



The Ireland Israel Alliance is a Company Limited by Guarantee

Written Submission to the Oireachtas
Select Committee on Foreign Affairs
and Trade and Defence regarding the
Control of Economic Activity
(Occupied Territories) Bill 2018

Friday 24th May 2019

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Part A: Policy and Legislative Analysis

The 'policy issue' and the policy and legislative context

2. *Define the problem / the policy issue which the Bill is designed to address
To what extent is it an issue requiring attention?
What is the scale of the problem and who is affected?
What is the evidence base for the Bill?*

It is evident from statements by proponents of the Bill that it is intended to target Israeli settlements in the West Bank by boycotting them. The proponents of the Bill seem to believe that this will promote the prospect of peace in the Middle East and benefit Palestinians. In our view, it will have the opposite effects.

We wish to make two observations arising out of this identification of the target of the Bill.

First, the Bill is discriminatory. It pretends to relate to occupied territories generally, but has been carefully drafted so as to apply automatically only to Israeli settlements in the disputed West Bank territory - even though there are many other disputed territories around the world in which nationals of the state that administers them have been permitted to settle. Professor Eugene Kontorovich examined several such territories in a careful study:

"Economic Dealings with Occupied Territories"

53 Columbia Journal of Transnational Law 584

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2494964 (Annex 1)

As that study shows, commercial dealings with those disputed territories are not generally prohibited.

Reports published by the Kohelet Policy Forum, entitled *"Who Else Profits"* show that many major companies operate in other disputed territories around the world:

https://euiha41fnsb2lyeld3vkc37i-wpengine.netdna-ssl.com/wp-content/uploads/2017/06/WhoElseProfits_most-final-19.6.pdf (Annex 2)

<https://euiha41fnsb2lyeld3vkc37i-wpengine.netdna-ssl.com/wp-content/uploads/2018/11/WhoElseProfits-e-version.pdf> (Annex 3)

We attach a further memorandum (Annex 4) prepared by the Kohelet Policy Forum which identifies companies operating in other disputed territories (1) in which the Ireland Strategic Investment Fund (ISIF) has invested; (2) which have raised money on the Irish Stock Exchange; (3) which promote their businesses in disputed territories in Ireland; (4) in which Irish Life Assurance has invested; or (5) which sell in Ireland goods produced by settlers in disputed territories.

If the Bill had been drafted so as to apply to other disputed territories, it would affect numerous businesses around the world, including businesses in which major Irish institutions have invested. Those who drafted it chose to restrict its application to the West Bank because they want to attack Israeli settlements and avoid attacking settlements in other disputed territories.

If this Bill is passed, the discrimination and hypocrisy in targeting only Israeli settlements will undoubtedly strengthen the views of many Israelis that they cannot rely on Ireland or other nations to deal fairly with them. Many of the majority Jewish population of Israel are very conscious of a long history of murderous persecution all round the world. They will regard this Bill as a further indication that they should not make any further withdrawals from territory under their control, since the world will not deal fairly with them, including when they attempt to defend themselves within essentially indefensible borders. They will also consider that Ireland is not an honest broker whom they can trust to help efforts to bring peace to the Holy Land.

The second observation is that the proponents of the Bill seem to think that Israeli settlements in the West Bank produce and supply goods and services. In general, this is not the case. Goods and services are produced by a multitude of businesses and other organisations in Jerusalem and areas of the West Bank under Israeli administration that employ Israelis and also many Palestinians. These businesses and other organisations may be in the vicinity of Israeli settlements but they are not settlements themselves. Yet they are all attacked by the Bill, in that the supply of the goods and services of any of these businesses or organisations in Ireland or by Irish persons would be made a serious criminal offence. As we show below, if this approach were followed by other countries, it would have serious consequences for Palestinian families, the Palestinian economy, and the creation of a viable Palestinian state. And if this approach is not followed by other countries, it would have very little impact except on Irish citizens, Irish businesses and Irish influence.

2. What is the current policy and legislative context, including are there any proposed Government Bills or general schemes designed to address the issue? Have there been previous attempts to address the issue via legislation?

