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**SOUTH AFRICA'S IMPLEMENTATION AND PROTECTION OF PALESTINIAN
SOLIDARITY RIGHTS ACT (BILL) 2021 – (SA'S IPPSRA CITIZENS BILL)**

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THE ACT (BILL)

A solidarity Act with the oppressed people of Palestine with the purpose of converting political and executive rhetoric into a constructive legal enabling framework; the cessation of diplomatic relations and the implementation of Boycotts, Trade Divestment, and Sanctions as an institutionalised State response; the application of justice through the utilisation of the international criminal law framework, universal jurisdictional norms and standards, the Rome Statute concomitant with Lawfare mechanisms against the State of Israel due to its repressive and oppressive apartheid policies and practices, war crimes and crimes against humanity; the continued occupation by the State of Israel affecting peace initiatives in the Middle East Region; illegal and unlawful expansion of settlements which policies are in contravention of international law and the cantonisation of the occupied Palestinian territories causing excessive harm to the Palestinian people; the State of Israel's continued breaches of international law, international covenants on civil and political rights, international convention on the suppression of the crime of apartheid, international humanitarian law, customary international law and maritime conventions by systematically imposing illegal land, air and naval blockades and sieges upon the civilian population of Gaza and in occupied historical Palestine; screening and surveillance of unlawful activities in contravention of the Regulation of Foreign Military Assistance Act, South Africa's Implementation of the International Criminal Court Act and/or other associated laws, establishment of a Boycotts, Trade Divestment, Economic Sanctions and Lawfare Council, enforcement proceedings, imposition of fines to guilty parties and dealing with all other matters incidental and connected thereto.

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W

A) PRE-AMBLE

Being Mindful of,

Our own history and the geopolitical context and conflict in the Middle East:

WHEREAS, the people of the Republic of South Africa have a deep and painful history of repression and have suffered the worst kinds of oppression originating from colonialism practices and racial discrimination that was institutionalised apartheid;

AND WHEREAS ACKNOWLEDGING, our struggle against racism, discriminatory policies and the crime of apartheid deprived us of fundamental human rights which include *inter alia*, life, equality, dignity and freedom;

ACKNOWLEDGING, our fundamental rights are now entrenched in a justiciable Bill of Rights contained in the Constitution of the Republic of South Africa;

ACKNOWLEDGING, our hard fought freedoms necessitate that the people of South Africa have a moral and legal responsibility to unite in solidarity with the people of Palestine and of all Palestinian refugees living in the diaspora, in Israel and in the occupied Palestinian territories (OPT's) in their struggle for life, equality, human dignity and freedom;

ACKNOWLEDGING, that peace can only be achieved when justice prevails. The State of Israel's belligerent military occupation must end and the Palestinian right of self – determination must be realised.

ACKNOWLEDGING, by the Republic of the *inalienable right of return* and land restitution constituting an integral and fundamental right towards achieving a just and lasting peaceful solution;

ACKNOWLEDGING, the State of Israel continues its unlawful conduct perpetrating gross violation of human rights, by policies of belligerent military occupation, colonialism, and apartheid in breach of amongst other international prescripts, which include *inter alia*: the Geneva conventions, United Nations Resolutions, International Covenant on Civil and Political Rights, International Convention on the Suppression of the Crime of Apartheid, International Law, International Criminal Law, International Humanitarian Law, Customary International Law, the Rome Statute, the San Remo Manual or such other associated international instruments restricting unlawful naval blockades;

ACKNOWLEDGING, the Republic of South Africa has constitutionally imperative international obligations to invoke laws at its avail in order to conform and abide, protect and advance international law, international humanitarian law and customary principles of universal jurisdiction together with such associated *jus cogen (non-derogatory)* peremptory norms and standards;

ACKNOWLEDGING, the United Nations Security Council Resolution (UNSC) 2334, re-affirms amongst its findings that the establishment by the State of Israel of settlements in the Palestinian territories occupied since 1967, including East Jerusalem, have no legal validity and constitutes a flagrant violation under international law and is a major obstacle to the achievement of the two-State solution towards achieving a just, lasting and comprehensive peace;

ACKNOWLEDGING, the importance for the severance of economic ties and trade relations which are inextricably linked to the sustainability of Israeli settlement expansions in the (OPT's) which unlawfully infringe upon the 1967 delineated borders.

