

"THE UJ-BGU REPORT"

*Findings on Ben-Gurion University of the Negev:
Institutional complicity and active collaboration with Israeli military, occupation and apartheid
practices*

15 March 2011

UJ Petition Committee
www.ujpetition.com

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REPORT ON BEN-GURION UNIVERSITY OF THE NEGEV

Findings on institutional complicity and active collaboration with Israeli military, occupation and apartheid practices

Background to the Report

In September 2010, over 250 South African academics (including Professors Neville Alexander, Kader Asmal, Alan Boesak, Breyten Breytenbach, John Dugard, Antjie Krog, Achille Mbembe and Sampie Terreblanche) as well as prominent supporters (such as Archbishop Desmond Tutu, Professor Mahmood Mamdani and Ronnie Kasrils) initiated a campaign calling on the University of Johannesburg (UJ) to end its long-standing relationship with the Israeli institution, Ben-Gurion University of the Negev (BGU).

Against the backdrop of this nationwide campaign, UJ's Senate voted not to continue its relationship with BGU as it stands. UJ's Senate set conditions for BGU to comply with within 6 months, failing which relations between the two institutions will automatically terminate. These conditions are captured in a September 2010 Senate Resolution.

In February 2011, a fact-finding investigation was undertaken in Israel and the Occupied Palestinian Territories. The purpose of the investigation was to examine BGU's compliance with UJ's Senate Resolution as well as get input and guidance from Palestinians and Israelis. A series of meetings were held with academics and students from BGU. A substantial amount of time was spent in the West Bank at two of the most prestigious Palestinian universities: An-Najah National University (Nablus) and Birzeit University (Birzeit). Meetings were held with representatives from the Palestine Water Authority and, furthermore, several non-governmental organizations were consulted with. This report presents just some of the information and evidence resulting from the investigation.

Findings of the investigation

The findings of the investigation are damning of BGU's collaboration with the Israeli occupation, its military and apartheid practices. This report provides detailed, factual evidence and information regarding BGU's multi-faceted support which BGU *actively* nurtures in order to further the policies of the Israeli state and its violation of human rights.

As a thorough indictment of BGU's contribution to human rights violations, these findings are relevant to all institutions that currently engage with BGU in any capacity and severely calls into question any such relationships.

More specifically, on the basis of these findings, the report demonstrates a clear failure by BGU to meet the criteria established by the UJ Senate Resolution. BGU's practices and policies, the report concludes, are incompatible with UJ's values and it is clear that UJ's vision as a transformed institution (within a global academic community) will be seriously and irredeemably undermined by any relationship with BGU.

- *Active collaboration with the Israeli military and occupation*

The report demonstrates BGU's *active* role in supporting and extending the efficacy of the Israeli military and the occupation. Exposing BGU's development of research specifically aimed for application in military uses (such as un-manned robot technologies) as well as BGU's participation in programs specifically sponsored by and benefitting the Israeli Defense Forces (such as an advanced technologies park and the Israeli state's atomic research programmes and facilities), this report documents BGU's ongoing, deliberate and wide-ranging support for the Israeli military and illegal occupation.

- *BGU threatens Academic Freedom and Freedom of Expression*

Attempting to limit the pressure of internal and international criticism, the Israeli state has initiated a series of repressive measures (including the widely-condemned Prohibition on Boycott Bill) as part of a concerted effort to limit the purview of academic freedom and political expression.

Based on evidence provided mainly by primary sources this report exposes not only a failure by BGU to oppose such concerning measures, but also its active support for extending state efforts to limit academic freedom and political expression. BGU's president, Professor Rivka Carmi, conspicuously and actively supports the attempts by the Israeli Government to curb academic freedom and dissenting voices on Israeli University campuses. There is a trend that BGU vigorously and consistently undermines and disciplines groups, students and academics who voice their criticism of Israel or their support for Palestinian rights.

In this regard, the values of BGU are in stark contrast to the values of academic freedom and respect for diversity which are promoted by UJ.

- *BGU's water research project contributes to the violation of human rights*

The current relationship between UJ and BGU involves research into water purification and energy technologies. The report contextualises the water research agreement between UJ and BGU by highlighting the manner in which water policies of the Israeli State are discriminatory against Palestinians (particularly the residents of the West Bank) and are in flagrant contravention of International Law.

The findings of the report demonstrate how the research supported and undertaken by BGU forms part of an intricate nexus which supports and entrenches the discriminatory policies on water availability consumption within Israel and the occupied Palestinian territories.

Collaborative links with the activities of the Israeli Water Authority and the Jewish National Fund are exposed as a necessary and pernicious result of any relationship with BGU's water research units.

The report makes it clear that UJ's pursuit of academic excellence will in no way be served by becoming entrenched within research relationships that contribute directly and indirectly contribute to human rights abuses.

- *BGU perpetuates structural discrimination against Palestinians*

This report uncovers the manner in which BGU not only mirrors Israeli discriminatory policies and practices, but actively reinforces its exclusions and differential treatment.

The report analyses and systematically uncovers how BGU's preferential treatment for military enlisted students further cements and extends the inequality already prevalent within the make-up of tertiary educational institutions in Israel.

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INTRODUCTION

1. University of Johannesburg Senate Resolution of 29 September 2010 ("the Senate Resolution")

1.1 In reference to the Senate Resolution which recorded the decision of UJ's Senate in respect of the University of Johannesburg's ("UJ") relationship to Ben-Gurion University of the Negev ("BGU"). (Available as Annexure "A")

1.2 In terms of the Senate Resolution, Senate decided that (based on the outcome of a specially constituted Task Team's investigation into the matter) UJ would not continue its Memorandum of Understanding (MOU) with BGU as it stands. Rather it was stated that UJ's institutional response should be guided by the following principles:

“i) In support of the principle of solidarity with any oppressed population (a defining principle emanating from our own history), we [UJ] should take leadership on this matter from peer institutions among the Palestinian population.

ii) Our [UJ's] engagement must encourage reconciliation and the advancement of human dignity and human solidarity.”

1.3 Further, Senate set certain conditions that BGU would have to fulfil by 1 April 2011, failing which the relationship will terminate. Such conditions include *inter alia*:

1.3.1 Amend the MOU to include one or more Palestinian universities chosen on the basis of agreement between BGU and UJ.

1.3.2 The projects flowing from th[e] MOU will not entail any activity, including teaching and research, which has any direct or indirect military implications or contributes to the abuse of human rights. This will be monitored by the Senate Academic Freedom Committee.

1.3.3 Requiring BGU to respect UJ's duty to take seriously allegations of behaviour on the part of its stakeholders that is incompatible with UJ's values. This includes responding to reasonable requests from UJ seeking more information about BGU's formal policies and informal practices.

2 Palestinian university partner

In respect of the condition in paragraph 1.1:

- 2.1 A Palestinian partner has to be included in the existing MOU between UJ and BGU.
- 2.2 We emphasise that the Senate Resolution provides that UJ's institutional response to the BGU relationship should be guided by the principle of solidarity with any oppressed population and taking leadership from peer institutions among the Palestinian population.
- 2.3 Palestinian universities are unanimous in their principled support of the call for a comprehensive boycott, divestment and sanctions campaign of Israel. It has thus become clear that BGU is unable to secure such a Palestinian university partner.
- 2.4 Palestinian universities' position not to partner with BGU stems from a principled desire for freedom, dignity and a true space for diversity – values that UJ Senate is under an obligation to promote with respect to UJ's international partnerships.
- 2.5 A statement of position by the Palestinian Federation of Unions of University Professors and Employees ("**PFUUPE**") captures the importance of upholding the decision of Palestinian universities not to enter into bilateral or trilateral agreements with Israeli Institutions:

“In reference to the decision by the University of Johannesburg (UJ) Senate in September 2010 to review the University’s Memorandum of Understanding with Ben-Gurion University, and particularly regarding the condition of partnering with a Palestinian university, PFUUPE, representing Palestinian academics at virtually all Palestinian universities in the occupied West Bank and Gaza Strip stands firmly behind the position of the Palestinian Council for Higher Education (CHE) rejecting cooperation with Israeli universities.