3. Is there a wider EU/international context?

There is legislation on the labelling of products so that consumers are not misled as to their origin and can choose not to purchase products made in Israeli administered areas of the West Bank if they so wish. This legislation gives effect to EU harmonizing legislation. The EU Commission has provided Guidance on the interpretation and application of that legislation:

https://eeas.europa.eu/sites/eeas/files/201511111_interpretative_notice_indication_of_origin_en.pdf (Annex 5)

There is obviously a wider EU and international context. The EU member states have pooled their competences over international trade policy, recognizing that they must act collectively if they are to be effective in achieving objectives in this arena. Accordingly, they have agreed to the EU having exclusive competence over foreign trade policy. Having chosen to be and to remain an EU member state, Ireland cannot adopt a unilateral policy on foreign trade.

The significance of this point is highlighted by the existence of very extensive “counter-boycott” legislation in the World’s largest economy, the USA, imposing serious liabilities and sanctions for participating in boycotts of Israeli businesses, including Israeli businesses operating in Jerusalem and the West Bank. We enclose a memorandum prepared by The Lawfare Project of New York summarizing this legislation. (Annex 6)

The effects of this legislation have been demonstrated by the Airbnb case. When Airbnb announced the withdrawal of its service for properties in Israeli settlements in the West Bank:

- the State of Florida adopted sanctions against the company

<https://www.jns.org/florida-takes-action-against-airbnb-amid-its-boycott-of-west-bank-properties/> (Annex 7a)

- the States of Illinois and Texas initiated the procedures for implementing sanctions

<https://www.jpost.com/BDS-THREAT/Illinois-board-finds-Airbnb-in-breach-of-state-law-over-settlements-move-574325> (Annex 7b)

<https://www.calcalistech.com/ctech/articles/0,7340,L-3757543,00.html>
(Annex 7c)

- legal actions were brought in Delaware, California and Jerusalem

<https://www.jpost.com/Arab-Israeli-Conflict/12-Israeli-Americans-sue-Airbnb-in-Delaware-cite-religious-discrimination-573094> (Annex 7d)

https://www.jpost.com/Arab-Israeli-Conflict/Airbnb-faces-civil-rights-suit-in-US-over-West-Bank-settlement-boycott-578575?utm_source=newsletter&utm_campaign=21-2-2018&utm_content=airbnb-faces-civil-rights-suit-in-us-over-west-bank-settlement-boycott-578575 (Annex 7e)

<https://www.usnews.com/news/business/articles/2018-11-22/israeli-sues-airbnb-over-west-bank-settlement-listing-ban>) (Annex 7f)

The litigation in Delaware was settled on the basis that Airbnb would resume its services to these properties:

<https://www.bbc.co.uk/news/world-middle-east-47881163> (Annex 7g)

Like many US based businesses, Airbnb has its EMEA headquarters in Ireland, where it employs hundreds of staff. Many of those staff would be committing serious criminal offences and liable to imprisonment under Irish law if this Bill were enacted. It is difficult to see how Airbnb could continue to operate its EMEA headquarters in Ireland while complying with the reported settlement of the Delaware litigation, let alone avoiding liabilities and sanctions under other US State and Federal laws. Airbnb and similarly placed companies would have to reconsider their investment in Ireland with potentially serious consequences for jobs and government revenue. They would also have substantial claims for compensation from the Irish State if the Bill is found to be illegal under EU law.

US legislation also requires US negotiators of international trade agreements to oppose actions which restrict commercial relations with Israel and Israeli-controlled territories:

Bipartisan Congressional Trade Priorities and Accountability Act of 2015
s.102(b)(20)
<https://www.congress.gov/bill/114th-congress/house-bill/2146/text>
(Annex 8)

The USA may also consider that the Bill contravenes World Trade Organisation rules.

Ireland does not have the clout to go against the USA on its own in relation to international trade. If it is desired to challenge the USA in this arena, this can only be done effectively and without risking serious damage to Irish interests by the members of the EU acting together through the EU.

The Bill also impacts on the single internal market of the EU and the whole Ireland economy in which there is supposed to be free circulation of goods, services and people. We understand that the Supreme Court of the UK and the Court of Appeal of Versailles have held the supply of goods produced in Israeli settlements and the provision of travel services by Israelis in East Jerusalem are in principle lawful:

Richardson v Director of Public Prosecutions [2014] UKSC 8 at §17
<https://www.supremecourt.uk/cases/docs/uksc-2012-0198-judgment.pdf>
(Annex 9)

AFPS and OLP v Alstom and Veolia (case 11/05331, 22 March 2013)
https://www.france-palestine.org/IMG/pdf/decision_de_la_cour_d_appel.pdf
(Annex 10)

It follows that the Bill would make it a criminal offence to carry out or participate in the cross-border supply of goods and services that are lawful in other EU countries and in the UK.

