

# PALESTINIAN HUMAN RIGHTS ISSUES IN CANADA: A LEGAL & TACTICAL GUIDE



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**Just Peace Advocates**  
**Mouvement Pour Une Paix Juste**

# BOYCOTT, DIVESTMENT, AND SANCTIONS (BDS)

## WHAT IS BOYCOTT, DIVESTMENT, AND SANCTIONS (“BDS”)

BDS is a call from Palestinian Civil Society that uses non-violent boycotts and divestment measures in an attempt to pressure the Israeli government to recognize Palestinians’ human rights, including their rights to full equality, freedom from violence and forced displacement, and their right to return.<sup>114</sup> The movement was inspired by the South African anti-apartheid movement, and urges action to pressure Israel to comply with international law.

The three stated objectives of BDS are:

1. Ending Israel's occupation and colonization of all Arab lands and dismantling the Wall;
2. Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
3. Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194.

BDS is now a global movement made up of unions, academic associations, churches, and grassroots movements across the world, including in Canada.

<sup>114</sup> BDS Movement, “Palestinian Civil Society Call for BDS” (9 July 2005), online: <https://bdsmovement.net/call>.

**BOYCOTTS:** The Palestinian BDS National Committee (BNC) calls for a boycott of Israeli and international companies that are complicit in violations of Palestinian rights. Virtually all Israeli companies are complicit to some degree in Israel’s system of occupation and apartheid. We focus our boycotts on a small number of companies and products for maximum impact. The BNC focuses on companies that play a clear and direct role in Israel’s crimes and where we think we can have an impact.

Israeli cultural and academic institutions directly contribute to maintaining, defending or whitewashing the oppression of Palestinians, as Israel deliberately tries to boost its image internationally through academic and cultural collaborations. As part of the boycott, academics, artists, and consumers are campaigning against such collaboration and “rebranding.” A growing number of artists have refused to exhibit or play in Israel.

**DIVESTMENT** means that a company or organization removes resources or investments and/or ensures that their investment portfolios and pension funds are not used to finance companies directly supporting or profiting from the Israeli occupation of Palestinian land. These efforts raise awareness about the reality of Israel’s policies and encourage companies to use their economic influence to pressure Israel to end its systematic denial of Palestinian rights.

**SANCTIONS** are an essential part of demonstrating disapproval for a country’s actions. Israel’s membership of various diplomatic and economic forums provides both an unmerited veneer of respectability and material support for its crimes. By calling for sanctions against Israel, campaigners educate society about violations of international law and seek to end the complicity of other nations in these violations.

## IS IT ILLEGAL TO SUPPORT BDS?

- No. Boycotts, campaigns, and protests to draw attention to human rights violations are protected activity under the right to free speech, which is protected pursuant to s. 2(b) of the Canadian *Charter of Rights and Freedoms*.
- Unlike in the United States, Canada does not currently have any anti-boycott regulations that prohibit participating in a boycott against a “friendly country” if the boycott is called by a “foreign country.”
- In February 2016, Canada’s Parliament did pass a motion asking the government to condemn groups and individuals who promote the BDS movement in Canada; however, it is not officially against the law to do so – **no law or legislation was passed banning BDS activity.**<sup>115</sup> The motion was put forward by then Conservative Member of Parliament for Parry Sound-Muskoka Tony Clement, and stated:

*That, given Canada and Israel share a long history of friendship as well as economic and diplomatic relations, the House rejects the Boycott, Divestment and Sanctions (BDS) movement, which promotes the demonization and delegitimization of the State of Israel, and call upon the government to condemn any and all attempts by Canadian organizations, groups or individuals to promote the BDS movement, both here at home and abroad.*

- It passed easily, with a vote of 229 in favour (mostly conservatives and liberals) to 51 against (mostly NDP and Bloc Québécois).
- Beyond the federal motion, on May 19, 2016, the Ontario legislature voted down Private Members’ Bill 202, *An Act respecting participation in boycotts and other anti-Semitic actions*, which would have prevented the provincial government from entering into contracts with individuals or entities supporting the BDS movement.<sup>116</sup> The proposed legislation passed first reading before being defeated at second reading by a vote of 39 to 18.
- On December 1, 2016, Private Member’s Motion 36<sup>117</sup> passed in the Ontario legislature, which rejected the differential treatment of Israel, including the boycott, divestment and sanctions movement. It

## BDS ON CANADIAN CAMPUSES

Canadian student groups are leaders in the BDS movement!