The CHE, representing all higher education institutions and the Ministry of Education and Higher Education, has rejected, since the early 1990s, any form of cooperation by Palestinian institutions of higher education with Israeli academic institutions until the Israeli occupation ends. This position was reiterated again with particular reference to the Memorandum of Understanding between Ben-Gurion and Johannesburg Universities during one of its meetings in October 2010. Members of the CHE reaffirmed their rejection to any form of cooperation with Israeli universities, be it direct cooperation, or through third parties. [our emphasis]

PFUUPE fully endorses the Palestinian civil society call for boycott, divestment and sanctions (BDS) against Israel until it fulfils its obligations under international law and, as part of it, the Call by the Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI). Within the framework of this non-violent form of resistance to the occupation and dispossession of the Palestinians, the boycott must be applied to Israeli institutions, including all universities that are complicit in the state's violations of international law and human rights until they end their direct and indirect collusion in the state's colonial and apartheid policies."

(The complete statement of position of PFUUPE is available as Annexure "B")

- 2.6 The failure to secure a Palestinian university willing to enter into an agreement with BGU will necessarily result in the termination of the agreement with BGU on 1 April 2011. This is a moment that is welcomed by Palestinians as a true expression of solidarity with the oppressed and as an ethical approach – this would reflect UJ's position as a progressive institution firmly located in the Constitutional era and committed to the *practice* of transformation guided by values of dignity, equality and freedom.
- 2.7 The unanimous agreement of Palestinian universities for this decision recognises that any insertion of a Palestinian partner into a tri-lateral agreement with BGU does nothing to remedy the structural relationship of BGU to the Israeli occupation. Rather, this constitutes nothing more than an attempt at window-dressing and legitimating an agreement with BGU, without having to address what is the real issue at stake: BGU's direct and indirect complicity in furthering the discriminatory policies of the Israeli state and its illegal military occupation.
- 2.8 It should be stressed that attempting to maintain any relationship with BGU by suggesting bi-lateral agreements (UJ with BGU & then UJ with a Palestinian partner) will be an affront to UJ's desire to champion transformative and progressive values.
- 2.9 As this report indicates, BGU is an institution that has actively situated itself as an institution in material and ideological support of the Israeli state and its military occupation. This deep complicity can in no way be counter-balanced by simply partnering with Palestinians.
- 2.10 Agreements and relationships with Palestinian universities of course is welcomed – but this cannot in any way justify, legitimate or be dependant on a continued partnership with BGU.
- 2.11 In light of UJ Senate's own commitment to being guided by the *principle of solidarity with any oppressed population*, UJ must uphold its decision to take

leadership from peer institutions among the Palestinian population in this regard and be cognisant of the spirit in which Palestinians have outlined their rejection of a relationship (in any way) with BGU.

3 This Report

3.1 This report provides detailed, factual evidence and information regarding BGU's direct and indirect role in further entrenching the violations of human rights and international law by the Israeli state.

3.2 The findings are damning of BGU's active role in collaborating and furthering Israeli state policies.

3.3 The findings are divided into four broad categories:

Part 1: Military and Occupation Links

Part 2: Restrictions on Academic Freedom and Freedom of Expression

Part 3: The Joint UJ-BGU Water Research Project

Part 4: Discrimination and Palestinian Education

3.4 The findings presented in this report clearly demonstrate an incompatibility between BGU's practices and policies and UJ's values.

3.5 We note that the values guiding UJ's activities include *inter alia*:

3.5.1 Integrity and respect for diversity and human dignity

3.5.2 Academic freedom and accountability

3.6 Further, we note that under the heading "Principles to Guide Deliberations about International Partnerships", the Senate Resolution notes as guiding principles:

"1. [...]

2. *To be liable for censure, an institution must engage in or support a practice incompatible with UJ's key values.*

3. *For the termination of a relationship with an institution to be appropriate, there must be evidence that it is supporting a practice incompatible with UJ's key values, with UJ having a duty to make a good-faith enquiry into allegations of such behaviour on the part of its stakeholders.*

4. [...]"

3.7 The findings in this report suggest BGU's engagement in and support of practices incompatible with UJ's values in the following ways:

- 3.7.1 *BGU's active collaboration with the Israeli military establishment* – a military accused of perpetrating war crimes and currently implementing an illegal occupation; this can in no way be reconciled with UJ's values of integrity and respect for diversity and human dignity.
- 3.7.2 *BGU's suppression of academic freedom* – is clear from the evidence presented in Part 2; this must attract censure of the institution. Lending even tacit support to BGU's policies and practices clearly undermines UJ's own commitment to the value academic freedom.
- 3.7.3 *The direct and indirect links exposed in respect of the UJ-BGU research agreement*– are a clear violation of the Senate Resolution and another basis on which the agreement must be terminated. Again, this section shows the tainted ethics of any relationship with BGU (even when the projects seemingly promote “neutral” or “scientific” objectives.)
- 3.7.4 *BGU's policies and practices mirror the systemic modes of exclusion operating within Israeli society* - which reduces the dignity of Palestinians and perpetuates inequality. Particularly in light of South Africa's own history and UJ's own positioning under Apartheid, the values of integrity and respect for dignity deserve nothing less than solidarity with the oppressed as outlined in the Senate Resolution.
- 3.8 Finally, we reiterate that the Senate Resolution outlines UJ's duty to take seriously allegations of behaviour on the part of its stakeholders that are contrary to UJ's values; and the Senate Resolution places an obligation on *BGU to respect this duty and to respond to reasonable requests from UJ seeking more information about BGU's formal policies and informal practices.*

PART 1

MILITARY AND OCCUPATION LINKS

PART 1: MILITARY AND OCCUPATION LINKS

A. Introduction

1. The Senate Resolution records as fact that:

“There is significant evidence that BGU has research and other engagements that supports the military and armed forces of Israel, in particular in its occupation of Gaza”.

Further, the Senate Resolution recognises that:

“As a university embedded in a highly militarized Israeli society, BGU’s obligation to implement state policies, and its research and other relationships with the Israeli armed forces does have a significant impact on the society, and therefore on the continued subjugation of the Palestinian population in Israel.”

2. It is therefore accepted that BGU maintains material links to both the Israeli Defense Force (IDF), as well as the arms industry, and in doing so structurally supports and facilitates the Israeli occupation.
3. Importantly, however, BGU is not merely an institution suffering from its structural location as a university “in a highly militarised society” - rather BGU actively encourages and nurtures its military links and relationships.
4. Under the heading “*Principles to Guide Deliberations about International Partnerships*”, the Senate Resolution notes as its guiding principles:

“1. [...]

2. To be liable for censure, an institution must engage in or support a practice incompatible with UJ’s key values.

3. For the termination of a relationship with an institution to be appropriate, there must be evidence that it is supporting a practice incompatible with UJ’s key values, with UJ having a duty to make a good-faith enquiry into allegations of such behaviour on the part of its stakeholders.

