A review of Ireland’s foreign policy approach to the Israeli-Palestinian Conflict

Ireland Palestine Solidarity Campaign
www.ipsc.ie

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Section 1: Overview of the situation

1.1 Peace talks and settlement expansion: twin processes

Over twenty years since the signing of the Oslo Accords, US Secretary of State John Kerry is leading a renewed push for what he hopes will be a final peace settlement to the Israeli/Palestinian conflict. The US-authored ‘framework agreement’ that has been under discussion claims to cover all of the major issues: the final status of Jerusalem, refugees, Arab recognition of Israel as a Jewish state, borders based on 1967 lines and security. The US hopes that a final deal will be reached in April 2014. However this seems increasingly unlikely, as both sides have already expressed major differences about the core issues put forth by Mr Kerry.

That cracks are already beginning to appear in the process of negotiations should not be surprising. The inertia that has consistently plagued talks has given rise to an increasingly widespread perception that for those on the Israeli side, and particularly those within Israeli Prime Minister Benjamin Netanyahu’s own cabinet, there is no desire to reach a final settlement on any of the issues highlighted above. That is to say that the negotiations provide a convenient means by which Israel can continue to create “facts on the ground”, which will need to be taken into consideration in any final status deal, while also purporting to be acting in the interests of peace. Netanyahu’s recent request for a 12-month extension to negotiations adds weight to such a perception, and a glance at some figures regarding settlement expansion substantiates it further.

During the period since the signing of the Oslo Accords, Israel’s settlement activity in the West Bank has been virtually unrelenting; since 1993, 53,000 settler homes have been constructed in the occupied West Bank. The year 2013 saw a sharp increase in settlement activity, with the rate of construction in the first half of that year jumping 70 percent from 2012. At present, the number of illegal Israeli settlers stands at around 500,000 in over 121 settlements dotted across the West Bank. In a more recent affront to the peace process, Israel announced the construction of a further 1,400 settlements immediately following John Kerry’s visit to the Middle East.

Regarding the settlement issue, and in particular an announcement of new settlements in November 2013, EU High Commissioner Catherine Ashton has said:

The EU has repeatedly stated that settlements are illegal under international law and that bold and decisive leadership is needed for the current peace negotiations to succeed.

The EU deplores the latest settlement announcement and calls on the Israeli government to reverse its decision. Any actions that could hamper or undermine the on-going negotiations must be avoided.¹

In May 2013, the Tánaiste Eamon Gilmore stated that

“Settlements in the West Bank are illegal and therefore produce from those settlements should be treated as illegal throughout the European Union.”²

Such statements are in line with the position of the overwhelming majority of UN member states, as well as being consistent with international law, as attested by the 2004 advisory opinion of the International Court of Justice regarding the illegality of Israel’s ‘separation barrier’ and settlement activity. However, it has long been the view of the IPSC that statements of condemnation alone are ineffective. We believe that Israel’s continued belligerence and violations of human rights norms and international law over the past 14 years illustrate this quite clearly. Thus, it is our contention that if the Tánaiste and the High Commissioner wish to be consistent in their words and actions, decisive steps need to be taken in order to ensure that Israel abides by the same international legal and human rights norms that are expected of any state that is as diplomatically and economically connected to the international community as it is.

1.2 Upholding international law: Boycott, Divestment and Sanctions

We are currently witnessing a slow but steady shift in approach to the issue of Israel and Palestine. This change reflects a gradual recognition of some fundamental elements of the conflict that have gone unnoticed or ignored by the Western world for many years, namely the power imbalance between the two sides – an imbalance that was institutionalised in the Oslo Accords – and the unviability of any resolution that retains this vast disparity. Some states and certain private entities are finally beginning to take account of this and act upon the dictates of international law, by making their dealings with Israel contingent upon it fulfilling its legal responsibilities as the occupying power.