ACKNOWLEDGING, the United Nations Economic and Social Commission for West Asia (UN - ESCWA's) historic report (*subsequently retracted under political pressure*) has set two landmark precedents on Palestine, whereby the United Nations agency has established through a scrupulous and rigorous study that Israel has imposed an apartheid regime against the entire Palestinian people;

ACKNOWLEDGING, the UN - ESCWA report finds Boycotts, Divestment and Sanctions as the most effective **advocacy and economic tool** to hold the state of Israel accountable for its crimes against humanity;

ACKNOWLEDGING, that Trade Divestments and Sanctions is an important and legitimate advocacy tool in gaining international solidarity towards defeating the crime of institutionalised apartheid against the Palestinian people;

ACKNOWLEDGING, the referrals to the International Criminal Court (ICC) and the numerous international resolutions passed against the State of Israel by the United Nations (UN), the United Nations Human Rights Council (UNHRC) which condemns Israel for both present and past human rights violations, which include the ill treatment and torture of Palestinian political and child prisoners, the utilisation of arbitrary administrative and military laws against the Palestinian civilian population and children in the West Bank and in the OPT's, which bear close proximity to the former apartheid 90 (ninety-day) administrative detention laws without trial;

ACKNOWLEDGING, by the Republic of the efforts of thousands of political Palestinian prisoners who have periodically embarked on **dignity hunger strikes and advocacy protests** in their struggle for freedom, life, equality and human dignity;

ACKNOWLEDGING, court judgments emanating from the International Court of Justice (ICJ), which declares the construction of the separation wall, further cantonising the occupied Palestinian territories illegal under international law;

ACKNOWLEDGING, South African citizens in their endeavours to break the siege on the Gaza Strip blockaded by the Israeli Naval and Defence Forces have been directly affected by the State of Israel's apartheid, colonial and belligerent occupying practices, which naval blockade continues to be unlawful under international humanitarian law denying access and free passage of essential humanitarian aid, medical supplies, building materials for reconstruction and development and relief works aid to a besieged Palestinian civilian population;

ACKNOWLEDGING, the South African Police Services (SAPS) have previously investigated cases under the Republic's *Implementation of the International Criminal Court Act 27 of 2002* against the State of Israel for war crimes perpetrated in Gaza during, **'Operation Cast Lead' in 2008 to 2009**, where banned munitions such as white phosphorous and other lethal munitions: such as dumdum and nail bombs were unleashed against a predominantly civilian population in densely populated areas in the Gaza Strip causing over at least 1 800 Palestinian civilian deaths;

ACKNOWLEDGING, the Israeli Defence Force (IDF) have orchestrated systematic military operations which have caused fatal human injuries and damages to infrastructure and essential services such as hospitals and municipal water works alike, causing an unsafe and unsustainable environment, making living conditions for the human population detrimental to human health, in the fatal wars unleashed during the period **2008-2009 (Cast lead), 2012 (Pillar of Defence) and 2014 (Protective Edge)** on the people of Gaza;

ACKNOWLEDGING, the state of Israel unashamedly and aggressively through its occupation continues to impose naval blockades and sieges upon the Palestinian people in breach of the Geneva conventions and international humanitarian law which conduct is unsustainable and detrimental to human health and ultimately human survival;

ACKNOWLEDGING, IDF war commanders have been previously investigated by specialised organs state of the South African Police Services (SAPS) for the alleged unlawful arrest and detention of a South African citizen, Gadija Davids who was aboard the Flotilla Aid mission in 2010;

ACKNOWLEDGING, the war in Gaza, under the auspices '**Protective Edge**' in 2014, the scale of devastation and human fatalities, injuries and destruction of civilian infrastructure was unprecedented and disproportional. The death toll of 2,251 Palestinians including 1,462 Palestinian civilians, of whom 299 women and 551 were children;¹ and 11,231 Palestinians, including 3,540 women and 3,436 children, were injured of whom 10 per cent suffered permanent disability as a result thereof ²;

ACKNOWLEDGING, that the overwhelming evidence against the IDF points to war crimes having been perpetrated during the 2014 war in the Gaza Strip under the auspices of '*Operation Protective Edge*'.

ACKNOWLEDGING, that it is incumbent upon the people of the Republic of South Africa to unite and strengthen the international intifada in solidarity with the Palestinian people in their political emancipation and the right to self-determination and freedom, which can only be achieved through an economically liberated contiguous land, that is a viable and sustainable Palestine recognised under international law for all to prosper under a just, peaceful and healthy co-existential conditions;

¹ Data compiled by the OCHA Protection Cluster, 31 May 2015. For its methodology, see A/HRC/28/80/Add.1, para. 24, footnote 43

² UN A/HRC/29/52, Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, Part V, Principal Findings and Conclusions, paragraph 20, p 6