4. [...]”

5. In a situation where the illegality of Israel’s occupation and the role of the IDF in contravening international law has been confirmed by numerous experts, studies and reports,¹ we request Senate to consider:

¹ *In an official report commissioned by the South African government in 2009, the Human Sciences Research Council confirmed that Israel, by its policies and practices, is guilty of the crime of apartheid. Both, former and current, UN Special Rapporteurs on the Occupied Palestinian Territories, Professors John Dugard and Richard Falk, in their official UN reports find Israel to practise apartheid. The report of Justice Richard Goldstone on the Israeli invasion of Gaza in 2008-2009 found that the Israeli military is in contravention of international law by committing war crimes and potentially crimes against humanity. The violence enacted by the Israeli military against civilians during Operation Cast Lead in Gaza and in the*

- i) the fact that BGU has failed to cease its links to the military despite the task team's findings (and whether this failure in itself constitutes a basis for termination of the relationship with BGU); and
- ii) whether evidence (as detailed below) of BGU's *active* support of the Israeli military establishment and the occupation is defensible in light of UJ's values.

B. Direct and active collaboration by BGU with the Israeli military and occupation

The *general* relationship between BGU and the Israeli military (as well as the position that it shares with other Israeli universities in this respect) is well documented.² Professor Steven Friedman, in June 2010 made a submission to UJ Senate in which he shows how BGU goes beyond a mere general relationship to the Israeli military and occupation (Available in Annexure "D").

This investigation builds on Professor Friedman's submission and points to directed instances of BGU's *active* collaboration with the military establishment in Israel – exposing the manner in which BGU not only implements state's policies but actively promotes and encourages its support for such policies.

1. BGU aids and provides academic scholarships and has official protocols for providing support to army reservist students. [1]
2. During "Operation Cast Lead" in 2009 [2] in which 1400 Palestinians were killed, in acts described by Judge Richard Goldstone as war crimes, BGU:
 - a) offered scholarships and extra tuition to students who served in active combat units; and
 - b) offered a special grant for each day of service to students who went on reserve duty, in addition to other benefits. [3]
3. BGU initiated the idea of, and tendered for, a military medicine school [4] designed specifically to train medical staff for the Israeli Armed Forces.
4. The IDF is publicised as a funding source for the University's Research and Development Authority on the University's website. [5]
5. BGU collaborates with the IDF by providing full university qualifications to Israeli Airforce Pilots within a specialised fast-tracked program. [6]
6. Candidates who qualify as "fighters" and who possess a certified IDF document, categorised as a "Certificate of Fighting", are released from compulsory military service during registration. [7] These candidates are automatically credited with an 'Application Fees Refund' on their admission to Ben-Gurion University.
7. In addition to the waving of registration fees, those who have completed military or national service in the IDF, who are applying to higher education institutes that fall on the periphery of Negev, Galilee, Judea and Samaria, receive the first schooling year free. [8] Veterans and civilian national service graduates living in the areas of Negev and Galilee and studying in higher education institutions

² See for example, Uri Yacobi Keller, *The Economy of the Occupation A Socioeconomic Bulletin Academic Boycott of Israel and the Complicity of Israeli Academic Institutions in Occupation of Palestinian Territories* The Alternative Information Center (AIC) (October 2009).

throughout the country, are entitled to various benefits such as free preparatory school year fees, vocational and occupational guidance as well as a fifty percent discount in tuition fees. BGU has made a specific application to the state in order to provide these advantages to IDF veterans. [9]

8. *BGU and the Advanced Technologies Park*

- a) In a public-private partnership actively supported by the State of Israel, BGU has partnered with the Beer-Sheva Municipality and KUD International LLC to create an Advanced Technologies Park (ATP) that aims to advance research and technology growth in Israel. [10; 11]
- b) According to the University's president, Professor Rivka Carmi, the Park is being constructed on land adjacent to Ben-Gurion University's Marcus Family Campus and is to be divided into civilian and military sections, with a portion set aside to house a government-developed training facility for the Israeli Defence Force. [12, 13]
- c) This facility is planned to house the Intelligence, Communications and Training bases of the Israeli Defence Force and will serve to initiate the transfer of major army bases from the centre of Israel into the Negev. [14]
- d) This project has been described as being the 'first technology park situated on a university campus in Israel', [15] showing clear collaborations and resource sharing between the University and the Israeli Defence Force.

9. *BGU develops research for military application*

- a) Researchers working for BGU (led by Dr. Amir Shapiro) have been working on developing unmanned ground vehicles – autonomous robotic systems capable of traversing rough terrain. [16] BGU researchers note that 'these robot[s] can be used for *military* and search and rescue applications'. [17] To date, a robot – the "Snake Robot" - based on the original research conducted by the BGU researchers has been developed by the Israeli Defence Force [18, 19], indicating a clear transfer of research and information between BGU and the military.
- b) Research currently being undertaken at BGU has been marked as having potential military applications:
 - i) Unmanned ground vehicles being researched by Professor Hugo Guterman are noted as being of interest for their potential use in 'military activity'. [20]
 - ii) Research being headed up by Professor Ronen Brafman into proactive display systems is highlighted as having 'military applications'. [21]

10. BGU and Dimona Nuclear Centre

a) BGU, through the Faculty of Engineering's Department of Nuclear Engineering, has entered into a partnership with the Israel Atomic Energy Commission and Negev Nuclear Research Centre in Dimona. [22] BGU is to be a feeder for Israel's nuclear research programme and will produce graduates who are experienced in 'all forms of nuclear power, their development, maintenance and improvement'. [23] Participants in BGU's programme are expected to benefit from planned internships at the Dimona facility as well as lectures by its scientists. [24]

b) The nuclear plant at Dimona is suspected of being engaged in the production of nuclear weapons, including material for thermo-nuclear warheads. [25; 26; 27] Israel is not a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons, the Missile Technology Control Regime and the Biological and Toxin Weapons Convention [28] and there is thus a strong possibility that BGU is participating in and contributing to the development of Israel's nuclear arsenal.³

11. BGU and Israeli weapons companies

a) Through its Technology Transfer Company, Ben-Gurion University has an ongoing partnership with Rafael Advanced Defense Systems Ltd ("Rafael"). Rafael is listed on the University's webpage as a partner with whom the University collaborates, shares research, transfers technology and engages in joint ventures. [29] Rafael 'develops and produces state-of-the-art armaments for the IDF and Israel's defense system'. [30]

b) BGU is a primary player in a project which includes direct partnering and collaboration with Rafael Advanced Defense Systems (refer to note above) and Elbit Systems. Elbit systems is a technologies company specialising in defence and homeland security. [31; 32].⁴ This collaboration is based on a renewable energy project, illustrating the manner in which BGU's "clean energy" research is implicated in furthering R & D that benefits companies directly and indirectly associated with the military.

³ The investigation was informed by Israeli academics that BGU's relationship to the Dimona nuclear plant traces back to the very founding of BGU. The investigation was provided with primary source materials that confirm this history. Formal translations of the documents have not yet been made available, but will be released when they are.

