Governing Council on December 14, 1994.

For Information **January 2008**

Procedures for Responding to Social and Political Issues with Respect to University Divestment

Raising Issues

Members of the University of Toronto community who wish to raise issues with regard to University

investments that are in conflict with stated University policies may do so by:

- preparing a convincing brief establishing the case; and
- presenting the evidence of general concern in the University community by collection of signatures.

Responsibility for initiating a request for University action regarding its investments rests with members of the University community. One or more individuals must prepare a fully documented brief identifying the social or political issue that they believe requires divestment.

When the brief has been fully prepared, the initiators of the request must secure evidence of support for their cause through the collection of at least 300 signatures endorsing the brief. Up to 200 of the signatures could come from a single constituency of the University community (for the purposes of these procedures, the constituencies are teaching staff, students, administrative staff, and alumni); the remaining 100 signatures must be from at least two other University constituencies with a minimum of 25 signatures from any individual constituency. Each signatory must attest that he/she has read and agrees with the entire content of the brief.

When signatures have been added to the brief, the material is to be deposited with the office of the President.

Response

The administration will respond by establishing an ad hoc review committee as specified by the policy. This committee, chaired by a senior officer designated by the President, will consider the briefs. The committee may consult with investment and other experts as they deem necessary.

If the committee determines that the brief repeats previous submissions, or is vexatious or frivolous, it will cease its deliberations and recommend to the President that the brief be dismissed. If the brief is not repetitive, vexatious or frivolous, the committee shall complete its deliberations and provide its recommendation in writing to the President regarding the appropriate action to be taken by the University.

The committee will consider the following guidelines in considering the appropriate response to any request:

- the extent and significance of the University's investment in a particular entity. Determination of whether investments are considered significant will depend on the committee's judgment of the relative magnitude of the University's holdings both as a fraction of all University investments and in relation to the market capitalization of the entity under review.
- the degree to which the entity itself is involved in the undesirable activity. Normally, activity is considered significant if more than ten percent of the entity's revenues are derived from the undesirable activity.

The President will consider the recommendations and make the final decision.

Reporting

The written report and the President's decision will be provided to the Governing Council through the

Executive Committee. Following receipt of the report and the President's decision by the Governing Council, the report and decision will be provided to the petitioners.