

Peace, Love & Occupation



Ben & Jerry's Economic Complicity
in Israel's Military Occupation and Illegal Settlements
in the Occupied Palestinian Territory

A report by Vermonters for a Just Peace in Palestine/Israel
www.vtjp.org

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Ben & Jerry's Progressive Social Mission

"We have a progressive, nonpartisan social mission that seeks to meet human needs and eliminate injustices in our local, national and international communities by integrating these concerns into our day-to-day business activities. Our focus is on children and families, the environment and sustainable agriculture on family farms.

"We seek and support nonviolent ways to achieve peace and justice. We believe government resources are more productively used in meeting human needs than in building and maintaining weapons systems.

"We strive to show a deep respect for human beings inside and outside our company and for the communities in which they live."

Israel's Settlement Mission in Occupied Palestine

"We'll make a pastrami sandwich of them. We'll insert a strip of Jewish settlement between the Palestinians, and then another strip of Jewish settlement, right across the West Bank, so that in 25 years' time, neither the United Nations, nor the United States, nobody, will be able to tear it apart." -- Ariel Sharon, Former General and Prime Minister of Israel and major proponent of building illegal settlements in the Occupied Palestinian Territory, speaking to Winston Churchill III, 1973.

2013 U.N. Report on Israeli Settlements in the Occupied Palestinian Territory

"Information gathered by the [fact-finding] Mission show that some private entities have enabled, facilitated and profited from the construction and growth of the settlements, either directly or indirectly.

"Israel must, in compliance with article 49 of the Fourth Geneva Convention, cease all settlement activities without preconditions. In addition it must immediately initiate a process of withdrawal of all settlers from the OPT.

"Private companies must assess the human rights impact of their activities and take all necessary steps – including by terminating their business interests in the settlements – to ensure they are not adversely impacting the human rights of the Palestinian People in conformity with international law as well as the Guiding Principles on Business and Human Rights."

-- Report by the United Nations independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. Published January 31, 2013.

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Executive Summary

In 2011, Vermonters for a Just Peace in Palestine/Israel (VTJP), with help from Jewish Israeli and Palestinian activists, conducted an investigation into **Ben & Jerry's** business practices in Israel and in the occupied Palestinian territory (oPt). We learned that this socially responsible company, headquartered in South Burlington, Vermont, has commercial ties to illegal Israeli settlements in the occupied West Bank and East Jerusalem. Moreover, in 2010, as the occupation entered its 44th year and the settlement enterprise became more entrenched, the company opened a new factory in Israel and announced plans to expand the number of scoop shops there.

Israel's occupation forces and settlers perpetrate many crimes against the Palestinian people—land and water theft, forced dispossession and home demolitions; destruction of farm land, olive groves and fruit trees; arbitrary arrests and detentions; killings, torture and acts of terror; closures, curfews, checkpoints and a massive Separation Wall complex; separate roads and legal systems (one for Jews, the other for Arabs); and denial of the rights of Palestinian refugees. Per the 2013 U.N. Report on Israeli settlements quoted above, we believe Ben & Jerry's operations in Israel and its illegal settlements make it economically complicit, directly or indirectly, in these crimes. Further, VTJP suspects that the company's factory in Israel, like many Israeli businesses and communities, may be benefitting from the illegal expropriation of water from the largest aquifer in the West Bank, the Jordan River, or both.

Occupation & Colonialism Have No Place In Ben & Jerry's Social Mission

Ben & Jerry's social mission represents a formal commitment to peace, economic justice, social equality and the health of the environment. The company's advertisements proclaim "peace" and "love." Respectfully, the company cannot be true to these values while it is investing in Israel, an occupying power that flaunts international law, and seeking material gain from commerce in illegal settlements. An estimated 500,000 Israeli settlers are embedded in racially exclusive, fortified colonies in the West Bank and East Jerusalem, and their numbers are growing. Their many privileges include being able to buy Ben & Jerry's ice cream from supermarket chains and being catered to at social festivities by the company's party carts. The ice cream is made at Ben & Jerry's factory near Kiryat Malachi, a city in Israel, which was founded on land forcibly taken from Palestinians in 1948.¹

Company shops in Israel, like their American counterparts, scoop something sweet with a dollop of social consciousness. But these venues are just a short drive from occupied Palestinian cities and villages, many of which have been economically crippled by land confiscations, closure policies, military incursions and restrictions on movement. Distributors of Ben & Jerry's ice cream, on the

1. Kiryat Malachi, like most Israeli villages and towns, was established on lands formerly belonging to Palestinians forcibly dispossessed and exiled during the War of 1948. At least 750,000 Palestinians were made refugees by the war's end. Kiryat Malachi is located on lands that were owned and cultivated by the Palestinians of Qastina in southern Palestine. The village was occupied in July, 1948, by Jewish militia, and its inhabitants driven out—most of them, it is believed, to Gaza. After Qastina was destroyed in 1949 (along with hundreds of other Palestinian villages), Israel established the first of four Jewish communities on its lands. Kiryat Malachi was founded in 1951. For more on the history, conquest and destruction of Qastina and what followed, see *All That Remains: The Palestinian Villages Occupied and Depopulated in 1948*, edited by Walid Khalidi, The Institute of Palestine Studies, 1992, pp. 130-31.

other hand, send trucks routinely from Israel into the West Bank and East Jerusalem. Palestinians must wait for hours, sometimes days, at military checkpoints, where it is a common experience to be humiliated, arrested, threatened, beaten and shot by soldiers, and for their daily activities to be severely disrupted or curtailed by Israeli settlers. What does it say about Ben & Jerry's and Israel that it is far easier for a Jewish settler to buy a pint of ice cream than it is for a Palestinian woman to get to work or to take her child to a hospital for a lifesaving cancer treatment?