⁴ Elbit Systems is one of two main providers of the electronic detection fence to the Separation Wall; the Wall is deemed illegal by the International Court of Justice. Furthermore, the company supplied Unmanned Aerial Vehicles (UAV's) to the Israeli army, which are in operational use during combat in the West Bank and Gaza (<http://www.whoprofits.org/Company%20Info.php?id=554> and <http://www.elbitsystems.com/elbitmain/pages/introduction.asp>)

C. Conclusion

BGU has concrete links with the Israeli military apparatus and the State of Israel's atomic research organisations and research facilities. In addition, BGU actively furthers the interests of these institutions which are both detrimental and discriminatory towards the Palestinian population. BGU's academic and financial support of and collaboration with various facets of Israel's military forces and nuclear programme assists in perpetuating the continued occupation of the occupied territories, particularly the Gaza, and further entrenches discriminatory practices against the Palestinian population. In this regard, it is clear that BGU's conduct is incompatible with UJ's key values. The investigation notes the following points for consideration:

- 1.1 The various policies by BGU regarding advantageous treatment of students who have served or are serving in the IDF indirectly discriminate against Palestinian students. This is of serious concern and is at odds with the values of dignity and diversity that UJ upholds. On this basis, it should be noted that the following questions should be further investigated:
 - 1.1.1 In what way are Israeli Airforce Pilots fast-tracked through the degree program?
 - 1.1.2 Has BGU considered the implications of such "fast-tracking" on the quality of education that BGU is maintaining?
 - 1.1.3 Have there been any studies or has BGU undertaken to provide for programmes that consider the impact on the campus environment of having full-uniformed IDF personnel on a university campus?
- 1.2 BGU offered scholarships and extra tuition to students who served in active combat units during Operation Cast Lead. There may be other rewards that were offered to students who participated in Operation Cast Lead, which should be further investigated.
- 1.3 BGU's research is clearly being utilised in the development of unmanned ground vehicles, as described in Section B paragraphs 9. It is concerning that BGU has not objected to or distanced itself from the use of BGU-related research in military projects directly linked to use in the illegal Occupation, as well as alleged IDF war crimes. This is clearly in contrast to UJ's values and any further links to these companies should be disclosed by BGU.
- 1.4 The relationship between the Dimona nuclear plant and BGU is of grave concern. In the absence of BGU having any records that would provide a guarantee that BGU is not involved in the development of nuclear weapons

research with the Israeli government, this relationship must be seriously questioned.

- 1.5 The activities of BGU's Homeland Security Research Institute (HSRI) (http://cmsprod.bgu.ac.il/Eng/Centers/hsri/research_units.htm) should be further investigated, particularly as to whether the HSRI contributes to Elbit Systems' homeland security activities.
- 1.6 Ariel College is built within the illegal settlement of Ariel in the West Bank. More than 150 Israeli academics have pledged to boycott the College as any relationship lends legitimacy to the illegal occupation (http://www.huffingtonpost.com/2011/01/10/israeli-academics-to-boyc_n_806598.html.) BGU's potential cooperation with this illegal settlement institution should be investigated.

D. References to Part I: “Military and occupation links”

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PART 2

RESTRICTIONS ON ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION

PART 2: RESTRICTIONS ON ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION

A. Introduction

1. Due to the entrenched complicity of BGU, like other Israeli universities, in the practices of the Israeli military and state, the academic environment in Israel is characterised by stringent limits on academic freedom and free expression. As Israeli-British academic Oren Ben-Dor, has noted:

“Israeli universities have, by and large, been conscripted into the Israeli national consensus. The absence of academic freedom is evident ... in the pervasive marginalisation of the debate about the racist nature of the Zionist state, and about the catastrophe which Zionism inflicted on the Palestinian people.” [1]

2. In the period since the Senate Resolution was passed in September 2010, concerning moves have been taken both by the Israeli government and BGU to restrict the right to free political expression and academic freedom. As Professor Neve Gordon of BGU writes:

“Israeli academe, which was once considered a bastion of free speech, has become the testing ground for the success of the assault on liberal values” [2]

3. In interviews, it was clear that academics critical to state policies were palpably afraid of openly expressing their views. Academics would communicate through false names over SMS or telephone only, and would be hesitant to record anything over email. [3]
4. In such a context, there is a responsibility on the international academic community to voice criticism of such practices and policies that strangle free expression. Again, as Ben-Dor notes:

“A boycott to foster real academic freedom in Israel should unite academics all over the world. What is at stake is the primordial freedom to question the racist assumptions that lie at the heart of nationalistic ideology and historiography. Thus, such a boycott is even more important than a general boycott of Israel as a criminal state, to which Israeli academics would be subject like the rest of the Israeli population.” [4]

5. Omar Barghouti and Professor Lisa Taraki, of Birzeit University, have also noted the importance of Palestinians’ right of access to education in the context of the debate on academic freedom: *“The fact that Palestinians are denied basic rights as well as academic freedom due to Israel's military occupation is lost on those parroting it.” [5]*

B. Restrictions on academic freedom

This section details the various measures imposed by the Israeli government that threaten academic freedom within Israel, as well as the manner in which *BGU actively* supports and furthers such measures. This section is arranged as follows:

- 1) Israeli State measures impacting on academic freedom;
- 2) BGU publicly supports State measures (e.g. imposition of “Ethics Code” by Ministry of Education);
- 3) BGU’s practices and policies align with State measures by restricting academics ability to voice political views; and,
- 4) BGU’s practices and policies align with state measures by restricting the right to protest and voice dissent

1. Israeli State measures impacting on academic freedom

1.1 Academic freedom within Israel is under severe threat from the State. In June 2010, the Israeli Knesset (parliament) approved an initial reading of the controversial *Prohibition on Instituting a Boycott Bill*. [6] On 15 February 2011, the Knesset Constitution, Law and Justice Committee approved the Bill. [7]

1.2 The “*Boycott Bill*” proposes a range of measures aimed at limiting dissenting voices – particularly targeting persons that support boycott initiatives against Israel. The Bill calls for heavy fines to be imposed on Israeli citizens who initiate or incite boycotts against Israel and its illegal occupation. The proposed sanctions in the Bill also target academics who adopt a pro-boycott stance. [8]

1.3 The Bill is currently in the final stages of approval and will, in all likelihood, become law very soon. When the Bill becomes law, the fines would also apply to anyone boycotting Israeli individuals, companies, factories, and organizations. Furthermore, academics from other countries that may support any form of boycott can be denied entry to Israel, according to the Bill, for up to 10 years. UJ academics in support of any form of boycott (including a boycott of Israeli settlements) will also, obviously, be affected.

1.4 Gideon Sa'ar, the Israeli Minister of Education, has publicly welcomed the Bill, stating that he backs sanctions against pro-boycott academics who serve at public universities. He said on Israel Radio: “*If a person calls for an academic boycott of the institution in which he teaches, the institution should address this.*” [9]

1.5 A protest petition has been signed by over 500 Israeli academics (including two former education ministers) opposing the Bill. The petition states: “*We have different and varied opinions about solving the difficult problems facing Israel, but there is one thing we are agreed on – freedom of*

expression and academic freedom are the very lifeblood of the academic system." [10]

1.6 Daniel Gutwein, a history professor at Haifa University who is one of the signatories, described the Minister's intervention as an attempt "to make Israeli academia docile, frightened and silent". [11]

1.7 Civil society organisations such as the Israeli Coalition of Women for Peace have also expressed criticism of the Bill. Their public statement brings into clear focus the absurdity of the proposed Bill:

"The bill's hazy wording causes concern, as it broadens the scope of prohibited activities that it defines as "aiding and abating" boycott, such as:

- Publishing information about human rights violations in the Occupied Territories – will become illegal.*
- Monitoring settlement expansion and publishing settlement maps – will become illegal.*
- A Facebook "Like" for a page that supports [Boycott, Divestment and sanctions of Israel] BDS – will become illegal."* [12]

2. BGU supports imposition of "Ethics Code" by Ministry of Education

2.1 In addition to the *Boycott Bill*, Israel's Education Minister Gideon Sa'ar was also criticised for proposing a new "Ethics Code" at the Knesset Education Committee in November 2010.

