Submission
to the United Nations Working Group on the use of mercenaries regarding the role of private military and security companies in immigration and border management and the impact on the protection of the rights of all migrants

by: Palestinian Grassroots Stop the Wall Campaign (Stop the Wall)

In this submission we would like to raise the issue of the use of paradigms, methodologies and technologies being applied in migration and border management across the globe through cooperation and contracts with Israel's private military and security companies. Israel's largest private military company, Elbit Systems, and Israel's construction of walls and the use of their paradigms, methodologies and technologies in the US and EU border and migration management serve here as case studies.

The specific concern in this regard stems from the fact that in these cases paradigms, methodologies and technologies from the military field are used to 'confront' civilians. This not only shapes a security narrative that is inherently violating human rights but shapes a practice that transforms a space in which vulnerable civilians should be protected into a space where a state apparently defends itself from 'enemies' or 'potentially dangerous elements'. This leads to the violation of a number of obligations of states in front of migrants and refugees.

Further, most of these paradigms, methodologies and technologies are themselves developed for or within a context of systematic violations of human rights and composite breaches of international law, including violations of the laws of war and occupation. The resulting systematic human rights violations in border and migration management are inevitable.

We will show not only Elbit Systems’ complicity but direct involvement in the human rights violations committed against migrants.

We argue that the use of Israeli private military and security companies and their paradigms, methodologies and technologies are a case that proves the tendency of states to disenfranchise migrants and refugees as well as people in the border areas from fundamental rights bestowed upon them.

We further argue that paradigms, methodologies and technologies are never ‘neutral’ and their origin and context have to be taken into consideration.

States are in violation of their obligation reaffirmed by the 2004 Advisory Opinion of the International Court of Justice not to aid or abet or recognize Israel's breaches of international law when they aid the sustainability of these violations by adopting and buying the same Israeli methods and technologies developed to implement these breaches. By doing so, they equip themselves with the tools to commit themselves violations of human rights.

It is therefore fundamental that States exclude from contracts related to immigration and border management Israeli companies and in general all military companies as well as all paradigms, methodologies and technologies that are developed within the framework of grave violations of international law.

Migration and borders are spaces of protection not of war and aggression.
I) Palestine – the testing ground

1) The Walls

Walls have become today reality at over 70 borders across the globe and almost all of them come with a long list of human rights violations and innumerous deaths.¹

Until Israel started in 2002 to build its 800km long wall inside the occupied West Bank such infrastructures had been still largely a taboo. At the time of its construction it sparked outrage. Not being built along an internationally recognized border but inside occupied territory, it has been deemed illegal by the International Court of Justice in its 2004 Advisory Opinion². The verdict further reminded the international community that:

- All States are under an obligation not to recognize the illegal situation resulting from the construction of the Wall and not to render aid or assistance in maintaining the situation created by such construction and its associated regime;
- All High Contracting Parties (HCPs) to the Fourth Geneva Convention have an additional obligation to respect and ensure Israel’s and other States’ compliance with international humanitarian law as embodied in that Convention;
- The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the Wall and the associated régime.

Ten years later, a joint letter by 92 legal experts and 41 legal networks and organizations has concluded that based on this decision and subsequent findings of UN Special Rapporteurs and UN bodies States and public entities “are under self-executing obligations to cooperate in taking the following measures: 1. Terminate all funding, contracts or other economic and institutional relations with actors enabling, supporting or encouraging the continuation of Israeli violations of international law. To this end, investigations must consider the fungibility of financial trails, products and technology transfer. [...]”³

This evidences not only the illegality of the Wall in the occupied West Bank but the obligations of States not to recognize, aid or assist – let alone imitate – it. It further points to the fact that contracts with the companies directly involved in the construction of Israel’s wall, such as Elbit Systems, are in itself a breach of self-executing obligations.

Israel’s 2002 construction of the Wall in the occupied West Bank only follows the construction of a wall surrounding Gaza in 1996. This wall today is a crucial element in the implementation of the inhumane siege on Gaza⁴. Israel has later built other walls on the border to Egypt, in the occupied Golan Heights and at the border to Lebanon.