A Plea for Justice: From Occupied Palestine to Ben & Jerry's in Vermont

VTJP's opposition to Ben & Jerry's business dealings in Israel and the oPt is motivated by the grave human right violations being committed by the State of Israel. We are also aware that in 2005 Palestinian civil society called for a boycott, divestment and sanctions (BDS) campaign against Israel until it complied with three rights codified in international law:

1. Ending its occupation and colonization of all Arab lands and dismantling its Separation Wall complex;
2. Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
3. Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in United Nations Resolution 194.²

VTJP made extensive efforts to communicate and meet with company executives. We deferred releasing this report for some time because we believed that Ben & Jerry's should be given an opportunity to respond to our concerns and to take action commensurate with its social mission. This report does not include a chapter detailing our communications and direct engagement with the company over the past two years. Here, though, in brief, is what transpired.

After five letters from VTJP—the first was mailed in March, 2011, to the company's founders—Ben & Jerry's CEO Jostein Solheim, Director of Global Social Mission Rob Michalak and Board of Directors President Jeff Furman consented to a meeting at company headquarters on April 26, 2012 (Mr. Furman, who lives in New York State, participated by telephone). The meeting was frank, wide ranging and cordial. VTJP was told contractual oversight of the Israeli franchise rests exclusively with Ben & Jerry's in Vermont (not with Unilever, its parent company), and that the contract was up for re-negotiation in 2012. It was our impression that company executives were genuinely surprised when told that the Israeli factory was catering to Jewish settlers with party carts. Mr. Solheim did *not* dispute our assertion that the company was selling and marketing in the settlements, but asked for time to reflect on our findings and to consider future options in respect to the franchise in Israel, which included potential ramifications under that country's anti-boycott law should Ben & Jerry's close the factory or prohibit sales to Jewish settlements. It also wanted to assess the impact of such decisions on their Israeli licensee, Avi Zinger, who is well regarded and has personal ties to company founder Ben Cohen. Mr. Solheim also consented to

2. See www.bdsmovement.net/call.

bring our concerns to their Board of Directors at that body's May meeting in London. Beyond this, no assurances were given by the company, other than a commitment to talk with us again after conferring with the Board. Subsequently, a second meeting was scheduled for July 19. Regrettably, the company cancelled that meeting at the last minute citing unspecified "scheduling conflicts." Three months later, in October-November, Jeff Furman, a long-time anti-racism activist, traveled to the West Bank and East Jerusalem with a delegation of American civil rights leaders. He met with Palestinian and Israeli anti-occupation and BDS activists and saw first-hand the consequences of more than 45 years of military occupation and settler colonization.³ VTJP was heartened by Mr. Furman's trip to occupied Palestine and impressed by his desire to learn more about the occupation. We had requested of the company, in fact, that it send its CEO, Board Directors and top management personnel to the oPt to assess the situation on the ground. Mr. Furman's trip to the oPt, we were told, was a "personal" one—not formally undertaken on behalf of Ben & Jerry's. He also paid a visit to the company's factory in Israel.

VTJP has been assured multiple times that a second meeting with Ben & Jerry's executives will happen. Mr. Furman, for his part, spoke with VTJP activists via telephone in January to share information and impressions from his trip to the Middle East. That conversation, which we deeply appreciated, was illuminating but also unofficial; Mr. Furman made clear he was not speaking for the company or the Board of Directors. It was equally clear he was deeply moved by what he experienced in the oPt. Just the same, the company has not changed course.

With no immediate prospect of action by the company, or even discernible interest in continued dialogue with VTJP by its executives or Board as a whole, we are compelled to publish the facts as we understand them about Ben & Jerry's commercial complicity in Israel's occupation and settlement regime. We also call on Vermonters and people of conscience everywhere to contact the company and urge it to take the following measures until Israel's occupation and colonization of Palestinian lands is terminated in compliance with international law:

1. End the marketing, catering and sales of Ben & Jerry's products in Israel and Jewish-only settlements in occupied East Jerusalem and the West Bank.
2. Stop manufacturing ice cream in Israel.
3. Issue a statement (a) calling for an end to Israel's occupation and settlement enterprise and (b) appealing directly to other socially responsible companies to do likewise and to cease business operations in Israel and its illegal settlements.

To be clear, VTJP is *not* calling for a boycott of Ben & Jerry's. We continue to advocate as well that the company send its CEO, the head of its Global Social Mission and its Board of Directors to Occupied Palestine to learn why it is morally imperative and consistent with its social mission to sever commercial ties to Israel and its illegal settlements.

3. Alice Rothchild, an American-Jewish physician and member of the delegation to occupied Palestine with Ben & Jerry's Board President, Jeff Furman, wrote about what participants saw and experienced. Access her account at <http://www.alternet.org/world/jewish-only-communities-imprisoned-palestinians-what-african-american-delegation-witnessed>.

Part 1: Ben & Jerry's in Israel and Occupied Palestine

Vermonters for a Just Peace in Palestine/Israel (www.vtjp.org) conducted an investigation in 2011 into the business practices of Ben & Jerry's in Israel and in the Occupied Palestinian Territory (oPt). The Vermont-based company produces premium ice cream and other dessert products. Additionally, it is a vocal leader in the “values-based” business movement, advocating for and funding a host of social justice, anti-war and environmental causes. Most recently, it has vigorously supported the national Occupy Wall Street Movement, which garnered substantial media attention. Our interest in Ben & Jerry's was aroused when we discovered that its parent company, Unilever, had been the focus of an anti-occupation campaign since 2006 based in the Netherlands. Under public pressure, Unilever announced in 2011 it would relocate a subsidiary operation (“Beigel and Beigel”) from the West Bank to Israel.⁴ On February 4, 2013, the company issued a statement saying that the subsidiary's production line at its snack and pretzel factory in the illegal settlement of Ariel was no longer operational and had been moved to the Israeli city of Safed.⁵

In 2010, according to Israeli press reports, Ben & Jerry's invested approximately \$2 million to build a new ice cream plant near the southern Israeli city of Kiryat Malachi, about 30 miles west of Jerusalem, and announced plans to open 16 ice-cream parlors and kiosks across the country.⁶ VTJP was stunned to learn that one of the world's most socially conscious corporations was deepening its commercial activities in Israel as that country was intensifying its settler-colonial policies in East Jerusalem and the West Bank, and imposing a siege on Gaza. Ben & Jerry's investments in Israel go back more than 20 years, and in a meeting in April, 2012, with CEO Jostein Solheim, VTJP was told that the contractual relationship with the Israeli franchise is still managed by executives in South Burlington—not by Unilever. Most disturbingly, field research in the oPt in the summer of 2011 by a VTJP member documented that ice cream produced at Ben & Jerry's factory in Israel is being sold and catered to Jewish settlers in occupied East Jerusalem and the West Bank.