2.2 Professor Rivka Carmi (President of BGU) said that she welcomed the proposal of the Minister of Education:

"I think Gideon Sa'ar is doing the right thing...He wants to bring the discourse to the Council for Higher Education, and to me this is the most appropriate place to discuss this kind of thing because this is the highest regulatory authority in Israel." [13]

2.3 The Council for Higher Education is the official state body regulating higher education in Israel. Contrary to Carmi's view that this is the "appropriate place" for discussion, the introduction of the code has been opposed by university presidents, administrators, and professors who have stated that the proposal would constitute state intervention; going against the essence of academic freedom. [14]

2.4 Professor Rivka Carmi's stance is a concerning reflection of the *active* support that BGU extends to subjecting academics to state censorship and regulation being applied in Israeli universities. As will be described below, with respect to the proposed changes in BGU's code of ethics, BGU goes even further in pre-emptively aligning its policies with state proposals.

3. BGU limits the ability of academics to voice political views

3.1 BGU has a record of disciplining academic staff with a pro-boycott position. In 2009, Professor Neve Gordon, the head of the politics department, was publicly criticised for supporting the non-violent boycott of Israeli companies and institutions which profit from or are complicit in the Israeli occupation. [15]

Professor Rivka Carmi, President of BGU, opposed Professor Gordon for voicing his political views, suggesting that an article published by Professor Gordon ["Boycott Israel", *LA Times*, 20 August 2009] "oversteps the boundaries of academic freedom". No justification is provided for such a proposition other than the fact that such views threaten the existence of BGU as a "proudly Zionist Institution" and compromise its sources of funding. [16]

3.2 Of greater concern is the recent *institutional* position adopted by BGU's Senate based on the University's Code of Ethics. As the Senate resolved:

"[I]n order to avoid from having the university's name affiliated with political or religious disputes in which it is not involved, the Senate declares that:

The university name as an inclusive and free institute is one of the resources available to staff members for the purposes of teaching and research.

Therefore, when publicly expressing their political or religious views, as opposed to specific professional views, the university staff will refrain from using the Ben-Gurion University's name."

3.2.1 The Senate statement makes reference to BGU's Code of Ethics which states that:

"The university is entitled to control the lecturers' political or religious expressions, even though they are part of their civilian liberties, so that teaching and research will not be used for the sake of political or religious goals." [17]

3.2.2 The Senate statement comes as a direct response to Professor Gordon's article and the desire to set limits for lecturers expressing personal opinions. Carmi has gone on record stating:

"We have been under attack for a long time - after the article by Neve Gordon in the Los Angeles Times. Without hampering freedom of speech, I asked myself, how can I do something to put a framework/some kind of boundaries."[18]

- 3.2.3 Rivka Carmi has stated that the Senate statement on the Code of Ethics is aimed at "draw[ing] a line between academic freedom and the responsibility of a faculty member [of the university]". [19]
- 3.2.4 The implications of the Senate's statement is an effective prohibition placed on lecturers; preventing them from voicing their political opinions during classes, as well as using their university titles when speaking publicly about politics or their personal opinions.

This report has a translated copy of BGU's official Senate statement regarding the Code of Ethics, available as Annexure "E". [20]

4. BGU restricts the right to protest

BGU maintains obstacles that prevent students from mounting legal political demonstrations and activities on campus. Pro-Palestinian activities on campus are particularly restricted.

4.1 Harsh and disproportionate penalties for Pro-Palestinian protests

- 4.1.1 In late 2010, two BGU students were reprimanded by the disciplinary tribunal for taking part in a protest over Israel's attack on the flotilla seeking to deliver humanitarian aid to Gaza. [21] The tribunal stated that it would suspend the students if they repeated their actions. The penalty has been described as "harsh" and "disproportionate". [22] A transcript of the disciplinary hearing is available as Annexure "F". [23]
- 4.1.2 The Association for Civil Rights in Israel ("ACRI") has been vocal in its criticism of BGU's conduct:

"Ben-Gurion University has a dubious reputation for upholding students' freedom of expression...[w]e have appealed to the court in the past to oblige the university to allow students to demonstrate on campus, but its conditions and restrictions almost nullify the court's ruling." [24]

Hebrew versions of the original court ruling against BGU are available as Annexure "G". The court ruling requires BGU to cancel its practice of banning demonstrations in the open. BGU, throughout the court proceedings, attempted to defend its restriction on demonstrations and political events.

4.2 Restricting criticism of Israel

- 4.2.1 As part of a continuing pattern of restricting freedom of expression on campus, in December 2010 BGU prohibited students from distributing flyers that criticized a series of proposed laws. Other Israeli universities had permitted the flyers to be distributed. (A copy of the flyer is available as Annexure "H")
- 4.2.2 Solidarity Against Fascism, the student organization responsible for the distribution of flyers, appealed the prohibition on the basis that it violates their freedom of expression. However, the appeal was dismissed. [25]

Correspondence with the BGU Dean of Students regarding the prohibition on flyer distribution is available as Annexure I. [26]

- 4.2.3 BGU is collaborating with the Weitzmann Institute and the Public and Diaspora Affairs department in Israel to counteract the activities of Israeli Apartheid Week (IAW) in Britain. IAW is a well-established annual international series of events highlighting Israel's apartheid practices. In 2011 IAW took place at over 75 universities worldwide, including several South African campuses. BGU (with other stakeholders) has funded a student delegation that will, together with local pro-Israeli groups and Israeli representatives in Britain, counter this week of activities. This BGU-Weitzmann initiative is primarily directed at educational institutions in Britain due to the progressive environment which exists in Britain for NGOs to implement boycotts against Israel and bring about an awareness of the dire plight of the Palestinian people. The connection of BGU with the Weitzmann Institute also raises serious concerns as the Weitzmann Institute is also cooperating with Elbit Systems, a military manufacturing company to create a joint programme [27].

4.3 General intimidation,

- 4.3.1 Security guards at BGU have been noted to photograph and intrusively monitor anti-occupation political activists. [28] This constitutes a form of discrimination on the basis of political opinion.
- 4.3.2 As just one example, it has been recorded that an undergraduate pro-Palestinian activist was singled out, followed and photographed by security guards at the campus cafeteria. [29]

C. Conclusion

The Israeli state is currently making a concerted effort to limit the purview of academic freedom, political opinion and socially and politically motivated calls for greater liberty, justice and equality. It further attempts to criminalise and/or intimidate dissenting voices, criticism of Israel and any calls for boycott initiatives against Israel. BGU's president, Professor Rivka Carmi, conspicuously and actively supports the attempts by the Israeli Government to curb academic freedom and dissenting voices on Israeli University campuses. There is a trend that BGU vigorously and consistently undermines and disciplines groups, students and academics who voice their criticism of Israel or their support for Palestinian rights. This in effect, severely curtails the possibility for a vibrant and academically unrestrained academy and the free and open expression of political and social views on the university campus and publicly outside of the campus.