Furthermore, at the time of writing, the Brexit arrangements have not been finally concluded. Avoiding regulatory divergence between Northern Ireland and the Republic of Ireland has been a major objective of Ireland and the EU. That position could be compromised if the Oireachtas enacts a Bill that creates regulatory divergence by proscribing in Ireland goods and services that are lawful in Northern Ireland. This might assist the British government to argue that regulatory divergence in other matters should be permitted, which could be against Ireland's interests.

Finally, the Bill impacts on Churches and other international religious organisations, as well as on religious freedoms enshrined in European and international conventions and declarations and in Article 44(2) of the Irish Constitution. We have produced a brief video which tells the story of an Irish Christian couple, Norman and Karen Ievers, who travelled to Jerusalem. The video shows how pilgrims such as these would be at risk of imprisonment if the Bill is adopted. Please watch the video here:

<https://youtu.be/JssHzqQRYZY>

Implications and implementation of the Bill's proposals

Policy implications / implementation

4. How is the approach taken in the Bill likely to best address the policy issue?

5. What alternative and/or additional policy, legislative and non-legislative approaches were considered, including those proposed by the Government and what, does the evidence suggest, are the differences between and the merits of each?

6. Are there Government-sponsored Bills (or General Schemes) which are related to and/or broadly aim to address the same issue? Are there merits in combining them?

In our view, the Bill would not promote peace or help Palestinians. On the contrary, any impact would be detrimental to Palestinians, hinder the creation of a viable Palestinian state, and undermine prospects for peaceful coexistence.

We have already mentioned the discriminatory nature of the Bill and the conclusions that will be drawn from this by many Israelis.

We discuss below the importance of the jobs provided by Israeli businesses in the West Bank to a substantial proportion of the Palestinian population and the Palestinian economy, and their contribution to promoting peaceful coexistence by enabling Israelis and Palestinians to work together and appreciate each other.

The lack of a viable Palestinian economy has been a major barrier to the creation of a Palestinian state ever since the division of the territory West of the Jordan into an Arab State and a Jewish State was proposed by the British Peel Commission of 1937. It was the reason why the Woodhead Commission concluded in 1938 that this proposal was unfeasible and it remains a fundamental problem to this day. The Bill would hinder the realization of a viable Palestinian state by harming businesses in which many Palestinians earn good salaries.

Views expressed by Palestinian leaders on this point should be treated with skepticism. They have not prioritized the welfare of the Palestinian people, as is illustrated by the Palestinian Authority's refusal to stop paying salaries to terrorists under its "pay for slay" policy and its rejection of tax revenues which the Israeli government has sought to transfer after deduction of sums equal to the salaries which the Palestinian Authority paid to terrorists. Instead, the

Palestinian Authority has halved the salaries of many Palestinian civil servants and stopped referring Palestinian patients to Israeli hospitals – see the reports by Palestinian Media Watch:

http://www.palwatch.org/main.aspx?fi=157&doc_id=27533 (Annex 11)

http://www.palwatch.org/main.aspx?fi=157&doc_id=27582 (Annex 12)

Palestinian leaders do not need to care about the welfare of the Palestinian people. They do not face elections and they do not share in the cuts. For example, senior Palestinian leader Jibril Rajoub is being treated in an Israeli hospital, despite the ending of referrals for ordinary Palestinians:

http://www.palwatch.org/main.aspx?fi=157&doc_id=27682 (Annex 13)

On the contrary, Palestinian leaders benefit from the dependency of Palestinians on massive external aid which provides opportunities for the diversion of funds into their pockets.

We believe that the Irish government is doing what it can to promote peace and to help Palestinians and Israelis. The fact that Ireland has limited ability to help to resolve the longstanding conflict is not a good reason for taking a step that would be positively detrimental.

7. What are the specific policy implications of each proposal contained within the Bill (environmental / economic / social / legal)?

Has an impact assessment (environmental/ economic /social / legal) been published⁵ (by Government or a third party) in respect of each proposal contained within the Bill?⁶

8. Could the Bill, as drafted, have unintended policy consequences, if enacted?

We believe that the Bill would have damaging consequences for many Palestinians and the prospects for peace in the Middle East, if enacted.

It is also liable to discourage international companies from locating or maintaining operations in Ireland, due to their exposure to liabilities and sanctions under US laws if they have to comply with the Bill, with adverse consequences for jobs and public revenues.

