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**Human rights situation in Palestine and other
occupied Arab territories**

Written statement* submitted by The Palestinian Return Centre Ltd, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.


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Calling for the release of the business and Human Rights database pursuant Human Rights Council Resolution 31/36

Israeli settlements in the Occupied Palestinian Territories (OPT) have been a contentious issue since 1967. Their illegality under international law has been expressed in more than one occasion by the United Nations, NGOs, civil society and international actors. The Fourth Geneva Convention clearly states that: '[t]he Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies',¹ and also that 'Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive'.²

The transfer of civilian population to the occupied territory from the Occupying Power is also considered a war crime under the Rome Statute of the International Criminal Court (ICC).³ Moreover, the occupied land is subject to the laws of usufruct according to The Hague regulations; therefore 'all the public buildings, real estate, forests, and agricultural estates' must be safeguarded and administered 'in accordance with the rules of usufruct' except when necessary for military operations.⁴

Furthermore, in international law, occupation is regarded as temporary. During this time, the Occupying Power is bound to 'ensure the protection, security, and welfare of the people living under occupation and to guarantee that they can live as normal a life as possible, in accordance with their own laws, culture, and traditions'.⁵

The Israeli settlement economy violates all of the above. The transfer of Israeli civilians in the OPT violates the Fourth Geneva Convention. As the settlements are not temporary and do not serve any security purpose, their existence also violates the Hague regulations. The construction of settlements is a further appropriation and destruction of Palestinian private and public property.⁶ Israeli settlements can be considered a part of the Israeli aim of building a Jewish demographic majority in the occupied Palestinian territories and East Jerusalem.

Israel's settlement policy is one of the main driving forces behind the mass human rights violations resulting from the occupation. These violations include: violations of the rights to liberty, violations of the rights to equality and non-discrimination, violations of the right to adequate housing, violations of the right to freedom of movement and violations of the right to earn a decent living through work.⁷

The establishment of civilian settlements, which entails the militarily unjustified appropriation and destruction of private property, is tantamount to a war crime. Aiding in any way, participating in, assisting or encouraging the settlement of civilian population renders the other party complicit and therefore prosecutable for complicity in war crimes.⁸ Consequently, businesses carrying out their activities into illegal settlements could be accounted as accomplices in the perpetration of war crimes.⁹

¹ IV Geneva Convention, Art. 49, para. 6.

² IV Geneva Convention, Art. 49, para. 1.

³ Rome Statute of the International Criminal Court. Art. 8(viii).

⁴ The Hague, Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. October 1907. Art. 55.

⁵ ICRC, West Bank: Israel must abide by International Humanitarian Law. Available at: <https://www.icrc.org/en/document/west-bank-israel-must-abide-international-humanitarian-law>.

⁶ Amnesty International, Destination: Occupation. Available at: https://www.amnesty.org.uk/files/2019-01/Destination_Occupation_RReport_2019.pdf?5n3OWgSDNtOVOn9JhQ311L_JUpQvBUvI=.

⁷ Ibid.

⁸ Report of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, Corporate Complicity & Legal Accountability: Volume 1, pp. 21-23.

⁹ ICRC, Practice Relating to Rule 130. Transfer of Own Civilian Population into Occupied Territory. Available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule130.

Businesses in Israeli settlements

The Human Rights Council (HRC) mandated in 2012 an 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'.¹⁰ The report of the mission states that due to the existence of the settlements, multiple human rights of the Palestinians are violated in various forms and ways. The violations are interrelated and they lead to recurrent systemic discrimination. Following these findings, an HRC resolution mandated the UN High Commissioner for Human Rights (OHCHR) to draft a database listing all businesses operating inside the Israeli settlements so that they could either rectify or cease their activities according to the UN regulations.¹¹

The UN Guiding Principles on Business and Human Rights (UNGPs) apply to all states and business activities. The UNGPs call on businesses to comply with the existing law and to act within the respect and protection of human rights.

'Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved'.¹²

The activity of businesses in the Israeli settlements is not in line with the UN guidelines. As Israeli settlements are illegal under international law and as their existence is tightly linked to a wide range of human rights abuses, the only presence of businesses sustaining their economy and allowing the settlements to exist endangers the rights of the Palestinians. The existence and proliferation of the settlements leads to an increased Israeli military presence around them and to the mushrooming of checkpoints; all factors that limit the freedom of movement of the Palestinians.¹³ The existence of businesses, job opportunities and a thriving economy in Israeli settlements renders them appealing places for Israelis to move and, at the same time, facilitates the Israeli government in its attempts to push people to move there. However, the more people move to the settlements, the bigger the profit for businesses and the more the settlement will flourish, normalising this illegal economy in which human right violations are embedded.

The high rate of unemployment in the rest of the region leads Palestinians to look for work opportunities in the Israeli settlements. However, Palestinian workers in settlements face systematic human rights violations, legal and economic discrimination. For instance, Israelis are subject to Israeli Civil law whereas Palestinians are subject to Israeli Military Law and therefore face harsher sentences and are often denied a fair trial. Economic discrimination is also a daily occurrence as Palestinian wages are generally much lower than Israeli's. This instance makes the settlements extremely appealing for foreign investors as the combination of unemployment in the West Bank, necessity to work and low salaries are synonym of cheap and available labour.¹⁴

The database listing the businesses operating in Israeli settlements has been produced and in 2018 the OHCHR announced that it had individuated 206 businesses carrying out economic

¹⁰ OHCHR, International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/IsraeliSettlementsInTheOPT.aspx>.

¹¹ OHCHR, Database Pursuant Human Rights Council Resolution 31/36. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Pages/DatabaseHRC3136.aspx>.

¹² UN Guiding Principles on Business and Human Rights, part II (A(11)). Available at: https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf.

¹³ HRW, Bed and Breakfast on Stolen Land: *Tourist Rental Listings in West Bank Settlements*. Available at: <https://www.hrw.org/report/2018/11/20/bed-and-breakfast-stolen-land/tourist-rental-listings-west-bank-settlements>.

¹⁴ Worker's Hotline, Palestinian Workers in the West Bank Settlements. Available at: <https://www.kavlaoved.org.il/en/palestinian-workers-in-the-west-bank-settlements/>.

activities inside the occupied territories. However, the deadline for its publication has been postponed to a date yet to be defined.¹⁵

The database has been defined by Israel and the US as a 'blacklist' that will encourage the boycott of Israeli entities. However, the database is not merely a tool to 'shame offenders into compliance' but rather a 'soft power enforcement mechanism' that will be useful for states and businesses in the future and that could allow the monitoring of activities in high-risk business environments. With the publication of the database businesses will be able to address and rectify their business ethics and provide up-to-date information on their activity.¹⁶

Conclusion

The Palestinian Return Centre supports the Office of the High Commissioner for Human Rights in its efforts to create and keep updating the database listing businesses carrying out activities in the Israeli settlements.

However, PRC would like to stress the importance of making the database available to the public.

It is extremely important that the database is published, together with its rules of procedure, in order for businesses to publicly address the issue, to attempt at complying with the UNGPs and to operate in a way which is not detrimental for anyone's enjoyment of human rights. The publication of the database is of paramount importance to stop businesses operating in the Occupied Palestinian Territories from further deepening their involvement in the settlements' economy favouring their prosperity.

PRC calls on the states and businesses to comply with the UNGPs and therefore to carry out economic and business activity in accordance with international law and in respect of international human rights.

PRC would like to address the European Union and the countries of the United Nations and draw their attention on the importance of publication of the database. Under the UNGPs, business and states have the duty of acting to respect and protect human rights. It is important to stop businesses from thriving in the Occupied Palestinian Territories in order to halt the systematic human rights abuses carried out in settlements with the economic aid of business enterprises.

¹⁵ Azarova, V. The UN Database on Business in Israeli Settlements: *Pitfalls and Opportunities*, alshabaka.org, May 2019. Available at: <https://al-shabaka.org/commentaries/the-un-database-on-business-in-israeli-settlements-pitfalls-and-opportunities/>.

¹⁶ Ibid.