In this regard, the values of BGU are in stark contrast to the values of academic freedom and respect for diversity which are promoted by UJ. The investigation notes the following points for consideration:

1. Statements from Rivka Carmi regarding the need to limit pro-boycott expressions by academic staff is concerning. UJ has a responsibility to request further information and explanations regarding BGU's statement on the Code of Ethics.
2. BGU's disciplining of students (as recorded in Section B, paragraph 4.1.1) is allegedly contrary to a court ruling against BGU (as recorded in Section B paragraph 4.1.2). BGU should be requested to provide further information on this.
3. Has BGU resisted the Boycott Bill and its implications for academic freedom?
4. Has BGU condemned the restrictions on freedom of expression imposed by Israel on Palestinians? What is the stance of BGU regarding restrictions that obstruct the Palestinian educational system in the Occupied Palestinian Territories, the destruction of labs and university properties, the arrest of students, academics and staff, or closure of Palestinian universities. UJ should consider whether BGU has acted to put an end to these actions against academic freedom.

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[2] Neve Gordon, "An assault on Academic Freedom and Liberal Values" (August 26 2010)
<http://chronicle.com/article/An-Assault-on-Israeli-Academic/124158/>

[3] A researcher from the South African based organisation, the BDS Working Group, travelled to BGU in February 2011. He is willing to make himself available to share his conversations and experiences with academics at BGU.

[4] Oren Bendor, "The Boycott Should Continue", *The Independent* (May 30 2005)
<http://www.independent.co.uk/opinion/commentators/oren-bendor-the-boycott-should-continue-492539.html>

[5] Omar Barghouti & Lisa Taraki "The AUT Boycott – Freedom v Academic Freedom", *Electronic Intifada* (May 30 2005)
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<http://www.haaretz.com/print-edition/opinion/protecting-israel-from-its-citizens-1.343274>

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<http://www.guardian.co.uk/world/2010/jul/11/israel-academics-bds-boycott>

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<http://bwisp.wordpress.com/2011/02/14/israeli-coalition-of-women-for-peace-press-release/>

[13] Matthew Kalman, "News of Government Guidelines on 'Pluralism' Alarms Israeli Academics", *The Chronicle of Higher Education* (November 4 2010) <http://chronicle.com/article/News-of-Government-Guidelines/125263/>

[14] Tania Kepler, "Israeli Education Minister Proposes "Ethics Code" to Curb Academic Freedom", *The Alternative Information Centre* (November 3 2010) <http://www.alternativenews.org/english/index.php/topics/israeli-society/2980-israeli-education-minister-proposes-ethics-code-to-curb-academic-freedom>

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[16] Rivka Carmi, "Neve Gordon's Divisive Op-Ed", *LA Times* (September 1 2009) <http://articles.latimes.com/2009/sep/01/opinion/oe-carmi1>

[17] Tomer Velmer "Ben-Gurion Uni changes ethics code over political dramas" *Y-Net News* (January 12 2011) <http://www.ynetnews.com/articles/0,7340,L-4012495,00.html>

[18] Helena Flusfeder, "University Heads Condemn Ariel Boycott Call", *University World News*, (January 23 2011) <http://www.universityworldnews.com/article.php?story=20110123073943564&mode=print>

[19] Ibid.

[20] Translated Senate Resolution dated 16 December 2010

[21] Or Kashti, "BGU Reprimands Two More Students Over Protests", *Haaretz* (September 16 2010) <http://www.haaretz.com/print-edition/news/bgu-reprimands-two-more-students-over-protests-1.314046>

[22] Ibid.

[23] See attached Annexure "F": "Transcription of hearing: September 15 2010"

[24] Editorial "Oppressing Students", *Haaretz* (September 16 2010) <http://www.haaretz.com/print-edition/opinion/oppressing-students-1.314090>

[25] Or Kashti 'Left-wing Students Fight University Ban of 'libelous' Flyer Featuring Lieberman', *Haaretz* (December 23 2010) <http://www.haaretz.com/news/national/left-wing-students-fight-university-ban-of-libelous-flyer-featuring-lieberman-1.332319>

<http://www.haaretz.co.il/hasite/spages/1205540.html>

[26] See attached Annexure "I" "Correspondence between BGU student and Dean of Students" dated 30 November 2010

[27] The Israeli Apartheid Week event is in its seventh year and calls for actions in support of Palestinian Civil Society's call for Boycotts, Divestment and Sanctions (BDS). This latest news is available at the Alternative Information Centre.
<http://www.alternativenews.org/english/index.php/topics/economy-of-the-occupation/3347-israeli-government-universities-support-student-delegation-sent-to-fight-israel-apartheid-week>

[28] Yotam Feldman, "Campus Security Guards Photograph Student Protestors" *Haaretz* (June 26 2009)
<http://www.haaretz.com/print-edition/news/campus-security-guards-photograph-student-protestors-1.278838>

[29] Video Testimonials are available at
http://translate.google.co.za/translate?hl=en&sl=iw&tl=en&u=http%3A%2F%2Fbgufreedomofspeech.blogspot.com%2F2009%2F06%2Fblog-post_05.html%20

[The testimonials are in Hebrew. Israeli colleagues have informed us as to the content which can be translated if needed]

PART 3

JOINT UJ-BGU RESEARCH

PART 3: JOINT UJ-BGU RESEARCH

Section A: Complicity

1. According to the Senate Resolution:

*“The Projects flowing from this MOU [between UJ and BGU, signed on the 28th of August 2009] will not entail any activity, including teaching and research, which has **any direct or indirect military implications or contributes to the abuse of human rights**. This will be monitored by the Senate Academic Freedom Committee.”*

2. The activities connected to the UJ-BGU MOU (“**the MOU**”), including teaching and research, are carried out at:

- 2.1 BGU’s Jacob Blaustein Institute for Desert Research (“**BIDR**”) [1]
- 2.2 BGU’s Zuckerberg Institute for Water Research (“**ZIWR**”) [2]
- 2.3 BGU’s Microalgal Biotechnology Laboratory (“**MBL**”) [3]

3. Detailed below are just some of the direct and indirect relationships between these various institutes/locations and their complicity in human rights abuses. The information presented here demonstrates BGU’s non-compliance with the UJ Senate Resolution.

4. BIDR and the JNF

- 4.1 The BIDR, through its partnership in the Newman Information Center for Desert Research and Development initiative (“**ICDRD**”), actively collaborates and shares resources with the Jewish National Fund. [4]

- 4.2 As Israeli author, Uri Davis, in the well-known book "*Apartheid Israel*" (Zed Books, London, 1987) notes, the JNF is one of the most significant enabling institutions for Israel’s segregation policies. Today, the JNF controls vast properties belonging to millions of Palestinians, developing them exclusively for persons of “Jewish nationality,” a concept established and promoted in the JNF’s charter to exclude all others.

- 4.3 For example, the JNF has acquired ownership over 13% of all “Israel Lands,” (approximately 78% of its current holdings were acquired from the state in 1949 and 1953 which are lands belonging to Palestinian refugees). Their policy prohibits Palestinian citizens of Israel from leasing or buying lands from the JNF. As a result, Palestinian citizens, who constitute 20% of the population, are denied access to 13% of “Israel Lands.” This discriminatory policy contributes to the institutionalization of racially segregated towns and villages throughout the state. [5]

- 4.4 Recently the JNF initiated the expulsion of the people in Al-Araqib Village in the Negev. The Jewish National Fund (JNF) and the Israeli Land Authority (ILA) demolished the Palestinian Bedouin village of Al-Araqib in

the Negev to utilize the land for forestation and the building of future Jewish settlements. The Al-Araqib village has existed prior to creation of the state of Israel in 1948. The Israeli state, particularly in the form of the JNF and ILA have consistently made it extremely difficult for the Palestinian Bedouin population, who make up approximately 12% of the Palestinian population in the country, to live and build homes in the Negev. Persistent harassment from the Israeli authorities and discriminatory land and planning policies have made it impossible for Bedouins to build where they live or continue the longevity of their villages in the Negev which have existed prior to the establishment of the state of Israel¹. The expulsion and demolition of Al-Araqib is documented in a recent report by the UN High Commissioner for Human Rights, Navi Pillay.

