PODCAST

Challenging the British Anti-Boycott Bill with Ben Jamal

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The transcript below has been lightly edited for brevity and clarity.

Ben Jamal 0:00

An important part of what we do is to make our struggle intersectional — to say, where does this struggle fit with broader struggles against unjust systems of power? Why is this also part of the climate justice struggle? Why is this part of the broader struggle against all forms of racism? And those synergies and those alliances we're drawing in fighting this bill also provide us with opportunities, as we defend the space, to continue to act to enlarge the space for activism in the UK.

Yara Hawari 0:33

From Al-Shabaka, the Palestinian Policy Network, I am Yara Hawari, and this is Rethinking Palestine.

On Monday the 3rd of July, a British bill banning public bodies from supporting boycotts passed its second reading in the House of Parliament. This obviously has serious ramifications for Palestine solidarity activists in the UK and especially for the BDS movement. But beyond curtailing the work of Palestine solidarity activists, this will also affect those wanting to pursue boycotts as a form of protest against others involved in human rights abuses.

A statement from a group of British NGOs reiterated this and said that it will stifle

a wide range of campaigns concerned with the arms trade, climate justice, human rights, and international law. What is clear is that this bill is part and parcel of a wider attempt by the British government to crack down on activism in general, but particularly those in support of social justice movements and liberation struggles such as that of Palestine.

Now, the Palestine Solidarity Campaign, the PSC, in the UK has been leading the charge in campaigning against this bill. So joining me to discuss the campaign and the repercussions of this legislation is the director, Ben Jamal. Ben, thank you for joining me on this episode of Rethinking Palestine.

Ben Jamal 1:56

Pleased to be here, Yara.

Yara Hawari 1:58

Ben, can you start off by telling us what this bill is, what it aims to do, and who supports it?

Ben Jamal 2:04

First of all, the official title of this bill is the Economic Activities of Public Bodies. But colloquially, we are all calling it the anti-boycott bill.

In terms of the context of it being brought in, the government promised to bring this bill in when it was elected under Boris Johnson in 2019. The very narrow reason for doing that — it was a response to a defeat they had suffered in the court. So in around 2016 and 2017, the previous Conservative government had tried to attach regulations to pension law, the effect of which would be that a local government pension scheme could not divest from a company on the basis of concerns about human rights abuses and violations of international law, unless the government itself had introduced sanctions against the state involved.

And we, PSC, took them to court, and after a long battle, we won — but we won on a very narrow basis, that the government did not have the power to do this. So the first reason for this bill coming in was the government saying, okay, we will bring in what's called primary legislation, a new law that allows us to do this.

In terms of why — what is it aiming to do? The government made clear in the rhetoric of supporting the bill, and then in what they have said in all of the documents attached to the bill, that its primary aim is to stifle campaigns advocating for Palestinian rights, but in particular to target campaigns that are active in support of the Palestinian call for boycott, divestment, and sanctions. And the rationale used for that is that advocating for boycott, divestment, and sanctions in relation to Israel is antisemitic inherently, or foments or causes antisemitism.

So in that context, we need to understand this bill in the context of the efforts Israel is making globally to use the tactic of lawfare — persuading willing allies to introduce laws that in different ways seek to proscribe support for boycott, divestment, and sanctions.

But as you indicated in your introduction, the way this bill has been drawn, it will have much wider implications. So what the bill actually says is that a public body — and that means a university, a council, or a local government pension scheme — cannot make a decision to divest from or not to procure from a company that is rooted in, is based on, moral or political disapproval of the actions of a state.

So what does that mean in practice? It means if you want to take action, for example, to divest from a company, or if you're pressing a public body saying you should not be invested in this company — let's say because it's complicit in China's oppression of the Uyghur people, or because it's complicit in deforestation in the Amazon — you cannot take that action unless the government indicates that it approves of such action.

And the bill also contains some really quite extraordinary, draconian clauses. So for example, it has one clause that says a responsible person in a public body — so for example, if you're the head of a council or you're the person responsible for their investment decisions — if you indicate that you would like to take action, if you publicly state that you would divest from a certain company, but this law prevents you from doing so, that in itself is a violation of the law and would render you liable for a financial penalty.

So this is a bill that, although it specifically seeks to target campaigns in solidarity with the Palestinian people and their struggle for liberation, is going to have an impact on a wide range of campaigns for social justice.

Yara Hawari 5:59

Now, Ben, you mentioned that there are several different clauses in this bill, but there's one in particular that might have serious repercussions on British foreign policy. Can you tell us about that one?

Ben Jamal 6:11

There's a clause that has two potentially very serious implications, and it is a clause that is very, very specific to Israel, but written in a way that some legal views that have been ascertained are suggesting could represent a significant shift in UK foreign policy — or certainly gives that impression — and would violate international law.

So the bill says — to give context to this clause — the bill says that a public body cannot divest on the basis of disapproval, moral or political disapproval, of the actions of a state, but then says unless a government minister has indicated that it is allowed in relation to a specific state.

What does that mean? Well, it means that if the government says, "We're going to make a statement in the House to say if you want to make a divestment decision

as a public body because you disapprove of Russia and its invasion and its illegal occupation of Ukraine, then you can do that." But then this very specific clause says no future government minister can exclude from consideration a divestment that is based on disapproval where the territory in concern is Israel. But then it goes on to say, the Occupied Palestinian Territory or the Occupied Golan Heights.

So what that means is it's doing two things. First of all, it's giving unique and exclusive protection to Israel — the only state in the world that the government is saying no future government can say it's okay for a public body to divest because of violations of international law and human rights on the part of Israel.

But what it's also doing is bringing together — so if your concern is in relation to what Israel is doing specifically in the Occupied Palestinian Territory, if you're concerned about a company that's complicit in relation to settlements and the impact of settlements, or if your concern is in relation to the Golan Heights — that's excluded as well. And what that does is potentially represent a shift.

UK government foreign policy, as inadequate as it has been in terms of any meaningful action, has for decades had a consensus on the illegality of Israel's '67 occupation, of the illegality of settlements, and has a policy, including statements and advice to businesses, that discourages them from being engaged in business that is supportive of the settlement infrastructure.

Now, it's inadequate because the government has never taken any action. There are three British companies, for example, on the UN database of complicit companies, and the government is taking no action against those companies. But at least officially, it says we disapprove. So this clause can be read as the government saying, well, actually, we don't have concerns about the settlements and actually actively discourage you from divesting from a company in relation to the settlements.

The government, in response to that being raised in the debate in the House of

Commons last week, said, "No, there's no shift in our foreign policy." That's a difficult position for it to maintain. And the other thing, obviously, that has been pointed out in several legal opinions that have been drawn up around the bill — including, interestingly, the BBC reported this week that the Foreign Office commissioned its own legal opinion, and the advice that they had would mean that the bill violates the UK's responsibilities under international law and is a particular violation of its responsibilities under UN Security Council Resolution 2334, which commits states to differentiating between Israel and the illegal settlements.

Yara Hawari 9:46

So if brought into law, what kind of repercussions will this have on the Palestine solidarity movement in the UK and perhaps even on the work of the PSC?

Ben Jamal 9:56

So the remit of the bill in one way is quite narrow — it only affects the activities of public bodies. But that will have a very direct impact on at least two major areas of our campaigning.

The first is a campaign that we have supporting students to take action to get their universities to divest from companies that can be shown to be complicit in Israel's violations of human rights. PSC has done a lot of work in this arena. We produced a database that shows that UK universities hold, at the time we did it, over 450 million pounds worth of investment in complicit companies. And that has led to campaigns run by students in universities across the UK, where they are saying to their universities, "We do not want our university" — part of the argument is, "This is our money. This is money we pay in tuition fees, to be invested in companies that are complicit in human rights abuses and violations of international law." This would effectively stop such campaigns, because the university would be able to say, "Well, we cannot take action in that arena

because this bill prevents us from doing so."

And the second major area — we have a campaign called Local Government Pension Scheme Divest, or LGPS Divest, that PSC is running in partnership with some key affiliated unions. We have some national trade unions that represent local government workers, and the pension schemes are effectively their money — this is their deferred wages. Again, our research has identified that collectively these pension schemes hold over four billion pounds worth of investment in complicit companies. Some of the most egregious companies — Elbit Systems, companies that are on the UN database, etc. And that campaign, run by PSC branches in partnership with the relevant unions, is calling on those pension schemes not to hold those investments. So again, they would be able to give the answer, "Well, we can't take any action because this law prevents us from doing so."

So that's the very narrow effect. But obviously what the government is hoping to do more broadly is to create a chilling effect over any form of support for boycott, divestment, and sanctions. And what it wants to do — it wants to do that by toxifying the issue, by implanting in the public consciousness and across a broad political consensus a narrative that there is something particularly problematic, that if you are calling for boycott, divestment, and sanctions in relation to Israel, then you must have bigoted and straightforwardly antisemitic motivations. And that is designed to try to undermine and make people unwilling to give their support to such campaigns.

So although the law will not actually stop anybody — we run campaigns at the moment that target companies directly. We have a campaign that's part of an international campaign led by PACBI, which is calling on Puma to end its sponsorship of the Israeli Football Association. That campaign is not affected by this bill directly; it does not stop people from giving their support to that campaign. It would stop a public body from taking action in support of that

campaign.

We have a campaign that targets Barclays, because Barclays is providing financial support and directly investing in Israeli arms manufacturers and companies that supply Israel with weapons that are used to target Palestinian citizens and civilians. So again, it would not stop those campaigns, but it's designed to toxify and say you should be suspicious about such campaigns.

So that's the very broad impact. It's part and parcel of Israel's effort to delegitimize the Palestinian struggle for liberation, to castigate it as something bigoted, as something hostile, and obviously to delegitimize any advocacy, any activism, and support of that liberation struggle.

Yara Hawari 13:58

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So, as you said, this law will not actually stop your work, but it might have this chilling effect — in other words, frighten people to not take part in activism that tries to hold the Israeli regime accountable. So I'm wondering, what does this bill tell us about the climate in which Palestine solidarity activism and other types of activism are having to operate, specifically in the UK?

Ben Jamal 14:34

You're right to separate out those things, because in a way there's a collusion between two really regressive and repressive dynamics.

The first is the one that I've talked about, which is this global campaign being waged by Israel to delegitimize the Palestinian struggle. And obviously that begins with targeting any form of Palestinian resistance, delegitimizing it, targeting

human rights defenders on the ground who are defending the rights of Palestinians, usually through narratives of terrorism. But then also expanding globally to target any organization and individuals that are active in supporting the Palestinian struggle for liberation. And the most usual narrative that's used is to define any such activism as antisemitic, by conflating legitimate support for the Palestinian struggle with antisemitism.

And that campaign of delegitimization is very active in the UK. And where we see that playing out — we see it at the moment, for example, actively playing out in academic space, in universities. We have numerous examples of individual students being targeted for their activism, being accused of antisemitism, being subjected to disciplinary investigations by their universities. We see the same tactic used against academics.

In the vast majority of those cases — and there is now an organization called the European Legal Support Center that is very active in providing support to individuals and organizations under attack — in most of those cases, the disciplinary proceedings do not proceed to anyone having action taken against them, because the allegations are entirely spurious and can be shown to be so. But obviously what it does is create a chilling effect. It toxifies the issue of Palestine and it makes people very cautious about putting their heads above the parapet and being vocal in their advocacy for Palestinian rights.

So we've got that dynamic, and then that colludes with another dynamic, which is a government in the UK — I would say successive Conservative governments in the UK — that have brought in a whole range of laws that in lots of ways are clamping down on the right to protest. We've had a whole bevy of laws — the Policing Bill, laws that are affecting the right to strike — and most recently, the Public Order Act. And what that is doing is, in very serious ways, attacking the fundamental right to protest.

For example, one of the things it has done is it places restrictions on your right to protest on the basis that if your protest is regarded by the police as likely to cause serious disruption to the life of the community, then your protest could be disallowed. And what does that mean? Well, that's been defined as meaning it might prevent or hinder, in a way that's more than minor, day-to-day activities — somebody's journey, provision of essential goods and services.

Well, obviously that gives huge leeway to the police to interpret any protest as saying, "Well, you want to march down the streets of London, you want to go from the BBC down to Trafalgar Square" — which is what we do regularly in response to Israel's assaults on Palestinians — "Well, that's going to disrupt people going about their shopping, or that might create excessive noise."

And we have seen this. Although we have not been directly affected yet — we've not had any of our protests stopped — there is an increasing anxiety about the potential of that happening. And some of your listeners may have seen protests attached to King Charles's coronation. A group, Republic, which is an anti-monarchist organization, had in fact negotiated with the police for several months about a protest they wanted to hold. On the day of the protest — their protest was to stand in the middle of London with placards basically saying they did not support the coronation, placards saying "Not My King" — so a very peaceful form of protest — they found themselves on the day arrested, detained for several hours. The rationale used was that the placards they had were held together by tape and that they could have used that tape to lock themselves onto public property, which is prohibited by this bill.

So really, really draconian. A real indication that the right to protest, which has been seen as a fundamental part of the liberties within the UK, is now under significant attack. And whether or not you are allowed to protest on a certain occasion is very much at the discretion of the government, of the Home Secretary, and the police in terms of how they want to interpret any particular protest.

Yara Hawari 19:32

Ben, you've mentioned that there has been a very active and energetic campaign against this bill. Can you tell us what this has looked like and what the next steps will be?

Ben Jamal 19:43

Yes, and this has been part of our strategy of opposition to this bill. We know that if we're going to defeat this bill, then if we fight this on the narrow terrain of the Palestine solidarity movement — if our argument is this is affecting people's ability to campaign for Palestinian rights, and so those active in those campaigns need to be rallying in their opposition to this bill — that's too narrow a base for us to win.

So we have built a very, very broad coalition. And we have been able to do so because, legitimately, the way this bill has been drafted, there is a broad body of opinion that recognizes this is a threat to freedom of expression, this is a threat to a whole range of legitimate social justice campaigns, and it is a threat to the right — we would say the responsibility — of public bodies to make ethical investment decisions, not to be spending money that is in support of violations of international human rights.

So it affects a whole range of campaigns. And on that basis, we pulled together a coalition of more than 70 organizations that is exceptionally broad. Not all of them use boycott, divestment, and sanctions tactics. But every single one of them sees this bill as a significant threat to core democratic rights.

So who is that? That includes trade unions — more than a dozen trade unions are signed up in opposition. It includes faith groups: the Muslim Association of Britain, the Methodist Church, the Quakers, the United Reformed Church. It includes civil liberties groups like Liberty, human rights monitoring bodies — Amnesty

International, Human Rights Watch — climate justice groups, Greenpeace, Friends of the Earth. So a really, really broad coalition of opposition.

The existence of that coalition, which you can legitimately define as a consensus of progressive opinion across civil society in opposition to this bill, is having an effect in Parliament. So there is widespread opposition to this bill across all opposition parties, and significant opposition — this passed at the first debate, what's called the second reading. It did pass, but there was significant opposition, even from within the Conservative Party, for a range of reasons. Some of them are concerned — actually, they are concerned about this being the overreach of central government and taking responsibility for things that should belong to local public bodies. But other reasons why they're concerned: some are energized by, well, this will stop us from taking action against China in relation to its violation of the rights of the Uyghur people.

So there is a significant body of opposition. This bill is going to be debated in Parliament over the next few months. We are campaigning to have this defeated in Parliament. That is potentially achievable. If we cannot achieve that, then we are looking at other means by which this might be defeated, including, can this be defeated by another appeal to the courts? Can we go back to court and try to stop this bill in that way?

Yara Hawari 22:50

So, Ben, finally, with all of this in mind, what do you think will happen with the bill? Maybe you can give us a worst-case and best-case scenario.

Ben Jamal 23:00

There are a variety of outcomes. The worst-case scenario is this bill passes. And the second, I would say, attached to that: this bill passes, but what it also does in passing is normalize this grotesque narrative that campaigning, and in particular

supporting the Palestinian call for boycott, divestment, and sanctions, is deeply problematic and straightforwardly an antisemitic activity.

And that takes us to the second outcome, which is we might defeat this bill, but it could be defeated in a way that still does political damage by normalizing that narrative. And one thing we're very conscious of — I said that all opposition parties are opposing this bill, including the Labour Party — but there is a deeply problematic aspect of the nature of the Labour Party's opposition.

So what they are effectively saying at the moment is they oppose this bill because it is a threat to core democratic rights, because it affects lots of legitimate campaigns, but they share the government's concern about the tactic of boycott, divestment, and sanctions when it's applied to Israel, and effectively are saying they share the concern that it is either inherently antisemitic or foments antisemitism. And that's deeply concerning in terms of what it means in terms of Labour Party policy, but what it means in terms of the attempt to normalize that narrative.

And part of our argument is, obviously, this ignores the fact this is a Palestinian-led campaign. It says that — "Why are you picking on Israel?" is one of the arguments — "You must have bigoted motivations." There's a very simple, straightforward answer to that question, which is: who should the Palestinian people call to be held to account if not their oppressor? Do we suggest that Ukrainians, when they call for sanctions and boycotts in relation to Russia because of its illegal occupation of their land, must be motivated by an innate hatred of the Russian people?

It's a grotesque argument, but it's one that also leaves the Palestinian people uniquely unprotected. It says you, amongst all people facing oppression in the world, do not have the right to call for the nonviolent tactic of boycott, divestment, and sanctions in support of your rights.

So that's a potentially negative outcome of this — that that gets normalized. And that is part and parcel of how we have to fight this. We fight this on the basis of this being a broad attack on the rights of all, but we also fight it on the basis that nobody must give any credit to, and must actively oppose, these attempts to delegitimize the Palestinian struggle for liberation. So that's a key part of how we fight this.

The best outcome that we could get is if this bill is defeated in Parliament. That is still a potential and realistic outcome. And I would add to that, if we wanted to look at what else might be a positive outcome of this, is that this struggle brings together a whole range of organizations that are recognizing the synergies between their struggles — and that we're already seeing happening.

I think the coalition of people who have come together saying we are all deeply concerned about this attack on our right to protest and must defend each other's space — but also those who, in that process, are recognizing the particular challenges being faced by the Palestinian people and their struggle, and the attempt by Israel to even prevent them from bringing the facts of their oppression into the public domain, to even accurately describe that oppression, to accurately say, "We are being subjected to a form of institutionalized discrimination that meets the legal definition of apartheid."

There are groups that have not been active in that campaign, whose focus is elsewhere, who, as they work alongside us in this struggle, are recognizing that challenge and saying, "Yeah, we also need to be defending that space with you."

So that's the most positive outcome, because we know in the campaign of solidarity that an important part of what we do is to make our struggle intersectional — to say, where does this struggle fit with broader struggles against unjust systems of power? Why is this also part of the climate justice struggle? Why is this part of the broader struggle against all forms of racism? And those synergies

and those alliances we're drawing in fighting this bill also provide us with opportunities, as we defend the space, to continue to act to enlarge the space for activism in the UK.

Yara Hawari 27:31

And I think that's a really important point to end on — important and positive. Through this kind of legislation, however draconian it might be, people are increasingly recognizing the synergies between various struggles. Indeed, it would seem that the broader the coalition against the oppression and complicity in oppression of people around the world, the stronger the coalition.

So, Ben, thank you again for joining me on this episode of Rethinking Palestine, and we hope to have you back soon.

Ben Jamal 27:58

Thank you, Yara.

Yara Hawari 28:02

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