ACKNOWLEDGING, the provisions of this Act are irrelevant to anti-Semitism or any intent to cause harm towards the people of the Jewish faith but rather as a *bona fides* act by the Republic to eradicate the wrongful, oppressive and unjust Zionist policies implemented by the State of Israel and to force by means of international pressure for the dismantlement of apartheid, its oppressive racial and ethnic discriminatory policies to open the way for the creation of a culture of fostering mutual respect, love, tolerance and understanding for all affected by this conflict;

ACKNOWLEDGING, by the Republic of the United Nations Human Rights Council (UNHRC) having adopted various resolutions at its regular and special session during the period of 2016 and 2017 respectively, against the State of Israel demanding for the protection and respect of fundamental human rights and calling for the protection of Palestinian political prisoners' rights and child prisoners' rights in conflict areas;

ACKNOWLEDGING, the Republics governing international relations policy is directly informed by its domestic policy, and *vice versa*, whereby they are mutually reinforcing ³;

ACKNOWLEDGING, the Republic remains committed to its founding values of a struggle for a humane, just, equitable, democratic, and free world ⁴;

ACKNOWLEDGING, by the Republic of its responsibility to free the people of Palestine from belligerent occupation, colonialism and apartheid;

AND WHEREAS ACKNOWLEDGING, the Republic's international relations policy is founded upon a commitment to developing and entrenching democracy, human rights, peace, and security in the world ⁵;

³ ANC's 53rd Annual Conference, CH 6 International Relations, paragraph 2, p 38

⁴ Supra (ibid), paragraph 3

⁵ Supra (ibid), paragraph 5

NOW WHEREFORE, this Act shall undertake the necessary measures of Boycotts, Trade Divestments, and Economic Sanctions (BTDES) as a necessary and prerequisite tool of achieving the dismantlement of the State of Israel's oppressive and racist ethnic discriminatory practices and apartheid policies against Palestinians;

AND WHEREFORE, the Republic shall ensure that the most egregious crimes perpetrated against Palestinians, including genocide, incremental genocide of Palestinians in Gaza and the occupied Palestinian territories shall be thoroughly investigated and prosecuted by South African Authorities within the ambit of the Republic's compliance to its international legal obligations and its domestic laws of the Republic of South Africa;

AND WHEREFORE, it is acknowledged that Palestinians living in Gaza are enduring intolerable and insufferable living conditions imposed by the State of Israel's systemic policies of incremental genocide by creating adverse conditions, not limited to environmental degradation, psychological warfare and hazardous water contamination of at least 90 % (ninety percent) of Gaza's water supply, including and related to all other aspects of life: sanitation, electricity, education and health;

AND WHEREFORE, lawfare mechanisms of holding Israeli war commanders accountable for crimes of genocide, ethnic cleansing, war crimes and crimes against humanity, are crimes recognised of the nature *hostis humanis generis* ('the enemy of all humankind'), whereby lawfare mechanisms as contemplated hereto, shall be promoted and advanced not limited to customary laws on universal jurisdiction and/or South Africa's *Implementation of the International Criminal Court Act 27 of 2002* derived from the Republic's ratification of the Rome Statute on or about 1 July 2002;

AND WHEREFORE, during Operation Protective Edge in 2014, the gravity of crimes by the IDF constitute war crimes which have been perpetrated over a civilian population living in the besieged Gaza Strip;⁶

AND WHEREFORE, the state of Israel through the IDF have gravely violated international human rights and humanitarian law in its imposed sieges and naval blockades since 2006;

AND WHEREFORE, this Act shall declare all activities relating to any South African national and/or citizen who serves in the Israeli Defence Force (IDF) unlawful and a criminal offence punishable, notwithstanding such contravention to any other laws, but not limited to the *Regulation of Foreign Military Assistance Act 15 of 1998 and /or Prohibition of Mercenary Activities Act and Regulation of Certain Activities in Country of Armed Conflict Act 27 of 2006 (to be promulgated)*;

AND WHEREFORE, the measures contained in this Act shall have broad ramifications, whereby the Republic recognises that there shall be the periodic cessation as contained in this Act of diplomatic and trade relations by the Republic of South Africa with the State of Israel, until the objective of a free and liberated Palestine is achieved and where there shall be peace, tolerance, mutual respect, understanding, protection and advancement of inalienable fundamental human rights for all affected by the conflict;

⁶ "Operation Protective Edge, The War Crimes Case Against Israel's Leaders", by [M. Thomas](#) | October 26, 2015: *Op. cit.* "In the aftermath of Protective Edge, a commission appointed by the UN Human Rights Council examined the available facts (Israel refused to cooperate) and found in many cases that war crimes may have been committed. Several NGOs have documented what they suggest were war crimes; and the chief prosecutor of the International Criminal Court (ICC) has opened a preliminary inquiry into the facts that might support such charges and warrant a formal investigation".