As at 5 May 2019, 32,210 Palestinians work in industrial zones in Israeli administered parts of the West Bank (Area C), according to information provided to us by Israeli government officials. The goods and services which

they produce are also partly produced by Israelis working with them in the West Bank, and would therefore be treated as illegal under the Bill.

The figure of 32,210 Palestinian employees does not include Palestinians who work in Israeli settlements in the West Bank outside of industrial zones, nor Palestinians who work in Israeli businesses in East Jerusalem.

In the Barkan industrial zone in the Northern West Bank (Samaria) alone, there are 164 factories employing about 7,200 workers of whom about 4,000 are Palestinians. Please watch this short video "Islands of Peace" <https://www.youtube.com/watch?v=PwJ9JX95u5Q&feature=youtu.be> in which Palestinians and Israelis speak about working together peacefully and productively in the Barkan Industrial Zone. Jackie Goodall, Founder and Director of the Ireland Israel Alliance has visited this industrial zone and witnessed this for herself.

Palestinians employed by Palestinian businesses or organisations earn an average of 2,000 Israeli Shekels per month, without pension, social welfare or employee rights. By contrast, Palestinians employed by Israeli businesses earn a minimum wage of 5,400 Israeli Shekels per month and are protected by Israeli labour laws, providing for social welfare benefits, a maximum 8-hour day, convalescence pay, pension and paid leave on both Muslim and Jewish holidays.

The average salary of Palestinians working in Israeli industrial zones in the West Bank is more than three times the average salary in the Palestinian Authority. These salaries enable these workers to provide for extended families; it is reasonable to estimate that each of these workers provides for 10 dependents on average. Thus the jobs in Israeli industrial zones are likely to provide directly the livelihood of over 300,000 Palestinians even without taking into account their indirect contributions to the livelihoods of other Palestinians providing goods or services to these workers, and their families.

Many qualified Palestinians hold management positions in Israeli businesses and earn salaries commensurate their position.

Palestinians employed in Israeli businesses pay income tax to the Palestinian Authority. About a third of the Palestinian Authority's budget is based on the income from Palestinians who work in Israeli businesses or organisations, although this does include those working in Israel within the "Green Line".

The employment of Palestinians in Israeli businesses in the West Bank also promotes peace and reconciliation through the good relations created between Israelis and Palestinians working together.

We refer to the book "*Defeating Denormalization – Shared Palestinian and Israeli Perspectives on a New Path to Peace*" published by the Jerusalem Center for Public Affairs at

http://jcpa.org/pdf/Defeating_Denormalization_Final_22_january.pdf

(Annex 14).

The chapters can also be accessed individually at

<http://jcpa.org/defeating-denormalization/>

We invite members of the Committee to read the whole book. We quote below the Executive Summary which summarizes the content of its chapters in turn:

The Palestinian Authority's Policy of Denormalization

Khaled Abu Toameh

- The current Palestinian political economy, influenced far too greatly by the BDS and anti-normalization campaigns, amounts to a corrupt, unsustainable, terror supporting regime that is disinterested in the economic well-being of its own people and the development of a new state.
- Denormalization's first objective is to intimidate and threaten Palestinians and Israelis who seek peace and a "two states for two peoples" solution. Denormalization's second objective is to delegitimize and isolate Israel in the international community. In this regard, denormalization parallels Hamas and other terror groups that are working to destroy any chance of peace between Israel and the Palestinians.
- Under the pretext of refusing to bolster Israel's "occupation economy," the Palestinian leadership has publicly declined to cooperate on joint projects with the Israeli government or the Israeli private sector that would benefit both economies and both peoples.

The Effects of BDS and Denormalization on West Bank Industrial Zones

Col. (res.) Dr. Danny Tirza

- What will be the impact of an economic boycott of the products of the West Bank settlements and the Israeli industrial zones? Already in 2010, the PA announced a boycott of the settlement products, aimed at preventing their use in the Palestinian market. Except for the huge housing project in Rawabi, which is making use of engineers, planners, advisers, raw materials, and professionals from Israel, but not from the settlements, the boycott has been a failure.
- Clearly, the direct outcome of the Palestinian boycott of settlement products and industrial zones will be a mortal blow to Palestinian employment, which will also damage cycles of consumption and commerce. The PA offers no productive alternative to such employment, and the

decreased standard of living will lead to violence and the strengthening of the radical Muslim elements that seek to destroy Israel and undermine Palestinian governance.

- Various models and initiatives to establish Palestinian industrial zones have failed to take hold, despite years of investment and interest from donors across globe, including Japan, Turkey, and European countries.

