UN Treaty Body Promotes BDS at Urging of Norwegian NGO

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BESA Center Perspectives Paper No. 1,530, April 15, 2020

EXECUTIVE SUMMARY: UN treaty bodies are increasingly violating their mandates as part of discriminatory anti-Israel campaigns. In March 2020, the UN Committee on Economic Social and Cultural Rights (CESCR) embraced this disturbing trend by adopting a BDS agenda after being convinced to do so by the NGO Norwegian People’s Aid (NPA).

During the 67th session of the UN Committee on Economic Social and Cultural Rights (CECSR), in which the committee was intended to review Norway’s compliance with the International Covenant on Social Economic and Cultural Rights, the Committee used the session as an opportunity to promote BDS. Its concluding report singled out Norwegian business activity in the West Bank and recommended that Norway reexamine its investment policies. The recommendation coincides with a current review of its ethical investment guidelines by the Norwegian government to be published in June 2020.

Government funders of UN frameworks must establish oversight mechanisms to ensure that UN treaty bodies adhere to their mandates and are not used to advance discriminatory political campaigns and agendas.

For the past decade, NGO Monitor has documented the phenomenon of UN treaty bodies that violate their mandates to evaluate state compliance, as part of discriminatory anti-Israel campaigns. Last month, the Committee on Economic Social and Cultural Rights (CESCR) embraced this disturbing trend, adopting a BDS agenda after campaigning by the NGO Norwegian People’s Aid (NPA).

Background
UN treaty frameworks are often targeted as platforms for anti-Israel propaganda. For instance, the Committee Against Torture adopted NGO efforts to grossly expand the definition of “Cruel, Inhuman and Degrading Treatment” (intended to address disproportionate use of force against the detained that doesn’t rise to the level of torture) to include “settler violence,” delays at checkpoints, and house demolitions. Similarly, in 2018, The UN Committee on the Elimination of Racial Discrimination issued a statement on the Gaza riots that was completely outside of its area of competence.

NGO Monitor has shown how these bodies extensively rely on and repeat unverified claims from NGOs in setting their agendas and in their final reports. Indeed, exploiting UN treaty bodies for anti-Israel political warfare is listed as the number one strategic objective of the Palestinian Authority’s United Nations Development Assistance Framework, which was devised in cooperation with UN agencies and officials.

**CESCR singles out Israel**

During CESCR’s 67th Session, held on February 17-March 6, 2020, the Committee reviewed Norway’s compliance with the International Covenant on Social Economic and Cultural Rights. Committee members/staffers, prompted by NGOs, also used the session as an opportunity to promote BDS.

In its March 6, 2020 report and a February 26, 2020 press release, the Committee singled out supposed Norwegian business activity in the West Bank. It did not specifically address Norwegian business operations in any other conflict zone in the world or in any other countries where there are alleged human rights abuses.

In reference to the Government Pension Fund of Norway, the Committee stated that it was:

…concerned about serious human rights implications of some investment portfolios of the Fund, which include companies found to be engaged in home demolition, Israeli settlements or other activities in the Occupied Palestinian Territories. It is also concerned that not all investments of the Fund are subject to the ethics assessment process of the Council on Ethics.

The Committee then recommended, again singling out Israel from all other international areas where Norway does business, that Norway:

…review the investment of the Government Pension Fund Global in business entities involved in operations in the Occupied Palestinian Territories, in the light of its obligations stipulated in the International Court of Justice’ advisory opinion of 9 July 2004 on the legal consequences of the construction of the wall in the Occupied Palestinian Territories. It also recommends that
the State party ensure the ethically motivated guidelines for observation and exclusion from the Government Pension Fund Global are in line with its territorial and extraterritorial obligations under the Covenant…It further recommends that the State party pursue a rigorous process of ethics assessment by the Council of Ethics.

In the pre-session List of Issues provided to Norway to guide the drafting of the State Report to the Committee, the CESCR had asked Norway to describe its general policies in the realm of Business and Human Rights. After NGO intervention, however, notably by Norwegian People’s Aid (NPA), the Committee chose to focus exclusively on Israel and to recommend in its report that Norway revise its policies in effect to mandate anti-Israel divestment.

NPA has a history of political campaigns in conjunction with the discriminatory BDS movement that single out Israel for attack. In 2019, NPA issued a publication containing numerous factual and legal errors calling on the Norwegian Pension Fund to cease all business activities in the “Occupied Territories.” NPA submitted an abridged version of this publication to the CESCR and it clearly served as the source material for the Committee’s comments and conclusions.

Committee member Olivier De Schutter was responsible for raising BDS during the Committee hearings. De Schutter, a Belgian academic, was formerly the UN Special Rapporteur on the Right to Food, a mandate established by Cuba and criticized as a tool with which to whitewash dictatorships and attack Western democracies. According to documentation published by UN Watch, De Schutter used his position as Special Rapporteur to promote radical anti-trade policies. In addition, he used his position to attack Israel over counter-terror policy in Hamas-controlled Gaza. Prior to that, De Schutter was General Secretary of FIDH, one of the leading promoters of anti-Israel BDS and demonization, and led an FIDH-PCHR “fact-finding” mission to Gaza in 2006.

During the Committee proceedings, De Schutter promoted the NPA claims, despite their lack of foundation in business and human rights standards and law:

Mr. De Schutter, noting that the Government Pension Fund Global was the largest sovereign wealth fund in the world, controlling around 1.4 per cent of all stock holdings, said that the Committee had continuing concerns about some of the fund’s investment choices, which included the multinational company, Caterpillar, whose bulldozers had been used to demolish buildings and homes in the occupied Palestinian territory, the Heidelberg Cement Group, which was involved in quarrying activities in the occupied territory, and five Israeli banks that helped to finance settlements in the territory. The International Court of Justice had clearly stated that all States had a duty to contribute to efforts to end the serious violations of the peremptory norms of
international law, which included the right to self-determination of the Palestinian people. That duty was also set out in the Committee’s general comment No. 24 on State obligations in the context of business activities (E/C.12/GC/24). He would like to know whether the pension fund’s investments would be reviewed in the light of those obligations.

Norway responded:

With regard to investments made by the Government Pension Fund Global, the Council on Ethics, which was an independent body, made recommendations on the exclusion of companies that engaged in gross or systematic violations of human rights. In line with the Guiding Principles on Business and Human Rights, exclusion was used as a measure of last resort. While the Council on Ethics took the position that companies should not be excluded from the Pension Fund solely because they engaged in activities in the West Bank, it had recommended the exclusion of a number of companies that had built Israeli settlements there. An expert commission [was] appointed to assess the existing ethical guidelines and [will] submit its report in June 2020.

NPA has also provided a submission to the Norwegian government as part of this review process along with several other NGOs. It will be important to engage with the Norwegian Commission to counter the BDS narrative and to ensure that Israeli perspectives are included in the review process.

Conclusion

The UN’s Human Rights Treaty Body System is predicated on treaty committees adhering to their mandates and promoting compliance with the respective treaties. Oversight mechanisms are needed to safeguard the system. Confidence in these bodies is weakened, as is the rule of law, when NGOs and committee members succeed in convincing committees to improperly exceed their role and allow themselves to be used for narrow and discriminatory political campaigns and agendas.

More broadly, government funders of UN agencies operating in the Palestinian Authority need to reconsider their largesse given that they are being exploited to advance Palestinian rejectionism, economic warfare, and maximalist nationalist goals rather than conflict resolution, human rights, or humanitarian objectives.

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