There are several recent diverse examples of this trend. In December 2013, the general membership of the American Studies Association, the largest organisation of scholars of American culture in the United States, voted in favour of a resolution calling for a boycott of Israeli academic institutions. It was preceded, and followed, by similar resolutions on behalf of the Association for Asian American Studies and the Native American and Indigenous Studies Association respectively. Meanwhile, here in Ireland, the Teachers Union of Ireland became the first European trade union to call for an academic boycott of Israel in April last year. These resolutions were proposed in response to the call made by Palestinian civil society in 2005, for a campaign of Boycott Divestment and Sanctions against Israel until it complies with international law.

More recently, the Dutch pension fund PGGM decided to withdraw all of the investments it held in five major Israeli banks, citing the international humanitarian law implications of their operations in the illegal settlements. Other major European investors are now also reviewing their holdings in Israeli banks, as is ABP, the third largest pension fund in the world. Finally, it has recently emerged that Germany will be including a clause in all of its future scientific and technological grants to Israel to ensure that a ban on the funding of Israeli settlements is enforced.

The cases cited above are but a few examples of a relatively new but demonstrably effective approach to the Israel/Palestine issue. Below are some recommendations the IPSC is making for Ireland to contribute at both a domestic and an international level. The Department of Foreign Affairs and Trade states firmly on its website its commitment to upholding the Geneva Conventions:

*Ireland is firmly committed to the effective application and further development of international humanitarian law. Ireland played an active role in the negotiation of the Statute of the International Criminal Court, recognising it as an essential means for bringing to justice those responsible for the most serious international crimes, including grave...*
breaches of the Geneva Conventions and other serious violations of the laws and customs of law (‘war crimes’)

As such, the IPSC feels that there is a strong case to be made for the measures outlined below aimed at applying and implementing international law in Palestine/Israel.

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3 https://www.dfa.ie/our-role-policies/international-priorities/international-law/international-humanitarian-law/
Section 2: Unilateral steps Ireland should take

2.1 Introduce a ban on all Israeli settlement produce and on trade with ‘complicit companies’

As long as the economic viability of the settlements is being sustained by Israel’s European trading partners, there is no real reason for Israel to take statements of condemnation of its settlement activity seriously. As the Tánaiste rightly pointed out, given that all of the settlements in the West Bank are illegal under international law, it follows that produce from these settlements is also illegal. Ireland is therefore legally bound to ensure that all economic support to the settlements comes to a halt, as such support is tantamount to the facilitation of grave breaches of the Fourth Geneva Convention.

Both the Tánaiste and the Joint Oireactas Committee on Foreign Affairs and Trade have indicated that this is Ireland’s position regarding settlements. In September 2012, the Joint Committee called upon Eamon Gilmore to implement a national ban on settlement produce and to push for an EU-wide ban to be adopted. In spite of statements of agreement from the Minister, this call has yet to be acted upon. The time to act on this is now. Ireland should also consider banning trade with companies complicit in the illegal settlement enterprise, i.e. Israeli companies that source any goods in settlements, thereby giving both material and ideological legitimacy to the illegal settlements.

Failing such moves, or in the interim leading up to it, Ireland should at the very least ensure that all produce stocked by retailers that originates from the settlements is clearly marked as such, so that Irish consumers can make the informed decision not to support violations of Palestinian human rights.

At a time when the issue of settlements is receiving unprecedented attention and scrutiny internationally, Ireland should take the lead in calling for international law to be upheld by banning all produce originating from Israeli settlements. A unilateral move such as this would set a precedent and could pave the way for other states to introduce similar measures.

2.2 State bodies, publicly funded institutions and cooperation with Israeli entities

Neither Irish state bodies nor institutions funded from the taxpayers’ purse should engage in any form of cooperation with Israeli entities – public or private – so long as Israel is in violation of its obligations under international law. Such partnerships will merely lend legitimacy to Israeli actions (and inaction) on vital issues of human rights and international law; they give the impression that in the eyes of the Irish state, and thus in the eyes of the people of Ireland who are sovereign in this republic, such violations are acceptable.

For example, publicly funded Irish universities should not engage in any institutional cooperation with their Israeli counterparts, the latter being funded by the Israeli state. Another case where such engagement may arise is in the purchase of items by the Irish Defence Forces; we believe that our military should not purchase any military items from any Israeli arms manufacturers.

