Statement by European Legal Scholars Defending the Right to Support BDS for Palestinian Rights

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Palestinian BDS National Committee

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STATEMENT BY LEGAL SCHOLARS AGAINST MEASURES ADOPTED BY CERTAIN GOVERNMENTS TO OUTLAW THE BOYCOTT, DIVESTMENT AND SANCTIONS (BDS) MOVEMENT FOR PALESTINIAN HUMAN RIGHTS

Boycott, Divestment and Sanctions (BDS) is a global, peaceful movement led by Palestinian civil society that seeks to put pressure on Israel to honour its obligations under international humanitarian and human rights law as demanded by numerous UN resolutions, in particular to end the occupation of Palestinian and Syrian territories, stop systemic discrimination against Palestinians in the Occupied Palestinian Territory and Israel itself, and permit the return of Palestinian refugees.

Modeled on the Anti-Apartheid Movement that mobilized civil society against apartheid in South Africa, the BDS movement has become a powerful and effective global movement in the advocacy of measures aimed at pressurizing Israel to comply with international law, and at persuading other states and business enterprises to withhold all support for Israel’s violations of international law.

The mobilization of civil society in the interest of human rights, such as the campaign against apartheid in South Africa and the Civil Rights movement in the United States, has not been obstructed by foreign governments. The effectiveness of BDS, however, has prompted not only Israel but also some other states to adopt measures to suppress this movement.

France, the United Kingdom, Canada and certain state legislatures in the United States, have adopted laws and taken executive action to suppress, outlaw and in some instances, criminalize the advocacy of BDS. Such measures aim to punish individuals, companies and private and public institutions that adopt ethically and legally responsible business, investment and procurement decisions.

Other States, notably Sweden, the Netherlands and Ireland, have taken the position that, while they do not endorse a boycott of Israel, the advocacy  of BDS is  a lawful exercise of freedom of expression, a deeply cherished freedom enshrined in national law and international human rights conventions. Reputable human rights organizations, including Amnesty International, the International Federation for Human Rights (FIDH) and Human Rights Watch, have likewise taken the position that individuals, associations, public and private institutions, local governments and businesses are entitled to advocate and implement BDS in the exercise of the fundamental right of freedom of expression.

States and organizations that view BDS as a lawful exercise of freedom of expression are correct. Whether one approves of the aims or methods of BDS is not the issue. The issue is whether in order to protect Israel an exception is to be made to the freedom of expression that occupies a central and pivotal place among fundamental human rights. States that outlaw BDS are undermining this basic human right and threatening the credibility of human rights by exempting a particular state from the advocacy of peaceful measures designed to achieve its compliance with international law.

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