B&J ice cream on sale in the illegal Israeli settlement of Gilo in the West Bank. (Photo by Z, VTJP)

4. “Settlement investment a risk factor,” Stephanie Westbrook, August 29, 2011, at <http://electronicintifada.net/content/swedish-chain-kicks-out-drink-machines-made-israeli-settlements/10327>.

5. “Unilever shuts down Ariel settlement factory, moves production West of the Green Line (Updated),” 2.5.13, at <http://mondoweiss.net/2013/02/unilever-settlement-production.html>.

6. “Ben & Jerry's to open new factory in Be'er Tuvia,” Y-Net News.com, 03.02.10, at <http://www.ynetnews.com/articles/0,7340,L-3855584,00.html>.

2. Illegal Israeli Settlements, International Law & U.S. Foreign Policy

Israel's settlement project in the Palestinian territories violates Article 49(6) of the Fourth Geneva Convention, which declares that "[t]he Occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies"⁷ [emphasis added]. The commentary to the Convention explains that this provision was intended "to prevent a practice adopted during the Second World War by certain powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race."⁸

The transfer of settlers to occupied territory by an occupying power is also a war crime under Article 8(2)(b)(viii) of the 1998 Rome Statute of the International Criminal Court.⁹ Moreover, the UN Security Council and General Assembly, the High Contracting Parties to the Geneva Conventions, the International Committee of the Red Cross, and most legal scholars have concluded that Israel's settlements in the oPt contravene international law.¹⁰ The International Court of Justice declared in a 2004 decision that "the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law."¹¹

Israel's settlements in the oPt, populated by approximately 500,000 Jews, are also at odds with official U.S. foreign policy, despite billions of dollars annually in American military aid to Israel. Between 1967 and 1980, the Johnson, Nixon, Ford and Carter administrations asserted that the settlements were in violation of the Fourth Geneva Convention; subsequent administrations, beginning with Ronald Reagan in 1981, backed away from public utterances that accent the illegality of the settlements, but expressed opposition to them in varying degrees and described them as impediments to diplomacy and peace negotiations.¹² More recently, our current U.N. Ambassador, Susan Rice, said, "[W]e reject in the strongest terms the legitimacy of continued Israeli settlement activity."¹³

These settlements are a central feature of what a distinguished team of legal scholars have characterized as "Israel's grand policy to fragment the oPt for the purposes of segregation and domination. This

7. "Convention (IV) Relative to the Protection of Civilian Persons in Time of War. Geneva," 12 August 1949, at <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>.

8. Ibid., Commentary on Article 49, Paragraph 6. "Deportation and Transfer of Persons into Occupied Territories," at <http://www.icrc.org/ihl.nsf/COM/380-600056?OpenDocument>.

9. "Rome Statute of the International Criminal Court, Part 2: Jurisdiction, Admissibility and Applicable Law, Article 8(2)(b)(viii)," at <http://untreaty.un.org/cod/icc/statute/romefra.htm>.

10. "Occupation, Colonialism, Apartheid? A reassessment of Israel's practices in the occupied Palestinian territories under international law," Human Sciences Research Council of South Africa, p. 89.

11. "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," International Court of Justice, at <http://www.icj-cij.org/docket/files/131/1671.pdf>, paragraph 120, p. 184.

12. "Statements on American Policy toward Settlements by U.S. Government Officials – 1968-2009," Matt Skarzynski, Jonathan H. van Melle, Foundation for Middle East Peace, and Holly Byker, Churches for Middle East Peace, June 8, 2009, at <http://www.fmep.org/analysis/analysis/israeli-settlements-in-the-occupied-territories>.

13. See full text of Ambassador Susan Rice's speech, at <http://usun.state.gov/briefing/statements/2011/156816.htm>.

policy is evidenced by: Israel's extensive appropriation of Palestinian land, which continues to shrink the territorial space available to Palestinians; the hermetic closure and isolation of the Gaza Strip from the rest of the OPT; the deliberate severing of East Jerusalem from the rest of the West Bank; and the appropriation and construction policies serving to carve up the West Bank into an intricate and well-serviced network of connected settlements for Jewish-Israelis and an archipelago of besieged and non-contiguous enclaves for Palestinians."¹⁴

Human Rights Watch reported in 2010 that Israel's discriminatory policies in the occupied territories appear to be for the purpose of "promoting life in the settlements while in many instances stifling growth in Palestinian communities and even forcibly displacing Palestinian residents. Such different treatment, on the basis of race, ethnicity, and national origin and not narrowly tailored to meet security or other justifiable goals, violates the fundamental prohibition against discrimination under human rights law."¹⁵

Violent attacks by settlers against Palestinians are a daily or near daily occurrence, averaging 2.6 per day in 2011. According to a study by The Palestine Center, settler attacks between 2007 and 2011 increased by 315%.¹⁶ The most common forms of settler violence in 2011 were arson, stone throwing, shootings, vehicular attacks and physical assaults, with a noticeable increase in fires set to Palestinian property.¹⁷

Ben & Jerry's embraces a progressive social mission dedicated to meeting human needs and eliminating injustices, and, consistent with that mission, it has sided publicly with the Occupy Wall Street movement. Yet it is overseeing and expanding business in Israel, a country systematically orchestrating the violent dispossession of the Palestinian people, the theft and colonization of their ancestral lands, and the expropriation of their water sources. Business practices in Israel and the settlements in the oPt make a mockery of the company's admirable social mission and long record of public service. They also contravene the United Nation's "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises." The latter stipulates that corporations "shall not engage in nor benefit from war crimes, [or] crimes against humanity,"¹⁸ nor take actions that obstruct or impede economic, social, cultural, civil and political rights.¹⁹

14. "Occupation, Colonialism, Apartheid? A re-assessment of Israel's practices in the occupied Palestinian territories under international law," Human Sciences Research Council of South Africa, at <http://electronicintifada.net/files/090608-hsrc.pdf>, p. 21.