- On November 29, 2018, the Canadian Federation of Students, Canada’s oldest and largest student organization, **voted** to endorse the BDS movement in solidarity with Palestinian human rights advocates.
- On March 30, 2017, the University of British Columbia chapter of Solidarity for Palestinian Human Rights successfully won a case before BC’s Supreme Court in the case of *Presch v Alma Mater Society of the University of British Columbia*, **2017 BCSC 963**, in which the Court ruled that its referendum on BDS could proceed.
- On March 21, 2017, after a long and vigorous debate, students at King’s University College, which is part of Western University in London, Ontario, **voted** 76% in favour of boycotting and divesting from companies complicit in the Israeli occupation.
- Check out the 20+ student-led BDS victories on Canadian University campuses **HERE**

also endorsed the Ottawa Protocol on Combatting Antisemitism, which was signed by the Canadian government in 2011 with the objective to silence criticism of Israel by equating that criticism with antisemitism.<sup>118</sup> The motion was introduced by Thornhill Conservative MPP Gila Martow, and was passed by a vote of 49 to five, with almost half of the 107 members of the legislature absent. Only the NDP members in the house voted against the resolution.

<sup>115</sup> House of Commons, Journals, 42nd Parl, 1st Sess, No 22 (22 February 2016) at 176.

<sup>116</sup> Bill 202, *An Act respecting participation in boycotts and other anti-Semitic actions*, 1st Sess, 41st Leg, Ontario, 2016 (1st Reading May 17, 2016).

<sup>117</sup> Ontario, Legislative Assembly, *Orders and Notices Paper*, 41st Parl, 2nd Sess, No 38 (1 December 2016) at 3, 11 at 17.

<sup>118</sup> Government of Canada, News Release, “Canada becomes first country to sign the Ottawa Protocol” (19 September 2011), online: <https://www.canada.ca/en/news/archive/2011/09/canada-becomes-first-country-sign-ottawa-protocol.html>.

## IS BDS ANTI-SEMITIC?

- No. BDS is focused on the human rights of the Palestinian people and Israel's compliance with international human rights standards under international law. It is not anti-Semitic nor anti-Israel to require the Israeli government to comply with such obligations.

## WHAT COMPANIES SHOULD I BOYCOTT?

- For a detailed list of international companies that aid and abet Israel's violations of international law, including by operating in illegal Israeli settlements and acting as contractors for the Israeli military and government, check out the BDS Canada [Consumer Boycott Action List](#) from the Canadian BDS Coalition.

## WHAT ARE SOME IMPORTANT CONSIDERATIONS RELATED TO BUSINESS AND HUMAN RIGHTS?

- Responsible business conduct means ensuring that global operations, including supply chains, are compliant with domestic and international human rights laws. It also means doing business in a manner that is economically, socially, and environmentally sustainable.
- While there are very few binding legal obligations that are enforceable on corporations operating transnationally, a number of voluntary "soft law" mechanisms have emerged in the forms of international guidelines, ethical principles, and codes of conduct, which are based on the notion that multinational corporations have a quasi moral/legal responsibility for the protection of rights that have a strong nexus with the operations of the company.<sup>119</sup> Despite lacking an enforcement mechanism, in the absence of "hard law", these guidelines contribute to responsible business practices by solidifying the notion that corporations owe a duty to stakeholders and shareholders alike, and by providing a framework for internalizing human rights norms within a company.<sup>120</sup>
- One notable set of globally-endorsed standards is the UN Guiding Principles on Business and Human Rights (UNGPs).<sup>121</sup> Unanimously endorsed in 2011 by the UN Human Rights Council, the UNGPs provided for the first time a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. The UNGPs

## CANADIAN LABOUR IS A STRONG SUPPORTER OF BDS!

Canadian labour unions that have publically supported BDS include:

- Unifor
- Confédération des syndicats nationaux (CSN) / Confederation of National Trade Unions
- Canadian Federation of Students, Ontario Branch
- Centrale des syndicats du Québec (CSQ) / Quebec House of Labour
- Conseil central du Montréal métropolitain de la confédération des syndicats nationaux (CCMM-CSN)
- College and University Workers United (CUWU)
- Canadian Union of Postal Workers (CUPW) / Syndicat des travailleurs et travailleuses des Postes (STTP)
- Fédération nationale des enseignantes et des enseignants du Québec (FNEEQ-CSN) / Quebec Teachers Union
- Association pour une Solidarité Syndicale Étudiante (ASSÉ) / Association for Student Union Solidarity
- Ontario branch of the Canadian Union of Public Employees (CUPE-ON)

FOR MORE INFORMATION, VISIT [CANADIAN BDS COALITION](#).

<sup>119</sup> Justine Nolan & Luke Taylor, "Corporate Responsibility for Economic, Social and Cultural Rights: Rights in Search of a Remedy?" (2009) 87 J of Business Ethics 433 at 437.

<sup>120</sup> *Ibid* at 439.

<sup>121</sup> United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York and Geneva: OHCHR 2011) [UNOHCHR, UNGP].

consist of 31 principles that outline how States and businesses should implement the UN “Protect, Respect and Remedy” Framework in order to better manage business and human rights challenges.<sup>122</sup>

The policy framework consists of three core pillars: (1) States’ duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; (2) the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others; and (3) the need for greater access by victims to effective remedies, judicial and non-judicial.

- Human rights due diligence is fundamental to ensuring that businesses meet their responsibility to respect human rights. This refers to the steps that companies must take to identify, prevent, mitigate, remedy, and account for any negative human rights impacts that the company may cause or contribute to through its business activities, services, or relationships.
- The UNGPs apply to all States and businesses, both transnational and others, regardless of their size, location, ownership, or structure. They also give particular attention to the rights and needs of vulnerable groups, including women, children, migrants, persons with disabilities, and Indigenous communities.
- In addition to the UNGPs, a variety of other frameworks have been developed as a means of identifying and promoting human rights obligations for businesses. Some guidelines focus on a broad range of human rights protections while others are geared towards specific sectors or issues, such as mining or security, or specific groups, such as women or children. Prior to the development of the UNGPs, one of the standards was the *Voluntary Principles of Security and Human Rights* (VPSHRs).<sup>123</sup>
- *The OECD Due Diligence Guidance for Responsible Business Conduct* applies to all sectors and include recommendations for corporations to fulfill human rights due diligence obligations.<sup>124</sup> As a member of the Organization for Economic Co-operation and Development (OECD), Canada is expected to be directed by this Guidance in its engagement with companies and its promotion of Canadian business.<sup>125</sup>

- The **UN Global Compact**, a voluntary initiative launched in 2000, also addresses the issue of business and human rights through its *Ten Principles*, which are aimed at getting business leaders to voluntarily promote and apply principles relating to human rights, labour standards, the environment, and anti-corruption.<sup>126</sup> Several thousand companies have signed onto the Global Compact. The Global Compact Network Canada (GCNC) is the Canadian local network of the UNGC. Thematic human rights frameworks have also been developed for women and children, respectively, through the *Women’s Empowerment Principles* and the *Children’s Rights and Business Principles*.<sup>127</sup>
- Companies are urged to take all necessary measures to ensure that their activities are in compliance with international humanitarian law, international human rights law, and international criminal law by ending all association with projects connected to unlawful Israeli settlements and the occupation of Palestinian territory.
- In Canada, pursuant to the *Crimes Against Humanity and War Crimes Act*,<sup>128</sup> parties that are complicit in genocide, crimes against humanity, and/or war crimes, including individuals or corporations, are liable to criminal prosecution.
- In January 2021, the Ontario government’s Capital Markets Modernization Task Force issued its **final report** containing proposals for policy reform to Ontario’s capital markets.<sup>129</sup> In the report, the Task Force recommended that public issuers be required to disclose material environmental, social, and

<sup>122</sup> UNOHCHR, *Interpretive Guide*, *supra* note 143 at 2.