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Ireland should also withdraw from the ‘IRIS’, or Joint Ireland Israel Programme on Road Safety, announced by the Minister for Justice and Defence, Alan Shatter, while on a state visit to Israel last March. While a desire to decrease road fatalities is laudable, in Ireland, Israel or anywhere else, the fact is that the Israel National Road Safety Authority is a government agency that operates in the illegal settlements and on the illegal settler-only roads in the occupied Palestinian territories. Regardless of the rationale, it should be unacceptable for the Irish state to be in a partnership with such an agency that is so directly involved in the illegal Israeli settlement enterprise. If Ireland is serious in its belief that the settlements are illegal, then it cannot be party to such a cooperation programme.

2.3 Ensure that multinational companies operating in Ireland have no involvement in Israel’s illegal occupation, or in its violations of international law and Palestinian human rights

The promotion of human rights and trade are two fundamental stated elements of Ireland’s foreign policy. While both goals can often be pursued without contradiction, the presence in Ireland of certain companies with highly dubious track records in the Occupied Territories would seem to indicate a prioritisation by the Irish Government of trade and Foreign Direct Investment over human rights. Below we detail the complicity in human rights violations of certain multinational companies in Ireland, and what steps the Irish Government needs to take in their regard in order to ensure that its commitment to human rights is upheld unequivocally.

CRH

The Irish company Cement Roadstone Holdings owns a 25% stake in the Mashav group in Israel. Mashav is the holding company for Nesher Cement, which, according to its website, is the sole producer of cement in Israel. It is widely believed that Nesher is involved in the building of the separation wall in the West Bank which, in effect, annexes Palestinian land to Israel, and has been declared illegal by the International Court of Justice. Such action supports and sustains the illegal Israeli occupation of Palestinian land. It is also believed that Nesher Cement is used in the construction of illegal settlements in the occupied territories, checkpoints that impede travel and commerce for Palestinians, and more than 700 kilometres of Israeli-only roads in the West Bank.

The implication of an Irish company in the systematic breach of the Fourth Geneva Convention, the UN Declaration of Human Rights, the Advisory Opinion of the International Court of Justice and numerous UN Security Council resolutions should be a matter of grave concern to the Irish government, as it raises serious questions about the values and priorities it promotes through its foreign policy and trade activities. It is worth bearing in mind the position taken by the International Court of Justice regarding the obligations states have in their dealings with Israel:

As regards the legal consequences for States other than Israel, it was contended before the Court that all States are under an obligation not to recognize the illegal situation arising from the construction of the wall, not to render aid or assistance in maintaining that situation and to co-operate with a view to putting an end to the alleged violations and to ensuring that reparation will be made thereafter.

6 http://www.rsa.gov.il/rashuiottashtiot/peiluiot/Pages/default.aspx (Hebrew)
Below are two courses of action available to the Irish government and Houses of the Oireachtas which could help bring an end to CRH’s complicity in Israel’s violations of International Human Rights Law and International Humanitarian Law.

Investigation by the OECD of Complaint raised against CRH

The UN framework for business and human rights refers to the state’s duty “to protect against human rights abuses committed by third parties, including business.”8 This highlights that states have a primary role in preventing and addressing corporate-related human rights abuses. In addition, both the company and the state have a responsibility to ensure that an effective grievance procedure exists.

The Organisation for Economic Co-operation and Development (OECD) comprises 30 states, Ireland being one. A major instrument for monitoring businesses is the OECD guidelines for multinational enterprise. These guidelines hold states responsible for monitoring corporations operating both within and beyond their territory.9 As a member of the OECD, Ireland is expected to adhere to these guidelines and investigate all company activities both here and abroad. By agreeing to be part of the OECD, Governments are obliged to have National Contact Points in order to promote the guidelines and investigate any complaints or issues that are raised. Until recently the Irish NCP was based in the Department of Enterprise, Trade and Innovation. Two of the key OECD policies state “that enterprises should respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments” and that they should “encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines.”