15. "Separate But Unequal: Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories," Human Rights Watch, 2010, at http://www.hrw.org/sites/default/files/reports/iopt1210webwcover_0.pdf, p. 1.

16. "When Settlers Attack," Yousef Munayyer, The Palestine Center, at <http://www.thejerusalemfund.org/ht/a/GetDocumentAction/i/32678>, p. 2.

17. Ibid., pp. 5-6.

18. "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights," at <http://www.globalpolicy.org/images/pdfs/08ecosocnorms.pdf>, p. 4.

19. Ibid., p. 5.

3. Investigating Ben & Jerry's Business in Illegal Israeli Settlements

A U.S. citizen affiliated with VTJP lived in occupied East Jerusalem from May to November, 2011 (we'll refer to this person as "Z"). With assistance from Jewish Israeli and Palestinian activists, Z investigated the sale of Ben & Jerry's products in Israeli settlements and an industrial park in the oPt. Thanks to these efforts, VTJP learned that Ben & Jerry's ice cream, made in Israel, is sold in settlement stores and catered privately to settlers. We do not know yet the full scope of this enterprise nor how long it has been going on. But we can safely assert that Ben & Jerry's products are found, at the very least, in large, well-established settlements. We hope Ben & Jerry's will shed more light on its business in the oPt—how extensive it is, the money it earns, how it is managed, special tax breaks or other inducements their licensee may receive for contracting with venues in the settlements, why and when they sanctioned it, and who in the company authorized it.



Supermarket clerk with a pint of B&J ice cream, in the illegal settlement of Gilo in the West Bank. (Photo by Z, VTJP.)



A view of the Mishor Adumim Industrial Park and the Ma'ale Adumim settlement above it. (Photo: Esti Tsal, Who Profits, Israel.)

Z visited the settlements of **Gilo** (pop. 29,559) and **Pisgat Ze'ev** (pop. 44,512) in occupied (Greater) East Jerusalem, **Ma'ale Adumim** (pop. 36,089), the third largest Jewish settlement in the West Bank,²⁰ and the industrial park of **Mishor Adumim**, which services Ma'ale Adumim. (A map of the central West Bank and East Jerusalem on p. 18 identifies their location.)

Z purchased and photographed Ben & Jerry's ice cream in settlement supermarkets. Z also photographed Bedouin encampments under threat of demolition in the vicinity of these settlements and Palestinian olive groves cut down by Israeli occupation forces. At Z's behest, a Jewish Israeli activist—we'll call this person "R"—contacted Ben & Jerry's headquarters in Israel by e-mail and telephone, and confirmed that it would deliver ice cream to the settlement of Ma'ale Adumim deep in the West Bank. (The e-mail correspondence between this person and a Ben & Jerry's employee in Israel, translated from Hebrew, is on p. 16.)

20. "Settlement Information: Statistics and Table," Foundation for Middle East Peace, at http://www.fmep.org/settlement_info/settlement-info-and-tables/stats-data/settlements-in-the-west-bank-1; http://www.fmep.org/settlement_info/settlement-info-and-tables/stats-data/settlements-in-east-jerusalem; and http://www.fmep.org/settlement_info/settlement-info-and-tables/stats-data/comprehensive-settlement-population-1972-2006.



Palestinian olive grove cut down by Israeli Occupation Forces near the illegal Israeli settlement of Ma'ale Adumim. (Photo by Z, VTJP)

4. Ben & Jerry's Factory in Israel and the Theft of Palestinian Water

Ben & Jerry's factory near Kiryat Malachi opened officially in June, 2010.²¹ To understand how and from where water makes its way to the plant, VTJP set out to decipher Israel's water distribution system, as well as the laws and military regulations employed to divert Palestinian water to the state's purposes, both in the oPt and within its pre-1967 borders. It is critical to understand that water resources in Israel and the oPt are controlled by Israel. Our inquiry led us to the *tentative conclusion* that Ben & Jerry's factory may be drawing water from (a) the Jordan River system—in particular, the Sea of Galilee—and (b) the Mountain Aquifer in the West Bank, the highest-quality water sources in the region, thus diverting it from Palestinian use.

Water abstraction and allocation for Israel and the oPt is managed by the Israeli public company Mekorot. In addition to administering the country's national water carrier (NWC), it also operates more than 40 wells *inside* the West Bank. Most of these wells are in the Jordan Valley and supply Jewish settlements.²² But Mekorot also operates hundreds of deep wells along Israel's side of the "Green Line," the country's pre-1967 border.²³ Illustrations and official maps of the NWC (see p. 17) show plainly that water from the Mountain Aquifer in the West Bank is dumped into these wells. It is then channeled south to Israeli communities, including, perhaps, Kiryat Malachi.²⁴

21. "Grapevine; Two Firsts for HU," 07/02/10, Jerusalem Post, at <http://www.jpost.com/LocalIsrael/InJerusalem/Article.aspx?id=180170>.

22. "TroubleWaters-Palestinians Denied Fair Access to Water," Amnesty International, at <http://www.ewash.org/files/library/mde150272009en.pdf>, p. 15.

23. Published in "The Human Right to Water in Palestine," Susan Koppleman and Zayneb Alshalafeh, LifeSource, <http://www.blueplanetproject.net/documents/RTW/RTW-Palestine-1.pdf>, p. 7.