"Two of the core principles of international humanitarian law (or the law of war) are those of **distinction** and **proportionality**. The rule of distinction requires that, to the extent feasible, commanders and soldiers attack only combatants, and protect non-combatants and those who are hors de combat (outside the fight). The rule of proportionality prohibits attacks expected to cause loss of life or injury to civilians or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated".

AND WHEREFORE, specifically recognising and associating the inalienable right of return of displaced inter-generational Palestinians constituting both lawful under international law and the legitimate aspirations of the Palestinian people;

AND WHEREFORE, the Republic recognising the civil and political rights, economic rights and the development of a sustainable environment that is essential for the overall wellbeing of the Palestinian people and future generations;

AND WHEREFORE, the Republic of South Africa has a moral and international legal obligation since defeating the crime of apartheid to lead in the promotion, protection and advancement of international solidarity, to defend just and lawful human rights causes, and to inspire and inculcate the spirit of *'Ubuntu'* and to strive towards realising the principles enshrined in the Universal Declaration of Human Rights (UN Charter) and the constitution of the Republic of South Africa, entrenching human rights of freedom, equality, dignity, non - racialism, non – sexism, non - discrimination, peace and justice;

AND WHEREFORE, this Act recognising the inalienable universal human rights of the Palestinian people who through decades of oppression have endured their will and aspirations subjugated through institutionalised apartheid, colonialism and belligerent occupation.

BE IT THEREFORE ENACTED by Parliament of the Republic of South Africa as follows –

1. DEFINITIONS

In this Act, unless the context indicates otherwise-

- a) **“Boycotts, Divestment and Sanctions or BDS”** shall mean Boycotts, Trade Divestment and Economic Sanctions and/or any other economic resistance tool or practices utilised in solidarity with the people of Palestine aimed at the State of Israel with the purpose of implementing embargoes and/or economic trade sanctions, causing economic and financial harm and/or political unsustainability for the State of Israel to exist in its current political form;
- b) **“Boycotts”** shall mean to include, but not limited to the cessation of all forms of cultural, sporting, religious activities, environmental affairs, water and sanitation management and/or any other professional, vocational, scientific collaboration exchangeable between institutions within the State of Israel and the Republic of South Africa which support the political *status quo*;
- c) **“BTDES&LC”** shall mean the establishment of the Boycotts, Trade Divestment, Economic Sanctions and Lawfare Council;
- d) **“Companies”** shall mean all types of juristic persons, enterprises, multinational corporations including arms manufacturers, associations, partnerships proprietorships, with either its registered offices or principal place of business situated within the Republic of South Africa;

- e) **“Crimes against humanity”** shall mean the proscribed conduct defined in *the Implementation International Criminal Act 27 of 2002, SCHEDULE 1 PART 2: CRIMES AGAINST HUMANITY*;
- f) **“Educational exchanges and/or collaboration”** shall mean all kinds of academic fellowships, academic collaboration, with tertiary, artisan or trade institutions both in the State of Israel and in the occupied Palestinian Territories (OPT’s) whereby the State of Israel exerts either direct control and/or exercises undue political influence in the funding, operation and management of such institutions;
- g) **“Lawfare”** shall mean the utilisation of legitimate policy tools constituting legal mechanisms and principles of customary universal jurisdiction invoked against present and former Israeli state leaders, military commanders who either hold political, executive and/or military office with command line responsibility capable of being held justiciable accountable for the most egregious and abominable crimes perpetrated against Palestinian civilians and human rights activists for crimes constituting genocide, ethnic cleansing, war crimes and crimes against humanity akin to apartheid and torture that are perpetrated with impunity;
- h) **“PAJA”** shall mean the Promotion to Administrative Justice Act 3 of 2000;
- i) **“Persons”** shall mean either natural or juristic persons including multi-national corporations, enterprises and/or arms manufacturers;
- j) **“Siege”** shall mean restrictions and/or any other imposed economic impediments by the occupying force Israel including, *but not limited to* fishing restrictions in the Gaza Strip, blockades to entry of food, agricultural and food security products, medical supplies, building materials and/or any other essential humanitarian aid in contravention of the Geneva Conventions including restrictions imposed on the

inalienable rights to movement, access to trade and education which is detrimental to the overall health and well - being of the occupied Palestinian people.