<sup>123</sup> *Voluntary Principles Initiative, Voluntary Principles on Security and Human Rights*, (2000), online: <https://www.voluntaryprinciples.org/the-principles/>.

<sup>124</sup> OECD, *OECD Due Diligence Guidance for Responsible Business Conduct*, (2018).

<sup>125</sup> Amnesty International Canada, *Corporate Accountability Information Kit*, (2018) at 7, online: <https://www.amnesty.ca/get-involved/lead-in-your-community/corporate-accountability-information-kit>.

<sup>126</sup> United Nations Global Compact, *The Ten Principles*, (2000), online: <https://www.unglobalcompact.org/what-is-gc/mission/principles>.

<sup>127</sup> UN Women & the United Nations Global Compact, *Women’s Empowerment Principles*, 2<sup>nd</sup> ed (UN Women & UNGC, 2011), online: <http://weprinciples.org/Site/PrincipleOverview/>; UNICEF, the UN Global Compact and Save the Children, *Children’s Rights and Business Principles*, (UNICEF, 2012), online: <http://www.unicef.org/csr/12.htm>. See also UNICEF, UNICEF Canada, Government of Canada, and Barrick Gold, *Child Rights and Security Checklist*, (2016), online: [https://www.unicef.org/csr/css/Child\\_Rights\\_and\\_Security\\_Checklist\\_ENGLISH.pdf](https://www.unicef.org/csr/css/Child_Rights_and_Security_Checklist_ENGLISH.pdf); UNICEF Canada, Government of Canada, Barrick Gold, *Child Rights and Security Handbook: An implementation companion to the Child Rights and Security Checklist*, (2016), online: [https://www.unicef.ca/sites/default/files/field\\_files/FINAL\\_CRSS%20Handbook%20%28ENGLISH%29\\_February%202018.pdf](https://www.unicef.ca/sites/default/files/field_files/FINAL_CRSS%20Handbook%20%28ENGLISH%29_February%202018.pdf).

<sup>128</sup> 2000, c 24.

<sup>129</sup> Capital Markets Modernization Taskforce: Final Report (January 2021), online: <https://www.ontario.ca/document/capital-markets-modernization-task-force-final-report-january-2021>.

governance (ESG) information.<sup>130</sup> If the Task Force's recommendation is implemented, this means that public companies operating in the Occupied Palestinian Territories may be required by law to disclose information about the human rights risks associated with their activities there, if they are listed in Ontario.

- Since the 2009 Quebec Superior Court decision in *Bil'in (Village Council) c Green Park International Inc.*,<sup>131</sup> it is possible for a corporation to be held liable in a civil lawsuit in Canadian courts for complicity in a war crime. Although the *Bil'in* case was dismissed on jurisdictional grounds, it helped lay the groundwork for the Supreme Court of Canada's precedent setting February 2020 decision in *Nevsun Resources Ltd. v. Araya*,<sup>132</sup> which confirmed definitively that violations of customary international law may directly give rise to civil liability under Canadian common law (discussed further below).
- In *Bil'in*, the heirs of a Palestinian landowner and the council of a Palestinian town sued two Canadian companies in Québec, claiming that by carrying out Israeli construction orders to build condominiums in Israeli settlements in the West Bank, they were assisting Israel in war crimes in violation of international law, including the Fourth Geneva Convention and the *Crimes Against Humanity and War Crimes Act*. The Superior Court of Québec dismissed the claim, concluding that the Israeli High Court of Justice was the most appropriate forum to argue the case. However, it still set an important precedent for addressing war crimes in the West Bank because the Quebec court did recognise that a person committing a war crime could be liable under Quebec civil law.
- The complainants appealed to the Court of Appeal, but the Court affirmed the Superior Court's decision on August 11, 2010.<sup>133</sup> An application for leave to appeal was dismissed by the Supreme Court of Canada on March 3, 2011.<sup>134</sup>
- On 28 February 2013, the same claimants filed a Communication with the United Nations Human Rights Committee against Canada, claiming that Canada had breached its obligations under the International Covenant on Civil and Political Rights by failing to prevent Green Park and Green Mount from continuing its activities on the West Bank. In a Decision dated July 26, 2017, the Committee held that the Communication was inadmissible

on the basis that there was not a sufficient nexus between Canada's obligations under the Covenant, the actions of Green Park International and Green Mount International, and the alleged violations of the claimants' rights.<sup>135</sup>