24. Map of Israel's National Water Carrier and network of wells east of the Green Line, published in "The Human Right to Water," Susan Koppleman and Zayneb Alshalafeh, LifeSource, <http://www.blueplanetproject.net/documents/RTW/RTW-Palestine-1.pdf>, p. 7.

Susan Koppleman, an international water consultant and co-author of the report “The Human Right to Water in Palestine,” told VTJP she felt confident saying that Kiryat Malachi is “very likely” drawing some water from the West Bank. The city may be getting water also, she said, from the Sea of Galilee and Ashkelon, a city in the Negev with a desalination plant. The Sea of Galilee is a possible source, despite its great distance from Kiryat Malachi, because it is the NWC’s “primary natural reservoir and provides water to Israel’s dense population centers as well as to the South.”²⁵

Because Palestinians are denied access to the Jordan River, the Mountain Aquifer is their only source of water. A study by the World Bank determined that “Palestinian per capita access to water resources in the West Bank is a quarter of Israeli access and is declining.”²⁶ This pattern is no accident; it is the result of Israeli government planning and regulation.²⁷

Generally speaking, Jewish settlers (approximately 500,000 and growing) often obstruct or disconnect the flow of water to Arab communities, while “consuming approximately six times the water consumed by some three million Palestinians. This amount is even higher when use for agricultural purposes is factored in.”²⁸ The settlements of Mitzpe Shalen and Qalya, to cite two examples, enjoy approximately 700 liters of water per person per day, while the Palestinian village of al-Jiftlik is limited to just 66 liters of water per person per day; the Palestinian villages of al-Nuwei’ma and al-Hadidiya can access only 24 and 22 liters of water per person per day, respectively.²⁹ Regular access to water explains green lawns and swimming pools in Israeli settlements. In stark contrast, throughout the year, but especially in the summer, “[The] supply of water to Palestinian cities and villages is not continuous...and Palestinians can go without water for weeks on end.”³⁰ This injustice is aggravated by Israel’s policy of denying permits to Palestinians to drill new wells or rehabilitate old ones.³¹

Ben & Jerry’s in Israel is complicit in a water system that is grossly inequitable, violates international law and denies Palestinians their fair share of the Mountain Aquifer and the Jordan River.

25. “Israel’s Water Supply System,” Mekorot: Israel’s National Water Carrier, at <http://www.mekorot.co.il/Eng/Mekorot/Pages/IsraelsWater-SupplySystem.aspx>.

26. “West Bank and Gaza Assessment of Restrictions on Palestinian Water Sector Development,” Sector Report 2009, The World Bank, at http://www.phg.org/data/files/publications/general_reports/Reports/2009/worldbank_09.pdf, p. 9.

27. “Joint Parallel Report submitted by the Emergency Water, Sanitation and Hygiene group (EWASH) and Al Haq to the Committee on Economic, Social and Cultural Rights on the occasion of the consideration of the Third Periodic Report of Israel, Israel’s violations of the International Covenant on Economic, Social and Cultural Rights with regard to the human rights to water and sanitation in the Occupied Palestinian Territory,” September, 2011, at [http://www.ewash.org/files/library/110818%20EWASH%20Parallel%20Report%20to%20CESCR%20\(2011\)%20\(FINAL\).pdf](http://www.ewash.org/files/library/110818%20EWASH%20Parallel%20Report%20to%20CESCR%20(2011)%20(FINAL).pdf), pp. 6-7.

28. Ibid., p. 9.

29. Ibid., p. 9.

29. Ibid., p. 9.

30. Ibid., p. 9.

31. “Troubled Waters-Palestinians Denied Fair Access to Water,” Amnesty International, 2009, at <http://www.ewash.org/files/library/mde150272009en.pdf>, p. 15.



“Water is life; without water we can’t live; not us, not the animals, or the plants. Before we had some water, but after the army destroyed everything we have to bring water from far away.... They make our life very difficult, to make us leave. The soldiers first destroyed our homes and the shelters with our flocks, uprooted all our trees, and then they wrecked our water cisterns. These were old water cisterns, from the time of our ancestors. Isn’t this a crime? – **Fatima al-Nawajah**, a resident of Susya, a Palestinian village in the South Hebron Hills, in the West Bank, to Amnesty International, April 2008. From the 2009 Amnesty International report, “Troubled Waters-Palestinians Denied Fair Access to Water.”

5. A Time to Act

An independent fact-finding mission on Israel's settlements in the oPt, authorized by the U.N.'s Human Rights Council in 2012, published its report on January 30, 2013. It forcefully concluded that Israel's settlement enterprise "has had a heavy toll on the rights of the Palestinians. Their rights to freedom of self-determination, non-discrimination, freedom of movement, equality, due process, fair trial, not to be arbitrarily detained, liberty and security of person, freedom of expression, freedom to access places of worship, education, water, housing, adequate standard of living, property, access to natural resources and effective remedy are being violated consistently and on a daily basis."³²

The report directed private companies to "assess the human rights impact of their activities and take all necessary steps—including *by terminating their business interests in the settlements*—to ensure they are not adversely impacting the human rights of the Palestinian People in conformity with international law as well as the Guiding Principles on Business and Human Rights" [emphasis added].³³

Ben & Jerry's should heed this directive and terminate its business interests in Israel and its illegal settlements. Its commercial enterprises support and help to "normalize" life for the settlers. Jews living in illegal, garrison colonies on confiscated land—and those within Israel who support, defend and subsidize these colonies—should be denied the privilege of purchasing (and profiting from) Ben & Jerry's ice cream while Palestinians are under siege in occupied Gaza, trapped by concrete walls and checkpoints, forbidden their daily bread and rightful allotment of water, terrorized by soldiers and settlers, and denied the right of national self-determination. Ben & Jerry's stands, it says, for everyone getting a fair deal. That commitment should include Palestinians as well as Jewish Israelis.

According to company executives, Ben & Jerry's in Vermont has the contractual authority to cut off sales and catering to the settlements and to end the franchise in Israel. These actions would send a powerful message to the governments of Israel and the United States, and to other socially responsible businesses complicit in the occupation. They would comport with the company's desire to be a force for positive change in the world, as reflected in these comments by CEO Solheim:

"The world needs dramatic change to address the social and environmental challenges we are facing. Values led businesses can play a critical role in driving that positive change. We need to lead by example, and prove to the world that this is the best way to run a business. Historically, this company has been and must continue to be a pioneer to continually challenge how business can be a force for good and address inequities inherent in global business."³⁴

32. "Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem," United Nations Human Rights Council, January 30, 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-63_en.pdf, pp. 21-22.

33. *Ibid.*, p. 23.

Vermonters for a Just Peace in Palestine/Israel wants Ben & Jerry's to be a force for dramatic and positive change in Israel and Occupied Palestine. To that end, we ask Vermonters and people of conscience around the world to join us in calling on the company to take the following three measures until Israel's occupation and colonization of Palestinian lands ends in compliance with international law:

1. End the marketing, catering and sales of Ben & Jerry's products in Israel and Jewish-only settlements in occupied East Jerusalem and the West Bank.
2. Stop manufacturing ice cream in Israel.
3. Issue a statement (a) calling for an end to Israel's occupation and settlement enterprise and (b) appealing directly to other socially responsible companies to do likewise and to cease business operations in Israel and its illegal settlements.



Israeli settlement of Pisgat Ze'ev in the foreground and the illegal Separation Wall. The Shuafat refugee camp is to the right of the wall (<http://www.thirdage.com/news-photo/israeli-separation-wall-divides-shuafat-refugee-ca/56224>).

Appendices



Ben & Jerry's: Progressive *EXCEPT* for Palestine?

For this section, we drew information from Ben & Jerry's website (www.benjerry.com), much of it from the company's 2011 "Social & Environmental Assessment Report" (SEAR, at <http://www.benjerry.com/company/sear-reports/sear-2011>). An English translation of the website for the franchise in Israel is not available online, to the best of our knowledge. The Hebrew-language website is at: www.benjerry.com.il.

Introduction

Ben & Jerry's is based in South Burlington, Vermont, and was founded by Ben Cohen and Jerry Greenfield. They opened their first scoop shop in Burlington, Vermont, in 1978. Today, the company's ice cream and novelties are sold across the United States, and in more than 30 other countries. [Note: There is no mention of the company's commercial transactions in the oPt on its English-language website or in the annual SEAR.]

Operations

The company's ice cream is made in three factories in the United States: two in Vermont (Waterbury and St. Albans); the third in Henderson, Nevada. The company's U.S. frozen novelties are produced in Sikeston, Missouri. Abroad, its ice cream is produced in two Unilever facilities, one in Hellendoorn, The Netherlands, the other in Simcoe, Ontario. *A third international plant opened in 2010, in Be'er Tuvia, Israel, near the city of Kiryat Malachi.* The 2011 SEAR does not reference the plant in Israel. The company's first factory in Israel, according to reports in the Israeli media, was located in the city of Yavne. It closed several years ago when reputedly it did not meet Ben & Jerry's export standards. At the close of 2011, the company employed 442 people globally.

An additional 200 employees were employed at the Unilever plant in The Netherlands, and 35 others (amounting to 15 FTEs) were employed by Unilever on behalf of marketing and selling and providing other services for the B&J brand.

Governance

The 2011 SEAR describes the company's governance structure, briefly, as follows: "Ben & Jerry's global business is managed out of our Central Support office in South Burlington, Vermont. Within Unilever, we are grouped with the Breyers®, Klondike®, Popsicle® and Good Humor® brands in the U.S. Ice Cream division, managed out of Englewood Cliffs, New Jersey." Its CEO is Jostein Solheim, a veteran manager of Unilever. The company also has an independent Board of Directors, which meets quarterly, and is charged with "advising and supporting Ben & Jerry's senior management in maintaining and strengthening the Company's three-part Mission Statement and protecting Ben & Jerry's brand equity." In 2011, the Board also "had important input on the Company's support for the Occupy movement, Ben & Jerry's Fair Trade strategy, Business for Democracy initiative, and numerous other issues."

Mission

The company articulates its mission in three parts:

***Product Mission** To make, distribute and sell the finest quality all natural ice cream and euphoric concoctions with a continued commitment to incorporating wholesome, natural ingredients and promoting business practices that respect the Earth and the Environment.*

***Economic Mission** To operate the Company on a sustainable financial basis of profitable growth, increasing value for our stakeholders and expanding opportunities for development and career growth for our employees.*

***Social Mission** To operate the company in a way that actively recognizes the central role that business plays in society by initiating innovative ways to improve the quality of life locally, nationally and internationally.*

Ben & Jerry's overarching mission is girded to "the determination to seek new and creative ways of addressing all three parts, while holding a deep respect for individuals inside and outside the company and for the communities of which they are a part."

In respect to its social mission, the company is dedicated to three goals: (1) Furthering the cause of peace and justice; (2) Making ice cream aligned with its values; and (3) Promoting global sustainable dairy practices.

Progressive Business Values

Under a banner on its website that reads, "Leading with Progressive Values across our Business," we find these words:

“We have a progressive, nonpartisan social mission that seeks to meet human needs and eliminate injustices in our local, national and international communities by integrating these concerns into our day-to-day business activities. Our focus is on children and families, the environment and sustainable agriculture on family farms.

“We seek and support nonviolent ways to achieve peace and justice. We believe government resources are more productively used in meeting human needs than in building and maintaining weapons systems.

“We strive to show a deep respect for human beings inside and outside our company and for the communities in which they live.”

Ben & Jerry's Foundation & Commitment to Social Activism

The Ben & Jerry's Foundation awards grants to “grassroots activists making positive change in their own communities.” It channels its resources to helping “immigrant workers, neighborhood groups, farm workers and dozens of other groups around the country to get organized and fight for a fair deal.” The company contributed \$2,180,808 to its Foundation in 2011. Additionally, it paid royalties to nonprofits worldwide totaling \$1,998,103. The company also invests, financially and through employee-donated time, in community action projects and social mission campaigns. In 2011, it tallied its total global investment “in the community through nonprofit royalties, community action, social mission campaigns, and charitable giving (not including the Ben & Jerry's Foundation)” at more than \$2,436,000. On a scale of 1 to 5, where 1 represents “strongly disagree” and 5 represents “strongly agree,” the statement “The Social Mission is important to Ben & Jerry's success as a business” received an average score of 4.1 from the company's workers.



B&J ice cream in Mishor Adumim, which is near the settlement of Ma'ale Adumim. (Photo by Z, VTJP)

E-Mail between Israel BDS Activist & Ben & Jerry's

The three e-mails below, dated August 2 and 3, 2011, between "R", a Jewish-Israeli activist, and an employee at Ben & Jerry's factory in Israel, identified as "Q", were exchanged as part of VTJP's investigation into Ben & Jerry's practice of sending party carts to Israeli settlements in East Jerusalem and the West Bank. In this case, the settlement is Ma'ale Adumim, the third largest in the oPt.

August 02, 2011 9:51 a.m.

R. Shalom,

Thanks for writing. Our ice cream cart comes with 5 flavors to choose from, glasses, wafers, ice cream toppings, 2 stewards and all accessories. The cost for 250 people (free distribution) – 3,500 [NIS (Israeli Shekels), or \$919 US] including VAT.

Attached is a list of flavors. I'll be happy to answer any questions.

Sincerely,

Q

August 02, 2011 11:57 a.m.

Q Hello,

Is there an extra cost that relates to the distance of your factory to the location of the party? i.e., [sic] is there an extra cost because the event is held in Ma'ale Adumim?

I'm sorry about the need for detail, but it's necessary for our accounting department.

Thank you and good day.

R.

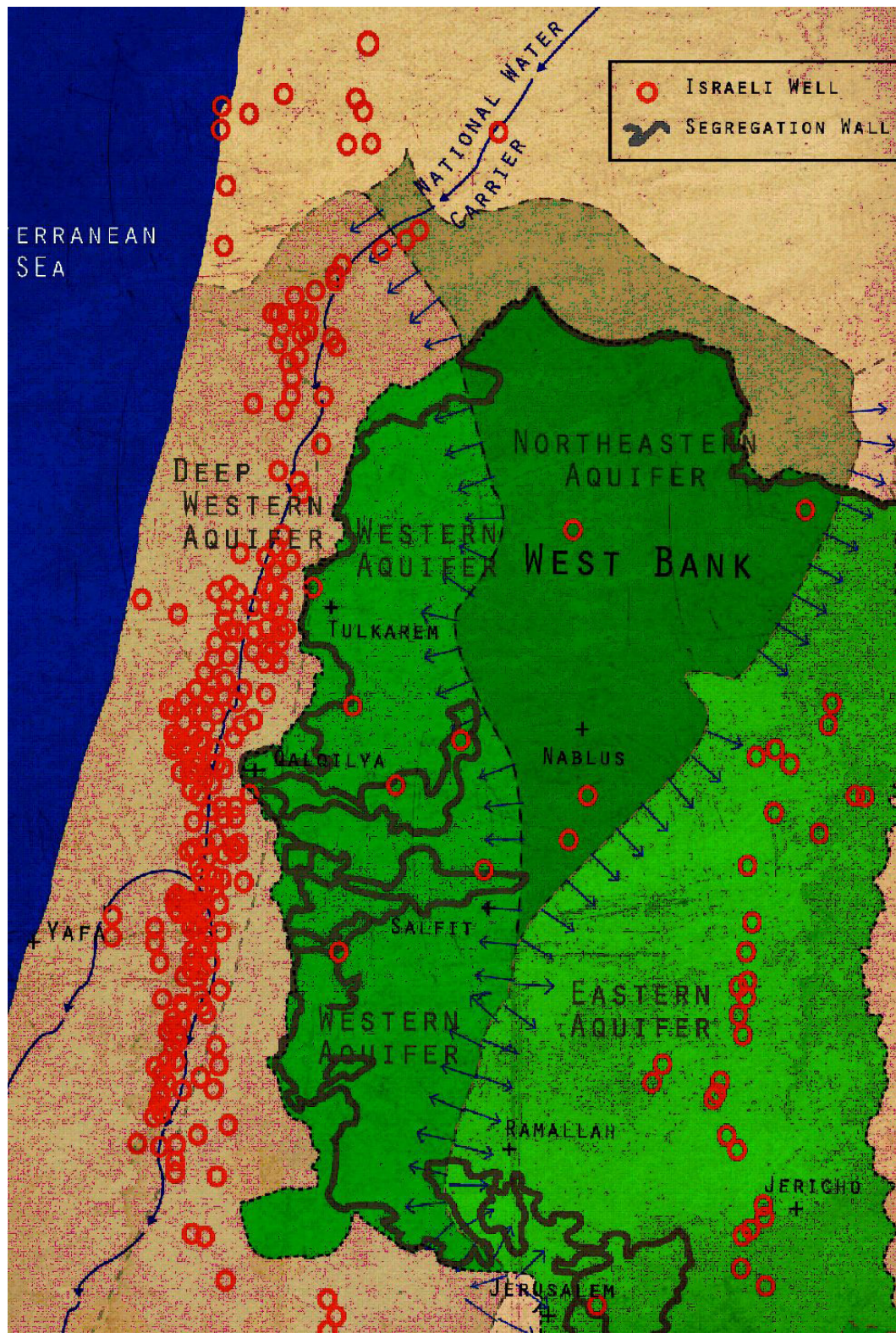
August 2, 2011 13:02

Hey R,

Yes, the cost of transportation is 250 [NIS (Israeli Shekels), \$65 US]. This is because we come from Be'er Tuvia (near Kiryat Malachi) to Ma'ale Adumim.³⁵

35. Text of three e-mails between "R", Israeli Jewish anti-occupation activist, and "Q", an employee at Ben & Jerry's in Israel, August, 2011, collected by Z.

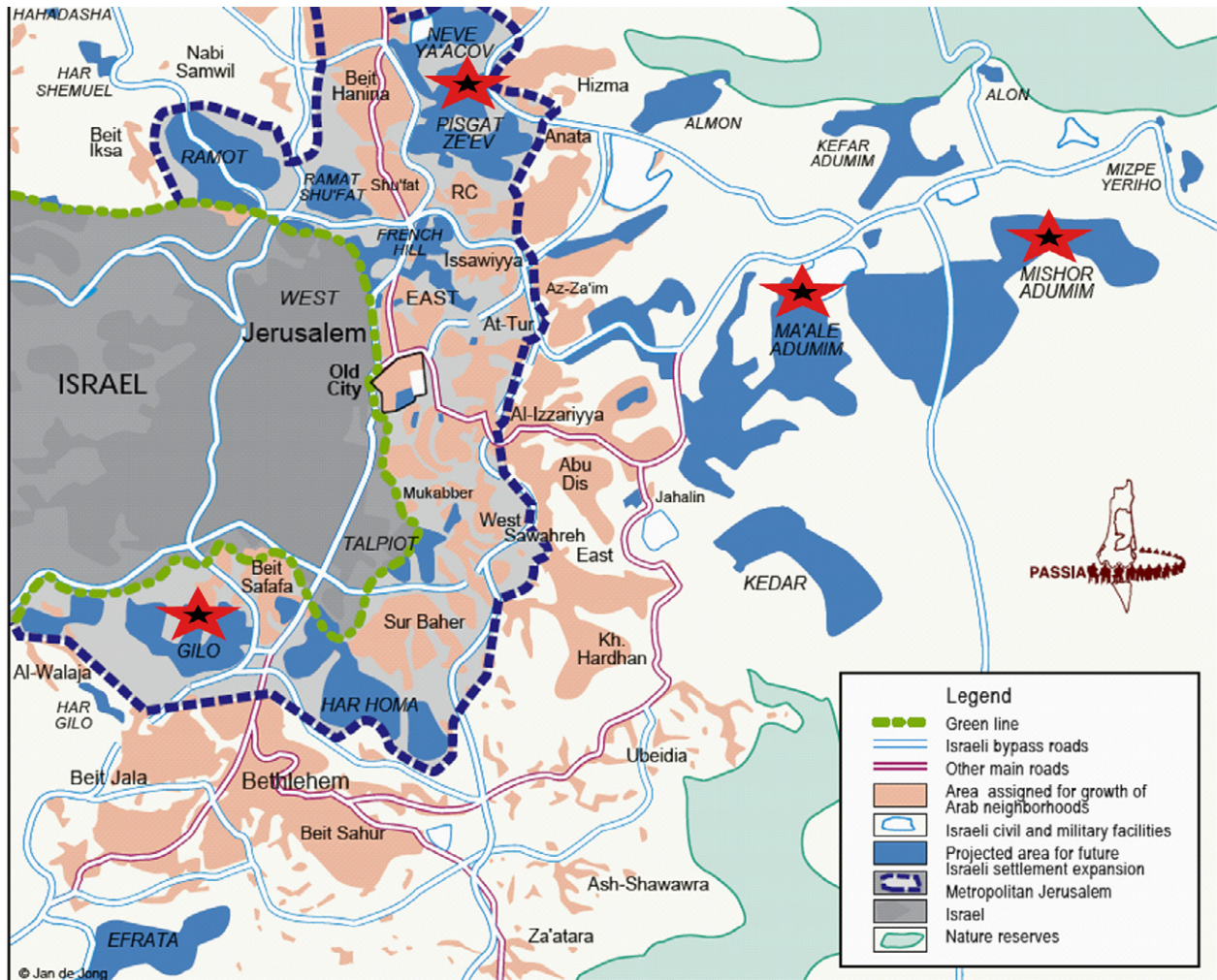
Trajectory of Israel's National Water Carrier & Location of Wells



The network of wells to the east of Israel's 1967 border captures water from the Mountain Aquifer in the occupied West Bank and directs it to Israeli communities. From "The Human Right to Water in Palestine," published by Life-Source. It can be accessed at <http://www.blueplanetproject.net/documents/RTW/RTW-Palestine-1.pdf>.

Israeli Settlements in the West Bank & East Jerusalem Visited by VTJP Member (“Z”) and Where B&J Ice Cream Is Sold

The map below captures a section of the Israeli-occupied West Bank and East Jerusalem. The illegal settlements marked with a red star—Pisgat Ze’ev, Ma’ale Adumim, Mishor Adumim and Gilo—were visited by a VTJP member in 2011. The broken “green line” is Israel’s 1948/1967 border; the broken “blue line” represents the expanded municipal borders of Jerusalem, which Israel imposed on the territory in 1967 as a prelude to its illegal annexation of the eastern sector of the city.



**Palestinian Academic Society for the Study of International Affairs
(PASSIA)**

Source: http://www.passia.org/palestine_facts/MAPS/images/jer_maps/Projectedgrowth.pdf

Mission Statement of Vermonters for a Just Peace in Palestine/Israel

www.vtjp.org

Vermonters for a Just Peace in Palestine/Israel works to support the survival of the Palestinian people and to end the illegal, immoral, and brutal Israeli occupation through education, advocacy, and action. We are committed to the principles of self-determination for the Palestinian people, the right of return for Palestinian refugees, and full civil and political rights for all Palestinians in order to promote the equality and safety of both Palestinians and Israelis.

The organization supports the 2005 Call by Palestinian Civil Society for an international campaign of boycott, divestment and sanctions—BDS—against the state of Israel.

What if.. **Israel invaded Vermont?**



Acknowledgements

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