4.5 BGU's continued mutual relationship with the JNF and ILA is immoral, particularly in light of the latter's active involvement in the destruction of Bedouin villages in the surrounding geographical area of BGU and the maintenance of discriminatory land and planning policies. This perpetuates bad living conditions in that it forces Bedouins to live in informal shanty towns or unrecognized villages without any proper services, which at any time can be demolished by the Israeli authorities.

4.6 *For more information about JNF please see the following website:*
<http://www.adalah.org/eng/jnf.php#background>

Furthermore, the following two reports on the JNF were submitted by the Human Rights organization, Adalah, to the United Nations:

<http://www.adalah.org/eng/intl06/un-i6-jnf.pdf>

<http://www.adalah.org/eng/intladvocacy/JNFUNCTIONHR.pdf>

5. ZIWR and Mekorot

5.1 The ZIWR has several partnerships and collaborations with the Israeli Water Authority company, Mekorot.

5.2 Specifically, the ZIWR channels its research via a spin-off company called Rotec. Rotec's main partner and R&D investor is Mekorot.

5.3 Mekorot was founded in 1937 and manages most of the water supplies in Israel and the OPT. [6] Mekorot is today one of the main state functionaries responsible for implementing Israel's water policies.

5.4 Israeli water policies amount to serious violations of human rights and international law. This is documented in numerous international reports, for example:

¹In addition, Israeli State Attorney's Office intends to sue the residents of Al-Araqib for the costs incurred to demolish their dwellings "Israel to Sue Bedouin Residents of Demolished Village for Demolition Costs" <http://www.uruknet.info/?p=m75530&hd=&size=1&l=e> (accessed on 6 March 2011)

- World Bank report "Assessment of Restrictions on Palestinian Water Sector Development" (April 2009) and the Annex 12 Update (August 2009) [7]
- Centre on Housing Rights and Evictions report "Policies of denial: Lack of access to water in the West Bank" (December 2008)
- Amnesty International report "Troubled Waters - Palestinians Denied Fair Access to Water" (2009) [8]

6. MBL - Potential collaboration with Defense companies and Arava Institute

- 6.1 As discussed in Part 1, Section B, paragraph 14 of this report, the Eilat-Eilat Renewable Energy Initiative is a consortium that comprises of several Israeli R&D companies and research bodies, including Ben-Gurion University and the Arava Institute.
- 6.2 The Israeli companies include Ormat, Elbit Systems, and Rafael Advanced Defense Systems. Elbit Systems and Rafael Advanced Defense systems both profit from the occupation (see Part1).
- 6.3 Renewable energy is one of MBL's focuses and the UJ-BGU research is in part aimed at investigating whether Algae can be transformed into energy. There is the likely possibility of the direct application of results of joint UJ-BGU research into such collaboration with defense companies. [9]
- 6.4 The Arava Institute, another partner in this BGU consortium, has a formal relationship with the Jewish National Fund (see paragraph 4 above for an explanation on the JNF).² In the 2010-2011 academic year, BIDR and Arava offered a Masters scholarship specifically reserved for research on Algae.
- 6.5 Arava's partnership with the JNF has been widely condemned. Recently, folk music legend Pete Seeger noted his regret of having participated in a virtual rally titled "With Earth and Each Other". The rally was billed as an apolitical effort to bring Israelis and Palestinians together to work for the environment. However, it was noted that "Arava's online event obfuscated basic facts about Israel's occupation and systematic seizure of land and water from Palestinians. Arava's partner and funder, the JNF, is notorious

² The Arava Institute website explains that "The Arava Institute and the Jewish National Fund (JNF) share a common mission to protect and preserve the land of Israel. This common mission has resulted in a formal partnership between the two organizations, allowing JNF donors to direct their contributions to benefit the Arava Institute." Potential donors learn on another page of the Arava Institute website that donating through the JNF is one of the five ways to give to the Arava Institute. The Arava Institute is one of seven partners highlighted in the JNF's Annual Report, and according to the JNF's form 990 for 2008, the JNF granted \$357,315 to the Arava Institute in 2008. The JNF and Arava are clearly close partners, using one another to bolster their images and funding.

for planting forests to hide Palestinian villages demolished by Israel in order to seize their land. Arava was revealed as a sterling practitioner of Israeli government efforts to 'Rebrand Israel' through greenwashing and the arts."³

³ Owing to the realisation of the links that Arava has to institutions such as the JNF and the concerted effort to “greenwash” Israeli apartheid, Pete Seeger has formally endorsed the boycott of Israel. More information at <http://adalahny.org/press-releases-other/folk-music-legend-pete-seeger-endorses-boycott-of-israel>

Section B: The politics of water research – putting the UJ-BGU water research into context.

1. Wastewater reuse is a noble practise. However, Israel's successes in water reuse do not absolve it of flagrant violations of the right to access of water for Palestinians. Violations of human rights by the Israeli state during its annexation of water resources should not be overlooked or screened by superficially "noble" exploits.

2. Palestinian academics involved in the area of water research allege that amongst the reasons they have refused to collaborate with Israeli academics, particularly on the issue of new water technology, is because this (focus) is a deliberate distraction from actual water rights and justice.

3. Ben- Gurion University may choose to host conferences on *drylands, deserts and desertification* however, the university, its projects and researchers have never condemned Israel's –continued—confiscation of Palestinian water. This theft is well documented and available in reports commissioned by the World Bank and Amnesty International.

4. UJ should request BGU to condemn and distance itself from Israeli state sanctioned and illegal theft of Palestinian water, as well as its obstruction of normal sanitation projects in the West Bank and Gaza. .

- In addition to settlements themselves being illegal under international law, Israel's use of water in these settlements is, in addition, illegal under the Fourth Geneva Convention.

- In the Jordan Valley alone, Israel is using 40 million cubic meters of water annually extracted from illegal Israeli wells [10]– primarily to irrigate produce that is exported to Europe. This is occurring while 2.5 million Palestinians living throughout the West Bank (a naturally water-rich area) are limited to 180 million cubic meters annually for domestic purposes, agriculture and industry. [11]

- Palestinian total water supply of 180 million cubic meters is extremely low, and, in fact, actual consumption is even lower, as the supply figure includes water lost from the network (communities are obstructed by Israel from fixing leaky pipes, and average losses from the network total 30%. [12] In 61% of the West Bank which Israel considers "Area C", Israel routinely destroys water pipes feeding Palestinian communities and rainwater harvesting cisterns [13] claiming that water which falls over "Area C" of the West Bank is "property of Israel".[14]

- Since 1967 Israel has been preventing Palestinians from drilling new wells, rehabilitating old wells, and from developing water networks in many communities. This violates the International Covenant on Economic, Social and Cultural Rights, to which Israel is a signatory, and under which Israel has an obligation "to respect the right" to water and "to refrain from interfering directly or indirectly" in the realization of the right, and "to protect the right".

- All of the water resources in occupied Palestinian territory are transboundary, and Israel has been using its military power to prevent Palestinians from accessing the

region's shared water resources in violation of the internationally accepted principle of "fair and equitable allocation" of transboundary water resources.