The Desire for Defined Status in Multicultural Jerusalem

Prof. Ali Qleibo

- Fifty years after the annexation of Jerusalem, the innumerable employment opportunities provided by the Israeli system have fostered a de facto upgraded standard of living. Despite appeals by some Jordanians and Palestinians to boycott the Israelis (the concept of sumud), the integration of greater Jerusalem Arab residents into the Israeli sector has continued unabated.
- Former cave-dwelling Bedouin shepherds and peasants living in penury, have now moved from the kerosene-lamp-lit caves with outhouses, to comfortable villas and spacious apartments with full amenities including air-conditioning and at least two cars per household. As white and blue collar workers, they are beneficiaries of the flourishing Israeli labor market.
- However, despite advantageous economic conditions, Jerusalem's Arab residents are still in an untenable political situation. Since the signing of the 1995 Oslo II Agreement, Arab Jerusalemites have been stateless. They cannot claim sovereign status in either Jordan or the Palestinian Authority.

SodaStream as a Model of "Economic Peace"

Daniel Birnbaum

- SodaStream chose to employ Palestinians and Israelis at the Mishor Adumim facility in the West Bank out of business necessity, not ideological conviction. Some of my colleagues were skeptical about employing Israelis and Palestinians side by side, especially so shortly after the bloody Second Intifada that ended in 2004. However, we discovered peace "by accident," just as Alexander Fleming discovered penicillin by accident.
- On the factory floor, I witnessed far more than simply "experiments" or "exercises" in coexistence and tolerance, but actual peaceful and harmonious relations between Israeli and Palestinian employees. Israelis worked under Palestinian managers and vice versa; Palestinians and Israeli SodaStream employees were exposed to one another five days a week, at least eight hours a day. As a result, interpersonal ties were also formed between SodaStream employees outside of the workplace.
- SodaStream employees in the Mishor Adumim factory became family. Our employees also represented broad diversity: Israelis, Palestinians, Bedouins, Sunni Muslims, Christians, Jews from the former Soviet Union, Ethiopian, Ashkenazi, Sephardi, and Mizrahi Jews, and Darfuri refugees.

Palestinian-Israeli Normalization in the Workplace: A Manager's View

Nabil Basherat

- Simply put, the global BDS movement has caused damage to the Palestinian public. The BDS movement has threatened my job security and livelihood. It damaged the livelihoods of hundreds of SodaStream factory workers, who were laid off as SodaStream left its Mishor Adumim factory in the West Bank.
- Even though the BDS movement portrayed SodaStream's Palestinian workers as "slaves" who were abused by management, this is not the case. SodaStream's Palestinian workers are very satisfied. I understand that the PLO, the PA, and the Fatah Party have long opposed Palestinians and Israelis working together.
- However, we also need to ensure that our own leadership and the international community know what moderate Palestinians want. It is important that they do not fall under the influence of pro-BDS extremists and instead listen to the average Palestinian worker. They have to understand that if they continue labeling Israeli products and boycotting Israel, they are hurting Palestinian workers and not the Israeli government or military.

Palestinian-Israeli Equality and Normalization: The Case of Rami Levy Supermarkets

Rami Levy

- Employment at Rami Levy is in high demand among Palestinians for various reasons. In the Palestinian Authority-controlled parts of the West Bank, a Palestinian manager or teacher earns on average 2,000 shekels (570 U.S. dollars) a month, well below the Israeli minimum wage.
- Palestinian businesses regulated by the PA are not required to provide employees with social benefits such as pension-fund contributions. Palestinian business owners are also not required to pay property, excise, or sales taxes. Nor are businesses required to reimburse employees' transportation costs or to provide compensation or insurance for work-related injuries. At Rami Levy, however, a full-time Palestinian employee earns 4,000 to 7,000 Israeli shekels a month (1,142 to 2,000 U.S. dollars) plus full medical and social benefits as guaranteed by Israeli law. Palestinian managers earn more.
- The denormalization extremists have attempted to delegitimize our efforts at harmonious coexistence between Palestinian and Israeli employees. BDS and denormalization activists have also portrayed us as a source of tension and conflict. Rami Levy stores in the West Bank uphold the model of good-neighborly relations and peaceful normalization as envisioned and specified in the Oslo Accords.

- We are one of the few businesses that promote close cooperation between Israeli and Palestinian employees. In addition to being a model for economic growth and job creation in the region, Rami Levy stores also provide an important example of peaceful coexistence and cooperation in an otherwise chaotic and violent Middle East.

