

## **Let us speak out**

### **Remarks at the Ambassadors against BDS Conference**

**The United Nations Headquarters, New York, May 31, 2016**

*Justice Elyakim Rubinstein, Deputy President*

*The Supreme Court of Israel*

It is an honor for me to stand here, on this special moving occasion, in the U.N. General Assembly hall. When Israel was accepted to the U.N. back in 1949, everybody in our country celebrated, as our nation became a part of the family of nations. It did not take long for us to be bitterly disappointed by the GA resolutions over the years, singling Israel out, using clear double standards. Our national redemption movement, Zionism, was equated here to racism in 1975, a resolution to be erased from the book in 1991. However, we believe that the U.N is an important organization, still hoping that its policies will become more balanced. In that regard, not only do we fully continue our participation in many U.N activities, which we cherish, but we also make our share in the U.N. organs in areas such as science, medicine and agriculture, as these constitute an important contribution to the world well-being. I would like to commend our Ambassador, Danny Danon, together with the World Jewish Congress and Ambassador Ron Lauder, for the initiative to convene the important gathering here, as well as other organizations, who are all part of this event. And thank you all for being here, in particular young people . Thank you for caring.

It is with a heavy heart, with a feeling of suffocation, that I am addressing you today. It is the sense of the truth being turned upside down, by BDS and those who support it. Israel, the fulfilment of the Jewish and Zionist dream of our redemption as a nation is unjustly defamed and its history is being distorted. With your permission, a few words in Hebrew:

גאה אני לייצג את ישראל כאן היום. ישראל היא חלום הדורות של קוממיות יהודית וקיבוץ הגלויות. כשקמה המדינה בתש"ח "בשוב ה' את שיבת ציון היינו כחולמים". בנינו מדינה ועדיין רבה המלאכה, אך יסוד מרכזי בה, כדברי הנביא, הוא "ציון במשפט תפודה ושביה בצדקה". אך כמו שאמרנו לא מכבר בהגדה של פסח "שבכל דור ודור עומדים עלינו לכלותנו, והקדוש ברוך הוא מצילנו מידם". ה- BDS הוא חלק מן העומדים עלינו לכלותנו, וכולכם כאן כדי שמזימה זו לא תתגשם. עם ישראל חי.

Let me open by quoting a remarkable poem by German anti-Nazi Pastor Martin Niemoller, writing shortly after the Holocaust:

"FIRST THEY CAME FOR THE COMMUNISTS -  
AND I DIDN'T SPEAK OUT,  
BECAUSE I WASN'T A COMMUNIST.

THEN THEY CAME FOR THE SOCIALISTS -  
AND I DIDN'T SPEAK OUT,  
BECAUSE I WASN'T A SOCIALIST.

THEN THEY CAME FOR THE TRADE UNIONISTS -  
AND I DIDN'T SPEAK OUT,

BECAUSE I WASN'T A TRADE UNIONIST.

THEN THEY CAME FOR THE JEWS -

AND I DIDN'T SPEAK OUT,

BECAUSE I WASN'T A JEW.

THEN THEY CAME FOR ME -

AND THERE WAS NO ONE LEFT

TO SPEAK FOR ME".

We are here to speak out. BDS may make so far, thank God, more noise than achieve serious results in the call for boycott, but like all false propaganda, when repeated more and more, time and again, some naïve people may believe it. While I do not compare BDS or anybody to the Nazi movement, which not only called for the extermination of Jews but also implemented it, that was the method used 80 years ago by the Nazi propaganda; and it is much easier on campuses, where young people not fully aware of history can easily be influenced, and of course the current media, internet and social networks, facilitate brain-washing. The Nazi propaganda began, *inter alia*, as a call to boycott Jewish businesses.

BDS repeats that Israel is an apartheid country. This is aimed to make people believe that it is like South Africa in the former century; segregated buses and restaurants, treating blacks as inferior people. Look at Israel: Israeli Arabs are hospital doctors, army and police generals, judges including on the Supreme Court, scientists and

university professors. Yes, there is still a question of equality on which we – including the court – have to work. But to call it apartheid? Nothing can be more remote from the truth. So you have the three D's test of antisemitism, defined by Natan Sharansky – Demonization – Dehumanization – Delegitimization of Israel. We suffer from Palestinian terrorism, which has taken many lives. Yes, occasionally Jewish people are committing crimes against Palestinians; these acts are condemned by the government and the public, investigated by the authorities and the perpetrators are brought to justice.