- k) **“the Courts”** shall mean the special court/s convened and/or the High Court of South Africa as a court of competent jurisdiction within the Republic of South Africa unless otherwise indicated;
- l) **“the Criminal Procedure Act”** shall mean the *Criminal Procedure Act 51 of 1977*;
- m) **“the crime of Apartheid”** shall mean proscribed racial and/or cultural discriminatory conduct which is institutionalised falling within the ambit of body of crimes constituting crimes against humanity, that is defined in *the Implementation International Criminal Act 27 of 2002, SCHEDULE 1 PART 2: CRIMES AGAINST HUMANITY*;
- n) **“the crime of Genocide”** shall mean the proscribed conduct defined in the *Implementation of the International Criminal Court Act 27 of 2002, SCHEDULE 1 PART 1: GENOCIDE*;
- o) **“the Diplomatic Immunity and Privileges Act”** shall mean the *Diplomatic Immunity and Privileges Act 37 of 2001*;
- p) **“the Foreign Military Assistance Act”**⁷ shall mean the *Foreign Military Assistance Act 15 of 1998*; OR
- q) **“the International Criminal Court Act”** shall mean South Africa’s *Implementation of the International Criminal Court Act 27 of 2002*;

⁷ Cf. *Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act 27 of 2006*

- r) **“the Minister”** shall mean the Minister of International Relations and Co-operation duly appointed by the President of the Republic of South Africa in carrying out his official functions, duties and responsibilities, unless otherwise indicated;
- s) **“the Minister of Safety and Security”** shall mean the said Minister duly appointed by the President of the Republic of South Africa in carrying out his official functions, duties and responsibilities;
- t) **“the Minister of Justice and Constitutional Development”** shall mean the said Minister duly appointed by the President of the Republic of South Africa in carrying out his official functions, duties and responsibilities;
- u) **“the Minister of Trade and Industry”** shall mean the said Minister duly appointed by the President of the Republic of South Africa in carrying out his official functions and responsibilities;
- v) **“the Minister of Home Affairs”** shall mean the said Minister duly appointed by the President of the Republic of South Africa in carrying out his official functions, duties and responsibilities;
- w) **“the NPA”** shall mean the National Prosecuting Authority including the office of the National Director of Public Prosecutions (NDPP) and its specialised organs of state mandated by the National Prosecuting Authority Act 32 of 1998 and/or by any other applicable laws of the Republic in carrying out its prosecutorial functions, duties and responsibilities;
- x) **“the Occupied Palestinian Territories (OPT’s)”** shall mean the Gaza strip under military and naval siege and blockade by land, air, and sea imposed by the Israel Defence Force (IDF), and the Palestinian territories annexed and/or confiscated by expansion of Israeli settlements through its settlements policy held illegal under

international law with regard to UN Security Council Resolution 2334 (2016)

usurping land in contravention of the 1967 delineated borders;

- y) **“the Police Commissioner”** shall mean the duly appointed South African Police Commissioner of the South African Police Services in carrying out his respective functions, duties and responsibilities in safety and security;

- z) **“the Prohibition of Mercenary Activities Act”** shall mean the *Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act 27 of 2006*;

- aa) **“the Rome Statute”** shall mean South Africa’s signatory to the international treaty or convention and its ratification thereof and enforcement thereof on 1 July 2002, in ascribing to the principles of the charter of holding war criminals accountable under principles of codified universal jurisdiction for the most egregious proscribed crimes of genocide, war crimes and crimes against humanity;

- bb) **“the SAPS”** shall mean the South African Police Services including its specialised investigative organs of state, such as the Directorate of Priority Crimes Investigation (DIPCI) mandated in terms of the South African Police Service Act 68 of 1995 and/or any other applicable laws of the Republic in carrying out its investigative functions, duties and responsibilities;

- cc) **“UN - ESCWA”** shall mean the United Nations Economic and Social Commission for West Asia;

- dd) **“War crimes”** shall mean the constitution of proscribed crimes defined in the *Implementation of the International Criminal Court Act 27 of 2002, SCHEDULE 1 PART 3: WAR CRIMES*.

2. THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND DELEGATION OF POWERS TO THE MINISTER

- 1) The President of the Republic of South Africa shall upon coming into ***force and effect*** of this Act, where necessary delegate such powers to the Minister of International Relations and Co-operation ('the Minister') and the President shall accordingly notify in writing the relevant authorities of the State of Israel of –
 - a) The Republic's obligation to institutionalise boycotts, trade divestment and economic sanctions against the State of Israel and its associated enterprises and related entities;
 - b) The periodic cessation of diplomatic, trade and economic relations with the State of Israel within a period to be determined upon recommendations of the Boycotts, Trade Divestment, Economic Sanctions and Lawfare Council (BTDES&LC);
 - c) The Republic's intention to investigate and prosecute Israeli war criminals in accordance with –
 - i) Statutory lawfare mechanisms;
 - ii) The Republic's international criminal and customary law obligations entailing, but not limited to *inter alia*: universal jurisdiction, the Rome Statute, the Implementation of the International Criminal Court Act;
 - iii) The Republic's domestic Criminal Procedure Act and criminal justice system;
 - iv) By any other law of the Republic,
 - v) And by such obligations imposed by the Constitution of the Republic of South Africa.

