

International nal

NATIONAL LAWYERS GUILD INTERNATIONAL COMMITTEE nlginternational.org

32 Nassau Street, Rm. 922 New York, NY 10038 + nlginternational.org + international@nlg.org

January 25, 2016

Ambassador Gérard Araud
Embassy of France in the United States
4101 Reservoir Road, NW
Washington, D.C. - 20007

Dear Ambassador Araud,

The National Lawyers Guild International Committee was shocked to learn that France's highest court of criminal appeals (Cour de Cassation) has upheld the conviction of a number of Palestine solidarity activists for publicly calling for the boycott of Israeli goods. The law these activists were found guilty of violating criminalizes behavior which "provokes discrimination, hatred or violence against a person or a group of people by reason of their origin or their membership or non-membership in a specific ethnic group, nation, race or religion." The Court's decision, under the guise of combating anti-Semitism, show France's desire to silence criticism of Israel's government policies and opposition to Israel's grave human rights violations.¹ Incredibly, these activists have been sentenced to fines and costs amounting to \$35,000.

The Court's decision follows the earlier controversial directive of former Justice Minister Michele Alliot-Marie (an open supporter of Tunisia's overthrown dictator, Ben Ali) instructing prosecutors to go after BDS activists in a "firm and consistent" manner across the country.

And now several more activists are facing prosecution in a Toulouse court on June 30, 2016 for having distributed leaflets calling for the boycott of Israeli products while peacefully standing outside of a supermarket, accused for "preventing the exercise of normal economic activity."

The National Lawyers Guild (NLG) is an US organization of lawyers, law students and legal workers who seek to function as an effective force in the service of the people (both at home and abroad), to the end that human rights shall be regarded as more sacred than property rights. The ruling by the Court of Cassation adds to our growing concern about France's harsh crackdown on freedom of expression.

¹ See, for example: Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p.136, available at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=4&case=131&p3=4>; UN Human Rights Council, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, 25 September 2009, A/HRC/12/48, available at: <http://www.refworld.org/docid/4ac1dd252.html>; UN Human Rights Council, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, 25 September 2009, A/HRC/12/48, available at: <http://www.refworld.org/docid/4ac1dd252.html>

France is now the only country other than Israel that penalizes appeals not to buy Israeli goods. Amazingly, the French law, which includes criminal penalties, is harsher than Israel's, which allows boycott supporters to be pursued for financial damages, but not jailed.

We agree with *BDS France* that the court decision marks "a sad day for French democracy". The stated purpose of the convicted BDS activists was "to inform customers about the ethical problems involved in the purchase of goods coming from Israel," including that their production "is part and parcel of the apartheid situation endured by the Palestinian people, the dispossession of their lands [and] the refusal of the refugees' right of return."² The store managers did not bring charges, as there was no interference in the freedom of commerce.

The activists were found guilty for speech calling for "discrimination" against the producers and suppliers of goods by reason of their belonging to the "Israeli nation." This is quite ironic, as Israel recognizes only Jewish (not Israeli) nationality as well as other ethnic and sectarian categories which it assigns to citizens and non-citizens, often against their will.

Moreover, the French BDS activists – as well as the National Lawyers Guild – are publicly committed to opposing all forms of racial and religious discrimination, including anti-Semitism.

As US journalist Glenn Greenwald stated: "Ponder how pernicious this is. It is perfectly legal to advocate sanctions against Iran, or Russia, or Sudan or virtually any other country. But it is illegal — criminal — to advocate boycotts and sanctions against one country: Israel." Ironically, the French government now supports the new EU-wide rules to clearly label settlement goods, presumably so consumers can boycott them.³

We believe that the Court of Cassation violates established principles in French and European law. Hopefully the activists will appeal to the European Court of Human Rights, which is more respectful of freedom of expression. Pending such a ruling, or a change in French law, we are confident that French BDS activists will not be deterred. As *EuroPalestine* has defiantly stated: "Boycotting the Israeli occupier is an international campaign which nothing will stop."⁴

The National Lawyers Guild Palestine Subcommittee joins *BDS France* and *EuroPalestine* in calling for implementation of the call by Palestinian civil society "to promote the campaign of boycott, divestment and sanctions against the State of Israel until it respects international law and the universal principles of human rights." We affirm our support for the individuals convicted for their speech and ask France to end all prosecutions of activists under the Alliot-Marie decree.

Sincerely,

Audrey Bomse, co chair National Lawyers Guild Palestine Subcommittee

Andrew Dalack, co-chair

Amanda Ghannam, co-chair

² BDS France, "Solidarity with the convicted activists," 29 October 2015, available at: <http://www.bdsfrance.org/2015-11-03-11-39-42/>

³ Glenn Greenwald, "Anti-Israel Activism Criminalized in the Land of Charlie Hebdo and 'Free Speech,'" The Intercept, October 27, 2015, available at <https://theintercept.com/2015/10/27/criminalization-of-anti-israel-activism-escalates-this-time-in-the-land-of-the-charlie-hebdo-free-speech-march/>

⁴ CAPJPO-EuroPalestine, "#JeSuisBDS," October 29, 2015, available at: <http://www.europalestine.com/spip.php?article11118&debutencart4=1>