A Palestinian Woman's Perspective on Working for an Israeli Company

Nadia Aloush

- I want people from all over the world to read and to understand the real Palestinian story. Palestinians simply want to support our families, and live a life of dignity and well-being in our neighborhoods and in good relations with Israelis. It is important to me that people should know that there is also coexistence in workplaces between people and that we fear that sanctions and international pressure could harm these ties and cause us great damage.
- At the end of 1997, an Israeli law was passed that determined that Palestinians working in Israeli factories or in the Civil Administration would receive worker's protections according to Israeli law. Under this law, Israeli and Palestinian Rami Levy employees are truly equal. Along with our regular salary, the Israelis also give us health and social insurance. Rami Levy also grants a yearly bonus.
- Most Palestinian Authority employees do not receive a salary slip, and there is nothing like social rights, a pension, or an education fund. I receive at least 4,000 shekels a month. In the PA, perhaps a famous doctor will receive 3,000 shekels a month, without insurance or rights.

EU-PA Cooperation and Risks to the Palestinian Future

Pinhas Inbari

- Although the European Union repeatedly emphasizes its opposition to the Boycott, Divestment, and Sanctions (BDS) movement, its policy of labeling products manufactured in territories east of the 1949 Armistice Lines has reinforced the Palestinian BDS strategy to assault Israel, isolate it, and cause its economic collapse.
- However, the EU claims that its product-labeling policy – which seeks to differentiate between Israel within the pre-1967 lines, which Europe recognizes, and the territories located to the east of those lines, which Europe does not recognize as belonging to Israel – is only intended to pressure Israel to withdraw to the 1967 lines, thus enabling the creation of a Palestinian state.
- The EU labeling policy actually undermines the West Bank industrial zones that provide excellent employment to some 35,000 Palestinians. These zones come under the jurisdiction of Israeli local authorities but have no connection to "settlements." Business and commercial enterprises in these

15 zones provide employment for Palestinian workers who cannot find alternative work in the PA-controlled territories.

- Europe, for its part, in cooperating with only the highest levels of the PA leadership, has willfully ignored the voices of thousands of Palestinian workers who welcome Israeli commercial enterprises in the West Bank and depend on West Bank industrial zones to support their families.

Wasatia: The Straight Path from Denormalization to Reconciliation

Prof. Mohammed S. Dajani Daoudi

- Wasatia strives to foster a culture of religious, social, and political moderation and reconciliation to help lay the groundwork for Palestinian and Israeli children to grow up in peace, security, prosperity, and harmony.
- In March 2014, I took 27 students to Poland for an educational experience about the Holocaust. We also brought 30 Israeli students to the Dheisheh refugee camp in Bethlehem for an educational experience about the Nakba, the Palestinian "catastrophe" stemming from the 1948 war.
- My initiative was portrayed as Zionist propaganda, and I was labeled as a "collaborator" and "traitor," two highly emotional terms in Palestinian lexicon. Nine political student organizations on campus issued a public statement against me titled "Normalization = Treason." Students demonstrated against me on campus and delivered a letter to my secretary threatening to kill me if I returned to teach at the university. The social networks buzzed against me. My car was torched. The only possession of mine to survive the torching was my personal copy of the Koran.
- I opted to exercise my freedom to dissent from the collective narrative and stand by the ideals of truth, righteousness, justice, compassion, and freedom; I took the risk by making that choice to alienate myself from the society in which I was born and bred. In wanting to break this taboo, I was aspiring to leave the door wide open for social change, reconciliation, democracy, and peace.

If those calling for a boycott succeed in closing Israeli businesses in the West Bank, the first to be hurt will be Palestinians, who will be forced to join the ranks of the tens of thousands of unemployed residents of the Palestinian Authority. They will not receive unemployment benefit from the Palestinian Authority, thus significantly aggravating their economic situation. The much decreased standard of living is likely to promote violence and the strengthening of radical elements that seek to prevent any progress toward peace.

Perhaps the best known example of a supposed triumph for the anti-normalisation and allied Boycott, Divestments and Sanctions (BDS) movement against Israel is that of SodaStream, an Israeli-based manufacturing company that operated its main plant in the Mishor Adumin industrial zone in the West

Bank. Targeted for years by the BDS movement, it eventually relocated from the West Bank to Israel's Negev. Approximately 500 Palestinians lost their jobs.

Ali Jaffar, a shift manager from a West Bank village said: *"All the people who wanted to close [SodaStream's West Bank factory] are mistaken. They didn't take into consideration the families."*

Nabil Basherat, a department head with the same company said: *"The BDS movement threatens my job security and my livelihood. They undercut the livelihood of hundreds of SodaStream employees, who were fired when the company closed its [West Bank] factory."*

<https://aijac.org.au/fresh-air/campus-fiasco-highlights-the-disastrous-consequences-of-palestinian-anti-normalisation-activism/> (Annex 15)

Cost evaluation

12. Will there be enforcement or compliance costs?

13. What are the likely financial costs of implementing the proposals in the Bill, and what is the likely overall fiscal impact on the exchequer?

14. Have cost-benefit analyses (CBA) been provided / published (by Government or a third party) in respect of each proposal contained within the Bill? Will benefits /costs impact on some groups / stakeholders more than others?

If the Bill is enacted, costs would have to be incurred to enforce it, unless it is immediately held to be illegal and invalid.

As mentioned below, we have no reason to doubt the advice given to the government by the Attorney-General that the Bill is contrary to EU law. If so, the State will be exposed to claims for substantial damages and potentially fines. The government will also incur legal costs in addressing these claims.

We also believe that there will be adverse fiscal impacts resulting from international companies relocating operations away from Ireland due to exposure to liabilities and sanctions under US laws if they comply with the Bill, with consequent losses of tax revenues.

Part B: Legal Analysis

15. Is the draft PMB compatible with the Constitution (including the 'principles and policies' test)?

As mentioned above, we consider that the Bill would penalise Christian pilgrims to the Holy City of Jerusalem contrary to Article 44(2) of the Constitution.

16. Is the draft PMB compatible with EU legislation and human rights legislation (ECHR)?

We have no reason to doubt the advice given to the government by the Attorney-General that the Bill is contrary to EU law. It appears to conflict with the EU's exclusive competence over the common commercial policy and with the requirement for free movement of goods, services and persons in the EU's internal market. It would also conflict with the currently proposed Brexit Agreement if that is adopted.

The EU Commission's answer to written question no. P-000081/2019 by Patrick Le Hyaric MEP indicates that it takes the view that the common commercial policy is the EU's exclusive competence and is based on uniform principles, and that EU member states have to comply with these uniform principles

http://www.europarl.europa.eu/doceo/document/P-8-2019-000081-ASW_EN.html

We are aware that supporters of the Bill have circulated opinions suggesting that the Bill complies with EU law. However, it appears to us that the authors of these opinions have wrongly assumed or have been misinformed that goods and services are generally produced by Israeli settlements in the West Bank. As mentioned above, nearly all goods and services produced in areas of the West Bank under Israeli control are produced by separate businesses, in many cases employing Palestinians alongside Israelis.

We also believe that the Bill would contravene Article 9 of the European Convention on Human Rights.

Appendix

Annex 1

“Economic Dealings with Occupied Territories”
53 Columbia Journal of Transnational Law 584

<file:///C:/Users/User/OneDrive/Documents/Oireachtas%20Submission%20Folder/Economic%20Dealings%20with%20Occupied%20Territories.pdf>

Annex 2

Who Else Profits? Report 1

https://euiha41fnsb2lyeld3vkc37i-wpengine.netdna-ssl.com/wp-content/uploads/2017/06/WhoElseProfits_most-final-19.6.pdf

Annex 3

Who Else Profits? Report 2

<https://euiha41fnsb2lyeld3vkc37i-wpengine.netdna-ssl.com/wp-content/uploads/2018/11/WhoElseProfits-e-version.pdf>

Annex 4

Kohelet Policy Forum Memorandum

file:///C:/Users/User/AppData/Local/Packages/Microsoft.Office.Desktop_8wekyb3d8bbwe/AC/INetCache/Content.Outlook/FG6OHS4S/2019.5.21%20-%20Ireland%20-%20Who%20Else%20-%20V12049.pdf

Annex 5

Interpretative Notice on indication of origin of goods from the territories occupied by Israel since June 1967.

https://eeas.europa.eu/sites/eeas/files/20151111_interpretative_notice_indication_of_origin_en.pdf

Annex 6

Memorandum prepared by The Lawfare Project of New York summarizing serious liabilities and sanction for participating in boycotts of Israeli businesses including Israeli businesses operating in Jerusalem and the West Bank.

“THIS DOCUMENT IS INTENDED TO ALERT READERS TO SOME OF THE POTENTIAL DISCRIMINATION LAWS CONCERNING BOYCOTTS; HOWEVER, THIS DOCUMENT IS NOT INTENDED TO PROVIDE LEGAL ADVICE AND IS-NOT TO BE RELIED UPON FOR THE READER’S OWN LEGAL DECISIONS. READERS MAY PROVIDE THIS DOCUMENT TO THEIR LEGAL COUNSEL AND REQUEST THEIR OWN LEGAL COUNSEL’S INDEPENDENT GUIDANCE.”

Laws in Various Domestic and International Jurisdictions Deplore and Attach Liability for Discriminatory Commercial Conduct Related to the Boycott of, or Divestment From, the State of Israel

[https://d.docs.live.net/62b33cf3230e4f35/Lawfare%20Project%20BDS%20Memo-A%20Final\(3\)%5b11831%5d.docx](https://d.docs.live.net/62b33cf3230e4f35/Lawfare%20Project%20BDS%20Memo-A%20Final(3)%5b11831%5d.docx)

Annex 7a

As have been demonstrated by the Airbnb case, when Airbnb announced the withdrawal of its service for properties in Israeli settlements in the West Bank

- The State of Florida adopted sanctions against the company

<https://www.jns.org/florida-takes-action-against-airbnb-amid-its-boycott-of-west-bank-properties/>

Annex 7b

- the States of Illinois and Texas initiated the procedures for implementing sanctions

<https://www.jpost.com/BDS-THREAT/Illinois-board-finds-Airbnb-in-breach-of-state-law-over-settlements-move-574325>

Annex 7c

Illinois Board finds Airbnb in breach of State law over settlements move

<https://www.calcalistech.com/ctech/articles/0,7340,L-3757543,00.html>

Annex 7d

Israeli-Americans sue Airbnb in Delaware and cite religious discrimination

<https://www.jpost.com/Arab-Israeli-Conflict/12-Israeli-Americans-sue-Airbnb-in-Delaware-cite-religious-discrimination-573094>

Annex 7e

Airbnb faces Civil Rights suit in US over West Bank Settlement Boycott

https://www.jpost.com/Arab-Israeli-Conflict/Airbnb-faces-civil-rights-suit-in-US-over-West-Bank-settlement-boycott-578575?utm_source=newsletter&utm_campaign=21-2-2018&utm_content=airbnb-faces-civil-rights-suit-in-us-over-west-bank-settlement-boycott-578575

Annex 7f

Israeli sues Airbnb over West Bank settlements listing ban

<https://www.usnews.com/news/business/articles/2018-11-22/israeli-sues-airbnb-over-west-bank-settlement-listing-ban>

Annex 7g

The litigation in Delaware was settled on the basis that Airbnb would resume its services to these properties:

<https://www.bbc.co.uk/news/world-middle-east-47881163>

Annex 8

Bipartisan Congressional Trade Priorities and Accountability Act of 2015 s.102(b)920)

<file:///C:/Users/User/Documents/Oireachtas%20Submission/PLAW-114publ26.pdf>

Annex 9

Richardson v Director of Public Prosecutions [2014] UKSC 8 at S17

<file:///C:/Users/User/Documents/Oireachtas%20Submission/uksc-2012-0198-judgment.pdf>

Annex 10

AFPS and OLP v Alstom and Veolia (case 11/05331, 22 March 2013)

https://www.france-palestine.org/IMG/pdf/decision_de_la_cour_d_appel.pdf

Annex 11

Palestinian Media Watch: Report 1

http://www.palwatch.org/main.aspx?fi=157&doc_id=27533

Annex 12

Palestinian Media Watch: Report 2

http://www.palwatch.org/main.aspx?fi=157&doc_id=27582

Annex 13

Palestinian Media Watch: Report 3

http://www.palwatch.org/main.aspx?fi=157&doc_id=27682

Annex 14

"Defeating Denormalization – Shared Palestinian and Israeli Perspectives on a New Path to Peace" published by the Jerusalem Center for Public Affairs at

http://jcpa.org/pdf/Defeating_Denormalization_Final_22_january.pdf

(Annex 14).

The chapters can also be accessed individually at

<http://jcpa.org/defeating-denormalization/>

Annex 15

Campus fiasco highlights the disastrous consequences of Palestinian anti-normalisation activism.

<https://aijac.org.au/fresh-air/campus-fiasco-highlights-the-disastrous-consequences-of-palestinian-anti-normalisation-activism/>