On the 3rd May 2011 The Ireland-Palestine Solidarity Campaign raised a Specific Instance against CRH plc10 with Ireland’s OECD National Contact Point due to CRH’s activities in Israel/Palestine. We contend that CRH is complicit in violations of human rights law through its holdings in the Mashav group, and as such, has neglected to comply with the OECD guidelines for Multinational Enterprises.11 The IPSC believe that CRH plc is guilty of failure to implement good business practices which respect International law in accordance with the due diligence process.

We have requested that the Irish NCP:

- investigate whether CRH is in breach of the OECD Guidelines for Multinational Enterprises through its Palestinian human rights, and;
- oblige CRH plc to commit itself to comply scrupulously with the OECD Guidelines and with International Human Rights Laws, and failing that to call for CRH to divest from the Israeli company Mashav Initiative and Development Ltd and therefore bring an end to CRH’s complicity with Israel’s violations of International law.

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As CRH is headquartered in Ireland we are asking the government to ensure that this case is investigated in Ireland and to maintain an active role in handling the case rather than transferring it to the host country’s (Israel’s) NCP.

Investigation of CRH by the Joint Oireachtas Committees
The IPSC is calling on the government to investigate CRH’s complicity in Israel’s violations of human rights in the occupied territories of Palestine. One way is via the OECD complaint procedure noted above. Another avenue to investigate CRH is through the Joint Oireachtas Committees, such as that of Foreign Affairs and Trade. The deliberations arising from the committees’ investigations could then be used to influence government policy. If CRH is found to be complicit then it is imperative that the government bring pressure on CRH to cease its illegal activities by excluding it from government investments and public procurement contracts.

By excluding CRH from public procurement tenders the Irish government would send out a strong signal to multinationals that Ireland will not do business with companies found guilty of involvement in human rights abuses anywhere in the world.

G4S
The private security company G4S recently tendered for a contract with the Department of Social Protection to administer the Government’s new ‘JobPath’ labour activation scheme. This comes at a time when G4S is coming under heavy criticism from a range of international bodies for its activities in the occupied territories. The OECD is currently investigating the nature of the surveillance services G4S provides at checkpoints, in the settlements and in Israeli prisons, in order to establish whether they violate the body’s guidelines on business conduct. A glance at the operations of its Israeli subsidiary, G4S Israel, serves to confirm these suspicions.

G4S Israel has admitted that it provides a range of security services in banks, police stations and retail outlets located in the settlements in the West Bank. In addition, G4S Israel provides the Israel Prison Services with services and equipment, such as control rooms and peripheral security systems. The inhumane and degrading treatment that Palestinians arrested in Gaza and the West Bank are subjected to in these facilities has been well documented. Furthermore, by transferring Palestinian prisoners from the Occupied Territories to prisons located in Israel proper, Israel is in grave breach of Article 76 of the Fourth Geneva Convention, which amounts to a war crime in which G4S is directly implicated.

In addition to the investigation by the OECD, G4S has come under scrutiny and sanctions across Europe for its complicity in war crimes and human rights abuses. The University of Oslo terminated its contract with G4S in July 2013, following a student campaign at the university. The European Parliament chose not to renew its contract with G4S for security services at its premises in Brussels. In the UK, mainstream newspapers prominently covered a demonstration that took place outside the G4S annual meeting, and campaigners have pressured a major energy company to end ties with the company. In Denmark, a major bank and several large NGOs have cut their ties to the company because of its activities in the Occupied Palestinian Territories.

G4S’s operations in Ireland, and particularly its prospective contract with the Department of Social Protection, are not consistent with Ireland’s international reputation for promoting human rights and upholding the rule of law. It is therefore imperative that neither the Irish state nor publicly

funded bodies, at local or national level, engage G4S in any contracts while the company continues its operations and human rights abuses in Israeli-occupied Palestine. Not only should no new contracts, such as the Department of Social Protection tender, be accepted, but any and all such contracts currently in operation should not be renewed upon their expiration.
Section 3: Steps Ireland should advocate at EU level