2) Focus on Elbit Systems

Walls:

InvestiGate, a project of the Amerian Friends Service Committee (AFSC), points out that “Because of Israel's extensive experience in building separation and border walls, Elbit Systems has become

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1  https://book.stopthewall.org/editorial-words/
4  https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf
a world leader in border monitoring and surveillance technologies, colloquially referred to as “smart” or “virtual” walls.\(^5\)

Elbit Systems has been a main contractor for Israel's walls:

- In 2002, the year Israel began construction of the Wall, Elbit Systems' subsidiary Ortek was awarded a $5 million contract to electronically secure 15 miles of the wall around Jerusalem. In 2006, Ortek won a $17 million contract to secure additional segments of the wall. The system comprises a fence equipped with LORROS devices, which integrate day and night-time cameras with a laser rangefinder. The information from all the sensors flows to a command and control system called Torch, which the company developed specifically for the Israeli military's Digital Army Program and has since marketed to other militaries and security forces around the world.\(^6\)

- In 2015, Elbit started developing tunnel detection technology to be deployed around the Gaza Strip. In 2017, Israel began building a new wall around Gaza and Elbit is the lead contractor for the “smart” components of this new wall, and received the Israel Defense Award for the development of the system.\(^7\)

- In 2013, Elbit installed its system in the occupied Golan Heights along the Syrian border for a $60 million contract.\(^8\)

**Wall related technology:**

Elbit Systems has also developed surveillance and patrolling technology to be used along the walls. In 2008, a joint venture of Elbit and Israel Aerospace Industries unveiled the Guardium Unmanned Ground Vehicle (UGV) - a semi-autonomous, armed border patrol robot. The Israeli military has deployed the Guardium along the borders around the Gaza Strip and in the occupied Golan Heights. More recently, Elbit developed the Segev UGV – a Ford F-350 truck converted into an armored and armed vehicle which can be driven remotely or operate completely autonomously. The Israeli military began deploying the Segev in 2016.\(^9\)

Elbit is also a contractor for the biometric identification system used at Israel's illegal checkpoints. In 2002, Elbit was contracted to design and implement the Rotem System for Israel's borders, and was later contracted to add the Reut System for controlling Palestinians at Israeli military checkpoints in the West Bank and Gaza. The Rotem-Reut System was deployed in 2006 and has been operational ever since, with Elbit Systems serving as its main contractor.\(^10\)

**Drones**

Elbit Systems provides 85% of the drones used by the Israeli military and has developed a number of drones, including the Skylark drones and the medium-altitude long-endurance Hermes drones.

The Hermes 900 has been developed specifically for the needs of the Israeli army to keep Gaza under the current inhumane siege. The Hermes 900 is a larger and more advanced version of the Hermes 450 that was used by the Israeli army to deliberately target civilians in Gaza during Israel's 2008-2009 onslaught, according to Human Rights Watch. DroneWatch reports a Hermes drone has as well been involved in the killing of the four boys from the Bakr family while playing at the beach during Israel's military assault on Gaza in 2014. Elbit drones were also used to kill civilians in Israel's war on Lebanon in 2006, including Red Cross workers, ambulance drivers and dozens of people fleeing their homes for refuge from relentless Israeli bombardment.\(^11\)

\(^5\) [https://investigate.afsc.org/company/elbit-systems](https://investigate.afsc.org/company/elbit-systems)

\(^6\) Ibid.

\(^7\) Ibid.

\(^8\) [https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf](https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf)

\(^9\) [https://investigate.afsc.org/company/elbit-systems](https://investigate.afsc.org/company/elbit-systems)

\(^10\) Ibid.

\(^11\) [https://www.stopthewall.org/sites/default/files/StopIsraeliKillerDrones_0.pdf](https://www.stopthewall.org/sites/default/files/StopIsraeliKillerDrones_0.pdf)
II) Israeli private military and security companies shaping border and migration paradigms

We are providing here 2 case studies to showcase how Elbit Systems promotes, profits from and implements the same paradigms and methods developed for and during Israel's breaches of international law and violations of human rights.