- Palestinians are prevented from accessing any water from the Jordan River, even though the West Bank borders the Jordan River for a full 70 kms.

- Under the Oslo Accord Israel agreed to extract 340 million cubic meters from the Western Basin of the Mountain Aquifer; however, Israel extracts 450 million cubic meters from the Western Basin, while it limits Palestinian access to water from the Western Basin to merely 22 million cubic meters. [15]

5. BGU's research regarding waste-water reuse must be considered in relation to Israel's policies of preventing Palestinians from reusing wastewater and then charging Palestinians for wastewater that crosses the Green Line. Israel furthermore unilaterally deducts from Palestinians' VAT the cost of constructing wastewater facilities in Israel, thereby affording Israel free treated wastewater for agriculture and forcing the Palestinians to bear the cost.

6. In meetings with Palestinian academics and experts involved in water issues, it was highlighted that:

BGU's focus on water purification is an extension of state policy. Whilst research into desalination cannot in itself be considered negative - issues regarding stolen water and differential access to water have to be addressed first. Failing this, the benefits of such research simply perpetuates rather than alleviates current failures with regard to access to water. A fact sheet documenting in greater depth the differential access to wastewater treatment for Palestinians is available as Annexure L.

Section C: Conclusion

The water policies of the Israeli State are discriminatory against Palestinians, particularly the residents of the West Bank, and are in flagrant contravention of International Law. Such water policies also provide support for the viability of illegal settlements and the agricultural produce of settlement farming activities while prejudicially limiting Palestinian access to fresh water for domestic, agricultural and industrial usage.

The activities of the Israeli Water Authority and the Jewish National Fund (together with their subsidiaries and collaboration partners such as Mekerot, the Arava Institute, BIDR, ZIWR and MBL) as well as with the research undertaken by BGU, forms an intricate nexus which supports and entrenches the discriminatory policies on water availability consumption within Israel and the occupied Palestinian territories.

UJ's involvement in this nexus contributes to discriminatory water policies and practices on the basis of religion and ethnicity.

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PART 4

DISCRIMINATION AND PALESTINIAN EDUCATION

Part 4: DISCRIMINATION AND PALESTINIAN EDUCATION

A. Introduction

1. The Israeli occupation of the Palestinian territories has had a disastrous impact on access to education for Palestinians. Palestinian students are subjected to imposed immobilisation, poverty, gendered violence, harassment and humiliation as a result of Israeli policy and actions. [1]
2. The Human Rights Watch study titled "Second Class", detailing the structures and policies of racial discrimination in Israel's education system, states:

Discrimination at every level of the [Israeli] education system winnows out a progressively larger proportion of Palestinian Arab children as they progress through the school system—or channels those who persevere away from the opportunities of higher education. The hurdles Palestinian Arab students face from kindergarten to university function like a series of sieves with sequentially finer holes. At each stage, the education system filters out a higher proportion of Palestinian Arab students than Jewish students. [2]

3. According to the 2004 U.S. State Department (a firm ally of Israel) in their Country Reports on Human Rights Practices for *Israel and the Occupied Territories*, "Israeli Arabs were underrepresented in the student bodies and faculties of most universities and in higher professional and business ranks.[3]
4. Israel has also mounted direct attacks on Palestinian education, with complete closures of Hebron University and the Palestinian Polytechnique in 2003 and the targeting and bombing of more than 60 schools during the attacks on Gaza in 2009. [4]
5. While Palestinian citizens of Israel constitute more than 20% of the country's population, only 9.5% of B.A. students, 4.8% of M.A. students, 3.2% of Ph.D. students and a mere 1% of the academic staff in Israeli academic institutions are Palestinians. [5]
6. The UN Office of the High Commissioner for Human Rights released a report detailing how Palestinian applicants are three times as likely to be rejected by Israeli academic institutions than Jewish applicants. [6]

B. Discrimination at BGU

In an environment of structural discrimination against non-Jewish sectors of the Israeli population, it is neither surprising nor unexpected that the education system, at all levels, mirrors the inequalities of the state. BGU is no exception to the prevalence of exclusion and discrimination operating within Israeli society.

Indeed, BGU's policies and practices *further entrench* these systemic modes of discrimination, for example:

1. BGU has no programs of study conducted in Arabic in spite of Arabic being an official language of Israel and the first language of more than a fifth of Israel's population. Palestinian students who have been taught in Arabic at a secondary and primary school level are severely hindered by this language barrier.
2. As an Israeli university, BGU is obliged to give special treatment to students who serve in the Israeli military reservists. . While this is stipulated by law, BGU has never expressed even symbolic opposition to this political interference in the academic sphere. And, like other Israeli universities, it has found ways of supporting soldiers and the Israeli military agenda beyond that which is required by law.

BGU's offer of academic benefits to soldiers that serve in the IDF, furthermore promotes indirect discrimination against Palestinians in the following ways:

- 2.1 Most Jewish Israeli citizens are conscripted into the army and therefore stand to benefit from these academic privileges.
- 2.2 Some Israeli youth are exempt from service because of religious beliefs and health reasons. There are also a small but important number of conscientious objectors who are sometimes imprisoned because of their refusal to enlist.
- 2.3 Any favourable or preferential treatment of soldiers is discrimination against both these groups, but the starkest discrimination is against Palestinian citizens of Israel who, unlike most other ethnic populations, are not conscripted into the Israeli army.
- 2.4 Highlighting once again the pernicious nature of the Israeli state's discriminatory policies, Palestinian citizens of Israel are divided into categories and on the basis of such categories are differentially enlisted into the IDF. Further, Palestinian citizens of Israel are not permitted to join the air force and elite combat units within the defense force and are excluded from BGU's benefits such as fast-tracked programs, which are available to Israeli Airforce members only. [7]

3. BGU may suggest that its offer of token scholarships and access to specific programs for Bedouins in the Negev (as well as projects aimed at Bedouin “development”) at least allows for some “balancing” of overall discrimination against Palestinians.

It is important to note that, within the context of everyday dispossession of Bedouin communities, programs by Israeli universities focused on the “development” of Bedouin communities are a mere sideshow to the broader structural discrimination resulting from Israeli state policies.¹

¹ After the formation of the state of Israel in 1948, the Negev Desert around Beersheba was declared a military zone and the Bedouin were placed under military rule. They were forced off their traditional grazing lands into dense towns. In the following years several laws established the theft of land from Bedouins. The 1953 Israeli Land Acquisition Law registered all land not in the possession of its owner in April 1952 as state property, thus many Bedouins who had been forced off their land upon the formation of the state could never return. [8] The Bedouin population of the Negev decreased from between 57, 000 and 95,000 in 1946 to a mere 11, 000 in 1953. [9] Bedouin “townships” on the edge of Beersheba are scarred by the history of violence and Apartheid-like urban planning by the Israeli State, industries are scarce, resources are few, relationships with Jewish neighbours are largely ones of economic subordination and the unemployment level of Bedouin women has escalated to 83%. [10]

C. Conclusion

The inherent structural inequalities within Israeli society are mirrored in the constitution of its educational institutions. BGU's preferential treatment for military enlisted students further cements and extends the inequality already prevalent within the make-up of tertiary educational institutions in Israel. In addition, BGU offers no substantial transformative avenues or programmes that seek to remedy the structural inequality that was created and continues to persist as a result of Israel's racist policies and occupation of the Palestinian territory. Rather, BGU supports the status quo and is opposed to any debate or discussion on the issue.

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