3.1 Push for the suspension of the Euro-Med Agreement with Israel

The Euro-Med Agreement with the EU under the Euro-Mediterranean Partnership contains human rights obligations that Israel has repeatedly breached since becoming a signatory to the Agreement. Article 2 states:

“Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement.” 13

Israel has continuously failed to live up to these obligations, the most prominent example perhaps being its ongoing economic strangulation of the people of Gaza. In June 2012, the UN Emergency Relief Coordinator and Under-Secretary General for Humanitarian Affairs, Valerie Amos, said in relation to the blockade: “This amounts to a collective punishment of all those living in Gaza and is a denial of basic human rights in contravention of international law.”14

Israel has thus far, remained unsanctioned for its persistent denial of human rights and contravention of international law. While statements from EU and UN officials leave no doubt about the legality of the siege and the need for it to be lifted, in the absence of any mechanism by which such statements can be enforced, they will continue to be ignored by Israel. Suspension of the Agreement is one possible method of ending this impunity. The privileged access to the EU market granted to Israel through the Euro-Med agreement is of great economic and political importance to it. Even the prospect of a suspension – or even the beginnings of a debate around such a suspension, instigated by Ireland - from the Agreement until such time as it chooses to abide by the human rights obligations of Article 2, could serve to force Israel into rethinking its constant breaches of human rights norms and international law.

3.2 Advocate for Israel’s suspension from the Horizon 2020 programme

The EU decision to introduce guidelines that would prohibit any further funding from going to institutions with operations based in the settlements was a welcome development, but there are now serious concerns surrounding its implementation. In December 2013, the EU and Israel signed an agreement stating that, in spite of the aforementioned directive regarding the funding of institutions with operations beyond the Green Line, Israel would be able to gain access to the Horizon 2020 programme. A compromise was reached whereby Israel would recognise that demands had been made of it by the EU regarding settlement-based operations, but it shall not be under any obligation to acquiesce to these demands. Such a clause effectively reduces the weight of the EU’s directive to zero, and represents a continuation of the exception that has been made by the EU in its dealings with Israel ever since the Barcelona Process.

Not only should Ireland lobby at EU level to ensure that the stipulations of the EU’s settlement directive are not compromised by Israel’s participation in Horizon 2020, but Ireland should also push to have Israel’s participation in the programme rescinded entirely. In its explanatory statement regarding its decision to divest from five Israeli banks,\textsuperscript{15} the Dutch pension fund PGGM stated that the legal framework in which the banks operate made it impossible for them to sever their financial ties to the settlements. As such, PGGM felt that there was no mechanism by which it could comply fully with its obligations under international law, other than to cut ties with these banks completely and indefinitely suspend the dialogue it had been engaged in with them.

By the same measure, IPSC feels it has long been time for the EU to take into full account the legal and ethical implications of continuing to afford Israel a ‘preferential’ trade status. Under the Horizon 2020 programme for instance, €2 billion has been earmarked for security research. The participation in research projects of Israeli arms companies Elbit and Israel Aerospace Industries, who already avail of EU funds under research programmes and whose specialties include drone warfare and the provision of technology for Israel’s wall, would represent a further increase in EU money going toward activities that are considered near-unanimously illegal by the international community. Thus, while a discussion at EU level on prohibiting the funding of settlements is a positive development, we believe that further steps should be taken if the EU wishes to live up to its obligations under international law, and what is required of all other states according to the International Court of Justice.

Such steps include calling for an arms embargo on Israel, as well as opposing any further upgrade in relations between the EU and Israel. The Irish Government has often blamed a lack of enthusiasm in other European countries about any discussion of such measures for its own reluctance to force Israel to abide by international law. However, Germany’s recent decision to make all further scientific and research grants to Israel contingent upon a clause prohibiting any funding going to the settlements, would seem to indicate a tangible shift toward matching words with actions with regard to Israel in Europe.

\section*{3.3 Oppose and further upgrades in EU-Israel Relations}

In 2012, in the face of large scale public opposition, the EU upgraded its relations with Israel by signing the ACAA agreement. While presented as merely a ‘technical’, and thus not ‘political’ upgrade by EU officials, the agreement nonetheless could only be viewed as a ‘rewarding’ of Israel, in spite of its human rights and international law violations.