3. PRESIDENT'S NOTIFICATION TO THE POLICE COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICES (SAPS) AND THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS (NDPP)

- 1) The President of the Republic of South Africa in conjunction with the Minister, shall accordingly notify the Police Commissioner of the South African Police Services and the National Director of Public Prosecutions of matters relating and incidental to –
 - a) The implementation of this Act;
 - b) The functions and duties of the requisite investigative and prosecutorial authorities of the Republic to be carried out;
 - c) The co-operation to be rendered to the investigative and prosecutorial authorities for the carrying out of their respective functions, duties and responsibilities in accordance with the provisions of this Act;
 - d) And/or any other Act where applicable.

4. CO-OPERATIVE GOVERNANCE BETWEEN THE MINISTER OF SAFETY AND SECURITY AND THE MINISTER OF HOME AFFAIRS

- 1) The Minister of Safety and Security shall together with the Minister of Home Affairs through their respective national departments mutually co-operate in establishing a special task unit acting under the powers of this Act, exercise the necessary authority to –
 - a) Alert border control and immigration authorities of the force and effect of this Act;
 - b) Implement a sustainable plan of action or strategy thereby giving force and effect to this Act;

- c) Conduct the necessary security and immigration surveillance of all persons within the Republic's competent jurisdiction travelling to and arriving from the State of Israel;
 - d) Conduct focused surveillance, reconnaissance, screening of alleged suspects and/or carry out such investigative and enforcement powers of arrest –
 - i) Upon suspects and by any such persons who are South African citizens and/or nationals contravening the provisions of the **Foreign Military Assistance Act, OR;**
 - ii) **The Prohibition of Mercenary Activities Act** (if promulgated) where applicable;
 - iii) And/or by any other law where applicable;
 - e) Conduct focused surveillance, reconnaissance, screening of alleged suspects and/or carry out such investigative and enforcement powers of arrest –
 - i) In relation to South African citizens and/or nationals travelling to the State of Israel to serve in the Israeli Defence Force (IDF)-
 - ii) And/or serving in any other Israeli military unit or military command structure;
 - iii) And/or in the Israeli Security Police Forces.
- 2) The provisions of section 4 (1) and its sub-provisions shall apply to those persons who are protecting and advancing the *status quo* of belligerent military occupation, including *but not limited to* the perpetration of war crimes, crimes against humanity akin to *torture, apartheid and colonialism* practises which are unlawful under international law and international humanitarian law but are perpetrated by the state of Israel through its armed forces against Palestinians living under belligerent occupation.

5. INVESTIGATION AND ENFORCEMENT

The requisite authorities of the South African Police Services and the National Prosecuting Authority and its specialised organs of state, being namely the Directorate of Priority Crimes Investigation Unit ('DIPCI') of the South African Police Services and the Directorate of Priority Crimes Litigation Unit ('PCLU') of the National Director of Public Prosecutions, shall exercise their competent powers and responsibilities which are prescribed in this Act, and/or in any other Act of the Republic, in enforcing the provisions of this Act, which shall entail, *inter alia*-

1) **Investigations** falling within the competency of this Act and the Implementation of the International Criminal Court Act and/or under customary principles of universal jurisdiction and/or Lawfare and/or under any other law -

- a) For alleged crimes perpetrated by such persons, or
- b) By those under whose authority the conduct manifested by such state officials within the Israeli State apparatus and Israeli Defence Force carrying out systemic policies constituting genocide, incremental genocide, ethnic cleansing, war crimes and crimes against humanity akin to torture apartheid and colonial practices;

2) **Prosecutions** falling within the competency of this Act and the Implementation of the International Criminal Court Act and/or under customary principles of universal jurisdiction and/or Lawfare and/or under any other law -

- a) For alleged crimes perpetrated by such persons,
- b) By those under whose authority the conduct manifested by such state officials within the Israeli State apparatus and Israeli Defence Force carrying out systemic policies constituting genocide, incremental genocide,

ethnic cleansing, war crimes and crimes against humanity akin to torture apartheid and colonial practices;