1) US border management – the lobbying of Elbit Systems to promote the Wall and its experience

The argument by US President Donald Trump in a phone call with then Mexican President Enrique Pena Nieto that “Bibi Netanyahu told me the wall works” summarizes a more complex reality of transfer of paradigms and technology from Israel's illegal projects and human rights violating methods to the US border management.

Only three years after Israel had started building its wall, the US under President George W. Bush passed its Secure Fence Act in order to build over 1350 km of wall and contracted, not by chance, Israel’s foremost wall building military company Elbit Systems to provide the hi-tech solutions. (For details see below.)

Elbit Systems has been since long present in the US and part of the rising border security industrial complex, made up mainly of military companies. These corporations, including Elbit Systems, have consistently lobbied US officials and made campaign contributions in an effort to expand CBP contracts and promote their ‘solutions’.

Its expertise in walls was and stays one of the key selling points for Elbit Systems. As Todd Miller points out, “when vying for the border contract in the United States, the company advertised itself as having ‘10+ years securing the world’s most challenging borders’ and that it had a ‘proven track record’ “.

Beyond the sales arguments, Elbit has a policy of campaign contributions and has, for instance, funded Republican congresswoman Kay Granger of Texas. She received during the 2017–2018 election cycle $14,000 in campaign contributions from Elbit Systems. Granger is today a ranking member of the House Appropriations Committee which allocates border militarization funding. One of Granger’s press releases states that “As the top Republican on the Appropriations Committee, Granger has fought tirelessly to support President Donald Trump’s efforts to provide meaningful border security, including $2.75 billion over the past two years to build a physical barrier along the border.”

14 Focusing in on CBP contracts –the largest government contractor in border and immigration control – the report “More than a Wall” identifies 14 main companies in the US border security business, among them Elbit Systems. https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf
15 https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf
16 For a full list of Congress Members that received campaign contributions from Elbit see: https://www.codepink.org/stopelbit
Todd Miller’s report concludes that “The constant push for more border walls, more technologies, more incarceration, more criminalization is in a holding pattern, stuck in a corporate dynamic with a growth doctrine”.18

2) Europe – a lobby for human rights violating technology, beyond walls

As the numbers of migrants reaching Europe’s borders were increasing in 2015, Bulgaria and Hungary announced projects for walls and of buying Israeli-designed border fences. Though both countries, like most others in Europe, eventually chose local construction companies for building the border fences, the experiences of Israel were used as an inspiration.19

Yet, Elbit Systems and other Israeli corporations have been successful in promoting their methods and technology in the field of high-tech surveillance and have participated in several projects of the EU Research and Development Programs FP7 and Horizon 2020.

Not only Elbit has a habit of promoting their experience in the violation of Palestinian human rights in front of potential clients. Saar Koush, then CEO of Magal Security, another company that built the wall in the West Bank, said: ‘Anybody can give you a very nice Powerpoint, but few can show you such a complex project as Gaza that is constantly battle-tested.’ RB Tec Electronic Security Systems from Israel, which was selected by Frontex to participate in its April 2014 workshop on ‘Border Surveillance Sensors and Platforms’, boasted in its application mail that its “technologies, solutions and products are installed on Israeli-Palestinian border”.20

Elbit Systems in particular participated in various EU funded research project applying the technology it had developed for illegal operations in the West Bank and for the military aggressions on Gaza.21 Among others, it participated in FlySec - Optimising time-to-FLY and enhancing airport SECURITY22. This project financed under the EU research program Horizon 2020 was coordinated by the National Centre for Scientific research “Demokritos” and included Elbit Systems Ltd and Israel's EMZA Visual Sense Ltd, another Israeli company that works closely with Israel's military.23 Elbit System's knowhow developed for the Rotem-Reut System used at the illegal checkpoints in the West Bank (see above) mus have been a stimulus and an asset to the project objectives of building biometric data processing technology for passage points.

Such projects are particularly worrisome at a moment when the EU legal framework on data protection and use of biometric technology, such as facial recognition is far behind the needed requirements and Israeli companies, such as AnyVision24 are embroiled in a number of pricacy scandals.