BDS, a movement that in reality desires to delegitimize and even to do away with the only Jewish, Jewish and Democratic State on earth, singling it out for boycotting, portraying it as a source of all evil while so much evil is going around, has no moral place in this great fair country - the United States, or elsewhere in civilized nations. Some people may debate whether BDS stands for antisemitism, and liberal people would like to distinguish between criticism of Israel and antisemitism. And of course, there are some Jews, many of whom find difficulty in being Jewish, that support BDS - so goes the claim – how can it be antisemitic. Reading BDS writings, the discrimination against Israel, its deligitimization and the way it denies Israel's existence as a Jewish and democratic state, does not leave much doubt, so let us call them by their real names, even if some people will not like it. Needless to say, not every criticism against Israel and its policy should be regarded as antisemitism; but when you call to boycott a university, just because it allows Jewish scholars to conduct their research freely; when you call to boycott a business, just because it is owned and managed by Jewish

business men and women; when you call to boycott a *whole country* and deny its mere existence, just for being the sole Jewish state in the world – then the gap between you and classic antisemitism is marginal at best, and in my view nonexistent.

As for antisemitism, we see its new appearances today, mainly in Europe, on whose soil Jewish blood was spilled last century and where some countries view as it and BDS free speech rather than hate speech. We are determined to fight BDS and its supporters. Antisemitism has been wearing different clothing since the dawn of history, since Haman of the book of Esther in the Bible. Today it wears new garbs; BDS at the end of the day is one of the forms of neo-antisemitism. You should have listened to an elegant and impressive speech by the British Secretary of State for Justice, Mr. Michael Gove, who exposed BDS' antisemitism. But I didn't come to complain, I came to talk about real Israel, which may not be perfect, and our ears are fairly open to criticism, but which is a lively democracy in a highly difficult part of the world, which sustains the rule of law and respects human rights.

Two weeks ago 120 young Israeli soldiers were commended by our President, Reuven Rivlin, within the Independence Day Celebrations. They were Jews and Arabs, old timers and new comers, immigrants from the former Soviet Union and from Ethiopia, and also from the United States – and I should mention that two American-born soldiers were killed in the recent conflict- Max Steinberg and Shon Karmely – and from many other countries. One of them was a doctor – Lieutenant Dr. Ronel who saved a wounded Palestinian while endangering himself.

This is not at all a rare story. Many Syrians, numbered in thousands, who were wounded and maimed in the terrible civil war raging there, were brought to Israel and were treated in our hospitals. And Syria is an enemy country. I am telling this, and there are many others stories, because BDS and their allies portray our country as a monster. Indeed we are not perfect. We make mistakes, like everybody, including all U.N. member-states. But we are a democracy, a rule of law country. While there is a conflict with the Palestinians which has not been solved yet, despite years of efforts, and the picture is complicated, let us remember that for the first twenty years of our existence there were no "occupied territories", and still none of our neighbors was willing to accept us, and make peace with us. BDS puts every blame on Israel. What about the Palestinians? Moreover, BDS delegitimizes Israel's mere existence. Can any decent person accept that?

I am proud to be an Israeli and a Justice on Israel's Supreme Court. Let me be personal for a moment. My father's family was shot into a mass grave in their little town in Belarus in August 1942, together with all the Jews of the town. My wife's family was sent from Warsaw to perish in Treblinka. Like six million Jews, they were holocaust victims. I was born a few months before the State of Israel. Both my parents joined the nascent Israeli defense forces during our war of independence in 1948, depositing me, their firstborn baby, with an aunt and uncle. Before that, in 1945 my mother - a nurse, graduate of the American University in Beirut - was a member of a medical delegation

bringing from Mauritius, in the Indian Ocean, Jewish refugees exiled by the British authorities, who prevented them from coming to our homeland.

I have been serving Israel almost five decades, spending almost a quarter of a century participating in Peace Negotiations with our neighbors. One of my most memorable moments is being at the Ben-Gurion Airport in 1977, watching President Sadat of Egypt received by our President Katsir and Prime Minister Begin. I was fortunate to attend the Camp David conference of 1978 where peace with Egypt was achieved. I am very proud to have been the head of the Israeli delegation negotiating the Treaty of Peace with Jordan. Earlier, I headed our team working with the Jordanians and Palestinians in Madrid and Washington, under Prime Ministers Shamir and Rabin. There were other negotiations in which I took part, with Lebanon, the Palestinians and Syria, including at Camp David 2000, where serious American and Israeli efforts were rejected by the Palestinians including an honorable and serious solution to the problem of refugees, Palestinians and Jews from Arab countries. However, experience tells me that we should not despair. Peace is possible; it must come one day, despite the difficulties. We should sustain the hope, never lose it. But we are here to stay as a Jewish and democratic state, even within circumstances of vicious terror. Israel is a flourishing state, of urban development, science, Torah and high-tech. Just imagine that, for instance, Waze would be banned and boycotted because of being invented by Israelis. I have run conferences of Israeli judiciary – Jewish secular & religious judges,

Rabbinical judges with their long beards, Muslim judges, Druze religious judges with their turban hats, Christian religious judges with their garbs, all in a celebration of law & religion and above all – diplomacy. This is yet another face of Israel.