- 3) The requisite courts acting within their jurisdictional criminal competency shall adjudicate on such matters to be prosecuted and/or as contemplated in the International Criminal Court Act, unless otherwise indicated and/or where a special court of competent jurisdiction equivalent to a high court of the Republic may be established by the Minister of Justice and Constitutional Development;
- 4) **Notwithstanding any other law, the special Court to be established, alternatively the High Court shall have the following powers in exercising jurisdiction upon application and/or institution of legal proceedings-**
 - a) To interdict any form of trade and/or such commercial activities by South African and foreign based companies, multinational corporations within the Courts jurisdiction from trading with commercial entities in Israel;
 - b) To set aside any commercial trade agreements with the State of Israel which are concluded contrary to the purport of this Act;
 - c) To set aside any cultural, sporting, religious and/or other collaborative boycotting activity as defined which is contrary to the purport of the Act;
 - d) To review any bilateral or regional trade agreement which may be in contravention of the purport of this Act;
 - e) To review any decision of the National Director of Public Prosecutions not to prosecute alleged war criminals and/or on upon any other grounds in contravention of PAJA;
 - f) To issue provisional warrants of arrest for accused persons in pursuit of investigations as the court may direct and/or deem necessary; and

g) To interdict accused persons from leaving the Republic pending an investigation as contemplated in the Act.

5) The Minister of Safety and Security and the Minister of Justice and Constitutional Development must promulgate the necessary regulations where necessary, in order for the relevant authorities and courts to carry out its functions and duties herein.

6. **THE MINISTER OF TRADE AND INDUSTRY AND HIS DUTIES RELATED TO BOYCOTTS, TRADE DIVESTMENT AND ECONOMIC SANCTIONS**

1) The Minister of Trade and Industry shall be vested with powers together with the Minister as provided for in the Act, whereby the delegated and/or assigned powers shall be conferred to the Department of Trade and Industry in carrying out all functions, duties and responsibilities relating to-

- a) The implementation of boycotts where applicable;
- b) Trade divestment, and
- c) Economic sanctions against the State of Israel.

2) The Department of Trade and Industry shall be conferred with the implementation of boycotts, trade divestment and economic sanctions extending beyond any existing trade restrictions and regulations in the Republic pertaining to the labelling of goods and/or products imported from the State of Israel which originate from the occupied Palestinian territories.

7. BOYCOTTS, TRADE DIVESTMENT, ECONOMIC SANCTIONS AND LAWFARE COUNCIL (BTDES&LC)

The Minister shall be authorised to establish a Boycotts, Trade Divestment, Economic Sanctions and Lawfare Council to be constituted within *120 (One Hundred and Twenty)* days or by any such extended period to be determined by the Minister calculated from the date of enforcement of this Act -

- 1) Consisting of at least 15 (*Fifteen*) members that are proportionally representative from Government across various state ministries and departments which are affected by this Act, that is including, *but not limited to* determination from time to time by the Minister, the Ministry of Trade and Industry, the Ministry of Safety and Security, the Ministry of Justice and Constitutional Development, the Ministry of Energy, the Ministry of Environmental Affairs, the Ministry of Water and Sanitation, the Ministry of Defence and the Ministry of Arts and Culture;
- 2) Consisting of at least 15 (*Fifteen*) members proportionally representative from civil society, non - governmental organisations (NGO's) including Palestinian and Rights based solidarity organisations, economists and members of commercial standing operating within the private sector;
- 3) Consisting of at least 9 (*Nine*) members from the attorneys and advocates profession practising in the fields of constitutional law, human rights, international trade law, international law, international humanitarian law, international criminal law, universal jurisdiction and/or Lawfare of not less than 10 (ten) years professional experience whereby they shall exercise their functions together with members described in *section 7(1) and 7(2) respectively*;
- 4) To constitute a Boycotts, Trade Divestments and Economic Sanctions and Lawfare Council –

- a) To advise, inform and give opinion of prevailing Lawfare mechanisms and conditions and its applicability in implementation of this Act;
- b) To advise and inform upon the impact with regard to cessation of diplomatic and political relations;
- c) To advise and inform on the revocation, cancellation and/or cessation of regional, bilateral and/or plurilateral trade and economic agreements between the Republic and the State of Israel;
- d) To conduct a risk analysis and to advise and inform upon the historical, current and projected arms and munitions trade between South African based companies, whereby –
 - i) Such arms manufacturers are wholly owned and/or majority owned in the Republic, or
 - ii) By multinational enterprises operating within the Republic conducting arms and munitions trade with the State of Israel;
- e) To assess and minimise the economic impacts caused to the Republic and to communicate and periodically inform upon findings of the work of this Council to both the Minister and international trade organisations like the World Trade Organisation (WTO) and international body institutions such as the United Nations (UN) through the office of the Secretary General of the UN accordingly;
- f) To advise and inform on the risk analysis for the implementation of state institutionalised boycotts as defined;
- g) The carrying out of an economic risk analysis and to provide for suitable alternative international commercial trade and regional partners;
- h) To assist in regularising the provisions of this Act and assist with the implementation of the cessation of economic and trade relations against the State of Israel;
- i) Create and ensure a constitutionally enabling environment to harness, promote and advance co-operative governance between various Ministries

and Departments and harness overall efficiency in giving effect to the provisions of this Act;

j) Assist and prepare where necessary transitional regulations in conjunction with the Minister.

5) The work of the Boycotts, Trade Divestment, Economic Sanctions and Lawfare Council (BTDES&LC) together with such reports and findings described above shall be periodically reported to the said Minister for said review.

8. THE FAIR ADMINISTRATION OF JUSTICE

1) Any party whose rights are affected by State institutions as contemplated hereto shall be –

- a) Afforded just administrative action;
- b) Afforded administrative rights which are procedurally fair;
- c) Consistent with administrative rights contained in the constitution of the Republic of South Africa;
- d) Provided with written reasons;
- e) In accordance with the provisions contained in the Promotion to Administrative Justice Act 3 of 2000; or
- f) With any other law of the Republic.

9. PROMULGATION OF REGULATIONS

The Minister shall promulgate regulations to give force and effect to the provisions of this act, whereby -

1) These regulations shall be promulgated no later than 90 (*Ninety*) days of coming into force and effect of this Act;

- 2) The object and purpose of the preamble shall necessitate for the expeditious execution of the provisions of this Act.

10. OFFENCES AND PENALTIES

Any persons who contravene any provisions hereto, notwithstanding any other laws of the Republic shall be found guilty of a criminal offence punishable with-

- 1) A fine for a natural person of not less than *R 100 000-00 (One Hundred Thousand Rands)* and/or imprisonment of 3 *(Three) years*;
- 2) A juristic person of a fine of not less than *R 300 000-00 (Three Hundred Thousand Rands)* and/or imprisonment of its incumbent directors and /or office bearers of 3 *(Three) years*;
- 3) Notwithstanding the aforesaid, arms manufacturers found guilty shall be imposed with a fine to be determined by the Minister and such arms manufacturing license/s shall be consequently revoked with immediate effect;
- 4) The aforesaid penalties may be amended from time to time by the Minister by means of publication in the Government Gazette after consultation with the Boycotts, Trade Divestments, Economic Sanctions and Lawfare Council (BTDES&LC);
- 5) Companies, juristic persons, businesses enterprises, and/or multinational corporations who are found guilty of breaching the provisions of this Act, by trading and/or by any other means of commercially associated transactions or otherwise in contravention of this Act, with the State of Israel shall be-
 - a) Suspended for a period of one (1) year and/or;

- b) Interdicted from trading and/or conducting such business activities with the State of Israel or in the OPT's, where such companies are either operating within the Republic, or have its principal place of business or its registered office within the Republic.
- 6) All sporting, cultural, religious activities, educational, environmental, water and sanitation management, academic or scientific collaboration and/or exchanges based upon the recommendations of the Boycotts, Divestment, Sanctions and Lawfare Council promulgated by the Minister as defined boycott activities, shall be required to cease within the prescribed period to be determined.

11. TRANSITIONARY REGULATIONS

- 1) The Minister shall in consultation with the BTDES&LC in section 7(4)(j), draft regulations relating to –
- a) Any matter which is required or permitted in terms of the Act to be prescribed;
 - b) Implement any transitional regulations required in order to give effect to this Act, and
 - c) Any other matter, incidental or otherwise which may be necessary for the application of the Act.

12. CO-OPERATIVE GOVERNANCE

- 1) The implementation of this Act shall fall within the exclusive capacity of the Minister, but in so far as other Ministries are affected -
- a) The Minister shall exercise his functions and duties in the spirit of co-operative and inter-ministerial governance;

- b) Carry out his responsibilities after mutual consultation with the various Ministries in whose area of scope and competence such functions and duties may fall, and
- c) Subject to the provisions of enforcement in *section 5* where applicable.

13. DIPLOMATIC IMMUNITY AND PRIVILEGES

- 1) The provisions of the Diplomatic Immunities and Privileges Act shall-
 - a) Not apply to any state officials from the State of Israel whereby jurisdictional requirements are met for the investigation and/or prosecution of such state officials for crimes contemplated hereto, and
 - b) Which falls within the ambit of the *South Africa's Implementation of the International Criminal Court Act 27 of 2002* and South Africa's obligations under customary universal jurisdiction and the provisions contained hereto.

14. SHORT TITLE OF THE ACT

This Act shall be called *South Africa's Implementation and Protection of Palestinian Solidarity Rights Act (Bill) 2017 ('SA's IPPSRA CITIZENS BILL')* and shall come into operation on a date fixed by the President of the Republic of South Africa by proclamation in the Government Gazette.