The European Union is currently financing a project to develop a method to assess risks of such technologies to “provide important information for decision makers in form of potential risks, mitigation measures and guidelines, in order to drive the innovation and deployment of future solutions by industry and border authorities”. It is shocking to see that the Israeli Ministry of Public Security is participating in the project as the only non-European country.25

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18 https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf
19 https://www.reuters.com/article/us-europe-migrants-israel-fences-idUSKCN0R31GE20150903
22 https://cordis.europa.eu/project/rcn/194906/en
25 https://cordis.europa.eu/project/id/787123/es
III) Elbit technology in action

1) The US-Mexico border Wall

The Wall at the US-Mexico border started in 2006 after the passing of the Secure Fence Act. Elbit participated since the beginning with its surveillance technology in the project and is involved in severe violations of the rights of the Tohono O’odham Nation, on whose lands the surveillance towers connected with the Wall project are built.

In 2006, Elbit participated as a subcontractor in the Secure Border Initiative Network (SBInet), a program of the US Department of Homeland Security aimed at creating an integrated system for monitoring the U.S. land borders with Mexico and Canada. Kollsman, a subsidiary of Elbit America, was chosen to provide 300 surveillance towers. These Integrated Fixed Towers (IFT), are 80 to 160 foot tall structures and equipped with day/night cameras and a radar that can identify people 7.5 miles away. All the towers then send the data to a remote command and control center system called TORCH, which Elbit had developed initially for Israel's separation wall in the West Bank.26

While the SBInet program was cancelled in 2011, Elbit's surveillance towers have continued to grow. Well aware of the human rights violations involved in the construction of its towers, in 2014 bid for a new contract and CBP contracted Elbit for $145 million to place more IFTs along Arizona's border with Mexico as part of the Arizona Border Surveillance Technology Plan.27

When the 2014 contract for Elbit System was announced, the late US senator John McCain – who had received a campaign contribution from Elbit Systems during the 2013–2014 election cycle – said “Arizonans have been waiting more than a decade for the Department of Homeland Security to place needed technology along our border to support the Border Patrol and fully secure our southern border”.28

Nothing further from the truth. The Tohono O'odham Nation who lives on the land where the towers are being built has fought and continues to resist the towers adamantly as they violate their rights to the land, are built partially on sacred land,29 violate their right to privacy and constitutes a “great incursion on the sovereignty of the O’odham”30.

Resistance by the Tohono O’odham Nation to Elbit's Integrated Fixed Towers delayed their construction for five years. As of October 2017, Elbit had installed only 15 out of the 53 towers planned in Arizona, in the areas of Douglas, Nogales, and Sonora. Nevertheless, in 2017 CBP contracted Elbit to install the same system in Texas.31 and in March 2019 the legislative council approved the IFTs. Now, what CBP calls the ‘backbone’ of the virtual wall will be completed in Arizona over the next few years.32 By August 2019 Elbit had already installed 55 of these towers33 but the struggle of the Tohono O'odham is ongoing.34

26 https://investigate.afsc.org/company/elbit-systems
27 Ibid.
28 https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf
29 https://bsnorrell.blogspot.com/2015/09/us-israeli-pact-targets-traditional.html
31 https://investigate.afsc.org/company/elbit-systems
32 https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf
Beyond the surveillance towers, CBP began to test and implement unmanned aerial-vehicle systems. The first ones tested in 2004 were Elbit’s Hermes drones, which the company had developed for the Israeli Defense Forces. The President of Elbit Systems, Tim Taylor, commented at the time: ‘We are pleased to be supporting this important effort by providing this valuable technology and operating expertise to help the Department of Homeland Security detect and respond to border incidents. Our corporation brings extensive experience in the use of UAVs [unmanned aerial vehicles] and associated security systems specifically designed for border protection and we believe that the UAVs will become an integral and successful part of the homeland security front’. 

As another accessory to the ‘virtual wall’ of the surveillance towers, Elbit is currently marketing to the CBP the small scale, remotely operated trucks it has developed to fortify the siege on Gaza and to patrol the occupied Syrian Golan Heights. (See above). An Intercept article reveals how in a promotional event lead by Joel Friederich, Elbit Systems of America’s vice president of public safety and homeland security, the company advertised a “pick-up truck that can be remotely operated with a surveillance tower and 6-mile camera range is also able to feed data to TORCH in case someone ducks behind a mountain or into a ravine.”