- In a concurring opinion of Committee members Olivier de Frouville and Yadh Ben Achour, it was noted that, in future cases, if a communication of this nature were sufficiently substantiated, the Committee could consider it admissible.<sup>136</sup>
- On the issue of jurisdiction, the Committee members concluded that a jurisdictional link could be established if (1) there existed the effective capacity of the State party to regulate the activities of the businesses concerned, and (2) the State had actual knowledge of those activities and their necessary and foreseeable consequences in terms of violations of human rights recognized in the Covenant.<sup>137</sup> If jurisdiction was established, it would still need to then be determined whether any rights violations under the Covenant had occurred. Check out more on [Canadian business complicity](#).

## WHAT ARE SOME CONSIDERATIONS REGARDING DIVESTMENT?

- **Environmental, Social, and Governance (ESG)** are a set of factors that investors may consider in making risk and return assessment of their investments. Although there are no standard definitions, environmental factors may take into consideration a company's impact on environmental matters. The social criteria may consider issues such as how a company manages its relationships with employees, clients, customers, suppliers, and the communities where it operates, among other things. The governance factor may consider issues

<sup>130</sup> Environmental, Social, and Governance (ESG) criteria are a set of factors that investors may consider in making risk and return assessment of their investments.

<sup>131</sup> 2009 QCCS 4151.

<sup>132</sup> 2020 SCC 5.

<sup>133</sup> *Yassin c Green Park International Inc.*, 2010 QCCA 1455

<sup>134</sup> *Bil'in (Village Council), Late Ahmed Issa Abdallah Yassin, Basem Ahmed Issa Yassin, Maysaa Ahmed Issa Yassin v. Green Park International inc., Green Mount International inc. and Annette Laroche*, 2011 CanLII 10843 (SCC)

<sup>135</sup> *Decision adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2285/2013* \*, \*\*, \*\*\*, CCPR/C/120/D/2285/2013, UNHRC, 2017.

<sup>136</sup> *Ibid.*, Concurring opinion of Committee members Olivier de Frouville and Yadh Ben Achour, at para 1.

<sup>137</sup> *Ibid* at para 10.



# A WARNING FOR CANADIAN COMPANIES VIOLATING HUMAN RIGHTS ABROAD: *NEVSUN RESOURCES LTD. V. ARAYA*, 2020 SCC 5

In a decision released on February 28, 2020, the Supreme Court of Canada (SCC) confirmed that violations of customary international law may directly give rise to civil liability under Canadian common law, permitting a group of Eritrean workers to pursue a legal claim in British Columbia against a Canadian mining company operating in Eritrea.

The claim arose after three Eritrean refugees sued Nevsun Resources Ltd., a publicly-held BC corporation, after alleging they were forced to work in the Bisha mine, in which Nevsun has a majority stake, for 12 hours a day, six days a week, in temperatures close to 50 degrees Celsius without cover. They sought monetary damages from Nevsun for breaches of customary international law prohibitions against forced labour, slavery, cruel, inhuman or degrading treatment, and crimes against humanity. They also sought damages for breaches of domestic torts including conversion, battery, unlawful

confinement, conspiracy, and negligence.

Nevsun brought a motion to strike the claim on the basis that the British Columbia courts did not have the authority to rule on the lawsuit. It argued that the 'act of state' doctrine precluded domestic courts from assessing the sovereign acts of a foreign government – in this case, those of Eritrea.

The majority of the SCC held that the act of state doctrine was not part of Canadian law, dismissing Nevsun's appeal. It went on to declare that customary international law – including what are known as preemptory norms, or the most serious violations of rights – are part of Canadian law.

The SCC's dismissal of Nevsun's appeal would have allowed the case to return to the Supreme Court of British Columbia to hear the merits of the workers' case and determine if there were breaches of customary international law, and if so, what remedy was warranted. However,

the Eritrean workers did not have to wait that long – in October 2020, the parties reached an out-of-court settlement for an undisclosed amount of money, bringing a final resolution to the dispute.<sup>138</sup>

The case will now return to the Supreme Court of British Columbia, which will hear the merits of the workers' case and determine if there have been breaches of customary international law, and if so, what remedy is warranted.

This case is an important advancement in how civil law remedies apply to corporations for breaches of international law, and may result in more actions being brought against Canadian companies operating in countries notorious for human rights violations.

<sup>138</sup> Yvette Brend, "Landmark settlement is a message to Canadian companies extracting resources overseas: Amnesty International", CBC News (23 October 2020), online: <https://www.cbc.ca/news/canada/british-columbia/settlement-amnesty-scc-africa-mine-nevsun-1.5774910#:text=CBC%20News%20Loaded-,Landmark%20settlement%20is%20a%20message%20to%20Canadian%20companies%20extracting%20resources,amount%2C%20according%20to%20Amnesty%20Internationa>

such as a company's board structure, leadership, audits, shareholder rights, executive compensation, and internal controls. In considering divestment strategies it is useful to check out a company's ESG commitments, and if it is a member of an organization for responsible investment such as the Responsible Investment Association: <https://www.riacanada.ca/about/>

- A **divestment resolution** is a stated commitment from a company or organization to divest monies and investments from companies directly supporting or profiting from the Israeli occupation of Palestinian land.
- The trustees or managers of a fund often have a **fiduciary duty** to manage assets entrusted to them for the benefit of the assets' owners and without injuring owners' interests. The ability to take non-financial criteria, such as ESG factors, into account in making an investment decision

by a fiduciary depends significantly on the type of fund (i.e., whether it is an endowment fund, pension fund, charitable fund, or other type of fund). If a fund's trust instrument permits non-financial criteria to be considered, and there is no other regulatory or statutory limitation that applies, then it can do so. One may even compel a fiduciary to consider non-financial criteria if it is clear in the trust instrument that it is permitted and there are no other legal constraints.

- Divestment resolutions of investors must respect fiduciary duty, where the investor or the company has a fiduciary duty to invest monies, and where fiduciary rules are in place.
- Divestment may be allowed based on ESG criteria where **alternative investments of equal value and risk return profile to the properties to be divested** are available, also accounting for the risk of investment, the rate of return, and other factors,

such as diversification, matching the obligations of the fund, and others.

- Pension funds are an important exception to the above statement regarding the ability of a trustee or fund manager to take non-financial criteria, such as ESG factors, into account in making an investment decision. In the case of pension funds, pension regulation restricts the criteria that can be considered by trustees to those that are **material to financial risk-reward considerations**. That is, you can consider divestment in the context of a pension fund investment decision if there is a material risk-return factor that divestment is based on.
- Also, with respect to pension funds, trustees have sole discretion to manage funds, so a resolution that usurps in any way this discretion is unenforceable. Pension fund trustees may therefore be asked to make decisions to sell entrusted funds based on ESG criteria as long as the divestment resolution does not intrude in any way on the trustees' discretion to implement the resolution how and when they decide, in their sole discretion. The divestment resolution must also allow trustees to implement it without injuring the interests of fund owners in any way that owners have not authorized.
- Divestment is an action on a spectrum of actions that investors can take, and ESG is a set of factors that investors can consider in determining what actions to take. Other steps can include engaging stakeholders, asking for policy changes, moving business units around, selling parts of a company, or ultimately, divesting entirely.

### WHAT ABOUT DIVESTMENT LANGUAGE?

- **Language to use for a “Therefore” clause:** Divestment language may say, for example:

*“We request the trustees to divest from Caterpillar, at such time and in such manner as they may determine.” Or: “We ask the trustees to divest from companies directly supporting or profiting from the Israeli occupation*

*of Palestinian land, as they may identify as appropriate for such action.”*

- **Language to avoid:** Divestment resolution language that orders trustees to divest (“trustees shall divest ...”) or to divest immediately or by some other externally imposed deadline would likely not be enforceable, because it interferes with the trustees' discretion about when and how to divest.

### WHAT ARE SANCTIONS?

- Sanctions campaigns pressure governments to fulfil their legal obligations to end Israeli apartheid, and not aid or assist its maintenance, by banning business with illegal Israeli settlements, ending military trade and free-trade agreements, as well as suspending Israel's membership in international forums such as UN bodies.<sup>139</sup>
- Canadian sanctions laws implement United Nations Security Council (UNSC) sanctions regimes under the *United Nations Act*<sup>140</sup>, as well as Canadian autonomous sanctions regimes under the *Special Economic Measures Act*.<sup>141</sup>

## A CASE FOR DIVESTMENT: UNIVERSITY OF TORONTO

The University of Toronto Graduate Students' Union (UTGSU), the BDS Ad Hoc Committee, and Students Against Israeli Apartheid at the University of Toronto (SAIA UT) have called on the University of Toronto (UofT) to immediately divest its stock in three companies – Northrop Grumman, Hewlett Packard, and Lockheed Martin – on the basis that these companies 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 groups also call on UofT to refrain from investing in all companies involved in violations of international law with respect to Palestine. For more information, visit <http://www.uoftdivest.com/>.

<sup>139</sup> BDS Movement, “What are Boycotts, Divestment and Sanctions?”, online: <https://bdsmovement.net/what-is-bds>.

<sup>140</sup> RSC 1985, c U-2.

<sup>141</sup> SC 1992, c 17.



- Pursuant to the *Special Economic Measures Act*, sanctions may be ordered when gross and systematic human rights violations have been committed in a foreign state. In this regard, Canada's own domestic law could call for sanctions based on Israel's systemic human rights violations and violations against humanitarian law, including the Geneva Conventions. Check out more on the Al-Haq [Gaza20/20](#) campaign which in Canada references the *Special Economic Measures Act*.
- Just Peace Advocates calls on the Government of Canada to implement the following sanctions with regard to Israel and the Occupied Palestinian Territories (OPT):
  - To take positive measures toward respecting international law, including by banning illegal settlement products and services.
  - To take all necessary measures to ensure full respect for and compliance with international law norms, including the Geneva Conventions, the relevant resolutions of the United Nations Security Council, the United Nations General Assembly, and the United Nations Human Rights Council regarding third state obligations toward the OPT; and
  - To abide by Canada's obligations as a third state and as High Contracting Party to the Geneva Conventions of 1949, notably under Common Article 1, to respect and to ensure respect for international humanitarian law in the OPT in all circumstances.

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# FOR ADDITIONAL INFORMATION AND RESOURCES, VISIT THE FOLLOWING:

## CANADIAN BDS COALITION

For analysis, information and statements about BDS in Canada visit the Canadian BDS Coalition website at [bdscoalition.ca](https://bdscoalition.ca).

## ABOUT

Just Peace Advocates is a Canadian, independent organization promoting the human rights of the Palestinian people and those that stand in solidarity for the human rights of the Palestinian people. Its vision is to provide a civil society voice focused on governmental, institutional, and societal accountability to the rule of law, and the standards of international human rights and humanitarian law for the rights of Palestinian people.

The work of Just Peace Advocates is accomplished through research, monitoring, education, communications, advocacy, programs, and service provision.

## DISCLAIMER

This guide is meant to provide basic information on legal issues that Palestinian rights activists may face, and tips on how to navigate them. It provides some generally applicable information and some campus-specific information for student activists. Any legal information in this resource is intended for general educational purposes and is **NOT a substitute for legal advice** – federal and provincial laws differ, laws may change, and the application of all laws depends on the specific facts of a case. Make sure to consult with a lawyer before relying on any information you find here.

For legal advice on your campaign or about a specific issue you are facing, or to report incidents of repression of your activism, please email [info@justpeaceadvocates.ca](mailto:info@justpeaceadvocates.ca).

We are also glad to provide workshops or schedule meetings to discuss your particular needs, whenever possible.

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Just Peace Advocates thanks Palestine Legal for allowing us to have access to their existing resources and giving us permission to update them to the applicable Canadian legal context. For more information about Palestine Legal, see [palestinelegal.org](http://palestinelegal.org).

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Please send questions and corrections to [info@justpeaceadvocates.ca](mailto:info@justpeaceadvocates.ca).

## JUST PEACE ADVOCATES

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