The Irish government should be to the fore in opposing any further such upgrades, whether of a ‘technical’ or ‘political’ nature until such time as Israel fulfils its obligations viz human rights and international law. This is a question of credibility, accountability and justice; these values should not be viewed irrelevant or subordinate to short-term trade interests. At stake is the EU’s long-term strategic interests, as well as both it, and Ireland’s, credibility as a defenders of human rights and international law.

\textsuperscript{15} https://www.pggm.nl/english/what-we-do/Documents/Statement%20PGGM%20exclusion%20Israeli%20banks.pdf
Section 4: Issues Ireland should be raising on an international level

The UN has designated the year 2014 as the year of International Solidarity with the Palestinian people. In this spirit, and in keeping with the spirit of Ireland’s stated commitment to the central role played by the United Nations in ensuring global peace and security, we have set out several key issues that Ireland should raise internationally with the aim of realising the inalienable rights of the Palestinian people.

These comprise calling: for an end to the Israeli military occupation and dismantling of the illegal separation wall; for an end to the siege of Gaza; for full equality for all citizens of Israel regardless of ethno-religious background; for freedom for all Palestinian political and child prisoners; for the UN mandated Right of Return for all Palestinian refugees and their families, and for rights for, and the safety of, all Palestinian refugees in their host countries.

Given Ireland’s commitment to the fight against hunger and poverty and our support for international development, the DFA should work to raise awareness about the continued impoverishment of the West Bank, due to Israel’s failure to transfer Area C to the PA, as was required of it by the terms of the Oslo Accords. Similarly, this commitment to international development should oblige the government to lobby to bring about an improvement in the living conditions of the people of the Gaza Strip, whose situation has deteriorated steadily since the imposition of the blockade by Israel. According to Oxfam, over 80% of the population of Gaza is now dependent on humanitarian aid due to the illegal siege.

While ensuring that people have access to the basic facilities and goods that they need in order to survive is of vital importance, bringing about an end to the policy that has created such suffering is of just as much relevance to the goals of ending hunger and promoting development. Ireland should raise these issues tirelessly at the UN, in order to live up to its own commitment to development as well as to the ethos of the International Year of Solidarity with the Palestinian People.

http://www.oxfam.org/en/emergencies/gaza
Section 5: Conclusions

5.1 ‘Singling out Israel’?

While one often hears the argument from Zionist quarters that Israel is being “singled out”, this is simply not the case. Many countries have faced and continue to face EU and UN sanctions and embargoes, among them: China, Russia, Iran, Syria, Zimbabwe, Sudan, Yemen, Belarus, Myanmar, Cuba and North Korea, to name a few. China is subject to a US and EU arms embargo, as is Zimbabwe, as well as being subject to an international loans embargo.

In this light, the only manner in which Israel is being ‘singled out’ is through its unique ability to persistently violate international norms with utter impunity. Israel is in violation of more UN Security Council Resolutions requiring action by it and it alone than any other nation, and yet has faced no sanction for such brazen contempt for the international community. Rather, it has been consistently rewarded economically. So by making the demands set out in this document, the Ireland-Palestine Solidarity Campaign is merely insisting that the same standards are brought to bear on Israel as are on all other states that are treated as respected members of the international community. It is, in our view, this impunity that explains the fact that this conflict has remained unresolved for so long.

5.2 Promoting peace: Ireland’s role

During what the UN has designated “International Year of Solidarity with the Palestinian People” Ireland should take a decisive leadership role by promoting the universal values of human rights and the rule of law in relation to Israel/Palestine. The time is long overdue for governments to support the work that has been done by grassroots civil society organisations and ordinary conscientious citizens, by insisting that Israel be held to the standards set by international law. It has so far been up to civil society organisations to act upon and enforce the statements of politicians and EU and UN officials. In taking the concrete steps set out in this document, the Irish government could break this trend and build upon the international reputation it earned through the experience of the peace process in the north of Ireland, leading toward a just and lasting settlement to the Middle Eastern conflict.