Let me tell you a little bit about our Supreme Court, and the unique access for petitions against our Government and its agencies, access granted freely also to Palestinians from the territories, something unwarranted by International Law.

Anybody can petition Israel's Supreme Court, on any governmental decision. It could be on issues like gender, state and religion, equality for the Arab minority, government budgeting, appointments and land allocation. A major part of our work is connected with petitions by Palestinians or on their behalf. They are submitted directly to our Court, without the need to go through the echelon of Courts. The petitions are sometimes heard within a day or two. You will be surprised to know how many Palestinians wish to be granted residence in Israel, and their cases come to us. The doors of the Court are open to everybody. We try to deal fairly with every petitioner, many a time following up on the Government's conduct and negotiating with it on behalf of the petitioners. Our Court, in this respect, serves as the Biblical city gate and the ancient Athens public square, and it is effective for the defense of human rights, all human rights. BDS will not tell you all of that, nor will it tell you that because of its pressure against Jewish businesses in the territories, many Palestinians lost their jobs as plants

and factories were moved elsewhere. But we are here not to complain, but to encourage looking for the truth.

Yes, you fight lies with the truth. Please learn the facts. Please come to Israel – hopefully a part of you will make Aliyah – and see with your own eyes. Do not buy any story told to you as is. Do not shy away from the light for truth. Indeed, there is a legitimate criticism aired within itself Israel as a democracy on this or that policy. The Court itself sometimes criticizes and sometimes naturally has majority and minority views in its decisions, including on Palestinian issues. This applies also to a case concerning an anti-boycott Israeli legislation to which I shall refer within the legal panel later. We check ourselves all the time. But criticism within a democratic debate is one thing, and widely delegitimizing is another. This country, the United States, sanctifies the freedom of expression. But the First Amendment to the U.S. constitution does not sanctify any action deriving from the words uttered, such as a boycott. And I repeat - there is of course an ocean difference between legitimate criticism, and of course we accept that ; and between repeating lies bordering on anti-Semitism or coming into its orbit, which translate themselves into action such as boycott. These turn themselves to political terrorism under the guise of the freedom of speech. Let me quote here from an article by Professor Lawrence Summers, former President of Harvard University and U.S Treasury Secretary, entitled "Academic Freedom and Antisemitism" (2015):

This is from the final paragraph:

"If zealous minorities, no matter how well intentioned, are able to hijack the prestige and resources of the academy in pursuit of objectives that are parochial and bigoted, why should the broader society refrain from seeking to set the academy's agenda. The right to say, advocate, or propose anything must always be protected. But it must come with the right or even obligation of others to call out words and deeds that threaten the community and the values of moral concern and rational inquiry for which it stands."

Let me conclude by calling upon all: Please study the facts and call the bluff. This welcome event is designed for that. And the struggle should not be conducted by Israelis and Jews only. It should be done in partnership with fair Christians and also fair Muslims. A virus when spread has no boundaries and limits; remember 9/11 and other terror acts. They all begin with ideologies and fueled by words. Again - BDS has not been a great practical success, but it is there. BDS, as Brahm and Romirowsky put it, stands for *Bigoted, Dishonest and Shameful* (Gabriel Noah Brahm & Asaf Romirowsky, *Anti-Semitic in Intent if not in Effect: Questions of Bigotry, Dishonesty and Shame*, in **The Case Against Academic Boycotts of Israel** 75, 80 (Cary Nelson & Gabriel Noah Brahm eds.,2015) I could add a Hebrew abbreviation (- בְּיָדֵים דְּבַרְיָ שֶׁקֶר making up lies). It must – God willing – fail, as did, at the end of the day, the Arab boycott on Israel which lasted for many years .BDS must be in

the trash of history, where it belongs. But the Jewish people is alive and the State of Israel is its nation state, flourishing and developing. It will continue as a Jewish and democratic state, as a law and order country, correcting mistakes, aspiring for peace with all its neighbors, cooperating with other nations whom are represented in this hall. And for me being Jewish means being fair and humane, fair to all. בעזרת ה', עם ישראל חי