1) The use of Elbit drones by the European Union Coast Guard Agencies

While Israeli companies where not able to gain contracts for Europe’s physical walls, drones (UAVs) have been one of the most successful export products.

Since 2018, €63,750,000.00 of EU public money has been used to directly finance and fuel Israel’s military companies as the EU Coast Guard Agencies, Frontex and European Maritime Safety Agency (EMSA), further militarize European borders and the Mediterranean with the surveillance and military technology Israel has developed and tested in the brutal assaults on Gaza.

In 2018, Frontex spent 4.750.000,00 Euros to test the Heron 1 military drone, built by Israel’s public military company Israeli Aerospace Industries, for 600 flight hours. The drones were tested for maritime border surveillance in the Mediterranean Sea in Greece and in Italy, where Frontex cooperated with the Italian Ministry of Interior under the far right, anti-migration leader Matteo Salvini. This test came at 7,916.67 Euros per flight hour.

In November 2018, EMSA has awarded Elbit Systems a 2 years contract to lease Hermes 900 drones. The contract sees the Portuguese contractor CEiiA as the intermediary between Elbit and EMSA and has two single year option periods with a total value of €59 million. The Hermes drones are being used within the framework of the EU’s anti-migration policies, implemented in cooperation between EMSA, FRONTEX and EFCA (European Fisheries Control Agency). The drones are used to support the Frontex deployment in Greece until March 31 2020.

Drones are an effective way to elude the EU’s obligation under international law to save the lives of migrants trying to cross the Mediterranean. According to a report in The Guardian: “There is no obligation for drones to be equipped with life-saving appliances and to conduct rescue operations,”

said a German Green party MEP, Erik Marquardt. ‘You need ships for that, and ships are exactly what there is a lack of at the moment.’

By August 2019 the death rate for people attempting to cross the Mediterranean had risen from a historical average of 2% to as high as 14%. In total, 567 of the estimated 8,362 people who have attempted the crossing in the first six months of the year had died. Gabriele Iacovino, director of one of Italy’s leading think-tanks, the Centre for International Studies, said the move into drones was ‘a way to spend money without having the responsibility to save lives’. Aerial surveillance without ships in the water was about avoiding embarrassing political rows in Europe over what to do with rescued migrants.

The start of using the Elbit medium-altitude long-endurance drones is part of a European policy to substitute vessels and its own rescue operations with manned or unmanned aircraft that has become “the eyes and ears of a Libyan interception force.” Instead of rescuing migrants, the European Coast Guard now monitors the Mediterranean from the air and informs Libyan forces about their location so that, in the cases in which Libyan forces are able to reach the location, they may take the refugees back to Libya.

This policy started with the end of Operation Mare Nostrum on October 31 2014 and violates a number of legal obligations of the European Union. This includes the obligation of non-refoulement to an unsafe country. As a recent article in The Guardian reports:

“The UN refugee agency’s special envoy for the central Mediterranean, Vincent Cochetel, said nobody in the international community could pretend they did not understand how dangerous Libya had become.

“Under these circumstances, he said, “no asset of a third country – naval, aerial or intelligence – should be used to facilitate return from international waters to Libya.”

“The main connection between European air surveillance and Libyan interceptions at sea is still the rescue coordination centre in Rome. According to two German legal professors, Anuscheh Farahat and Nora Markard, this makes Italy responsible for internationally wrongful acts, “namely where it violates its obligations under the international law of the sea to make sure a rescue operation leads to a delivery to a place of safety.”

Elbit Systems is not only providing its equipment to this known human rights violating policy. The company is personally present in the planning meetings of the operations as a freedom of information request reveals.

A campaign to stop the use of Elbit’s drones by EMSA/Frontex has started last November.

Note: We would like to thank Todd Miller for his report “More than a Wall - Corporate Profiteering and the Militarization of US Borders” (2019) and Mark Akkerman for his contribution to the World without Walls reader “The policies and industry behind the European walls” (2019). We have drawn substantially from both texts to enrich our own research.

41 Ibid.
46 https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf