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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by Cairo Institute for Human Rights Studies, Al-Haq, Law in the Service of Man, Habitat International Coalition, International Federation for Human Rights Leagues, Palestinian Centre for Human Rights, Women's Centre for Legal Aid and Counseling, non-governmental organizations 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.

[01 February 2021]

* Issued as received, in the language(s) of submission only.

Civil society calls for increased transparency and a clear timeline for the 2021 annual update of the UN database of businesses engaged with Israel's settlement enterprise

The release of the United Nations database of businesses engaged in activities related to Israeli settlements (database) in the occupied Palestinian territory on 12 February 2020 is an important tool to begin addressing Israel's illegal settlement enterprise and ensure corporate accountability in the context of a prolonged military occupation, colonization, and apartheid. The first database report included 112 businesses, mostly domiciled in Israel as well as eighteen companies in six other countries (1). The annual updating of the database is essential to ensuring it becomes a living tool. The database establishes a tangible mechanism strengthening the implementation of international law, particularly in relation to states' obligations to ensure corporate respect for human rights, as well as the responsibility of businesses to respect international human rights and humanitarian law as reaffirmed by the UN Guiding Principles on Business and Human Rights (UNGPs), including in situations of occupation.

Due to pervasive impunity, Israel's illegal settlement enterprise has been allowed to operate and expand in violation of international law. This has been supported by non-state and private actors such as business enterprises. According to the 2013 report of the independent international fact-finding mission to investigate the implications of the Israeli settlements, "[...] business enterprises unfold their activities in the settlements and contribute to their maintenance, development and consolidation." (2) Businesses have played a critical role in the sustainability of Israel's illegal settlements and are at great risk of contributing to or benefiting from Israel's persistent and systemic violations of international law committed against the Palestinian people.

While the world faces the devastating impacts of the COVID-19 pandemic, Israel is escalating its illegal demolition of Palestinian homes and properties, hitting a four-year high (3), in violation of, among other rights, Palestinians' human right to adequate housing, a crucial component of the right to an adequate standard of living (4). From March 2020 to January 2021, Israel has demolished 470 structures, including 211 residential structures, 166 of which were inhabited, resulting in the displacement of 811 Palestinians, including 382 children (5). House demolitions, which are made possible through the use of equipment provided by companies such as JCP, Caterpillar, and Hyundai (6), assist Israel's settlement expansion and de facto annexation. At the same time, Israel has accelerated the expansion of its illegal settlements, housing units, and associated infrastructure including transportation, in which Israeli and multinational companies such as the Basque CAF have evidently been involved (7).

Since the adoption of HRC resolution 31/36 in 2016 mandating the OHCHR to create the database, members of the United Nations as well as civil society organizations from all regions have persistently expressed support for the database and its annual update (8). Some Member States have explicitly supported the process (9), whereas other states stressed the importance of its release - despite delays due to political pressure - in order to preserve the independence of the OHCHR (10).

In October 2020, Michael Lynk, the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, welcomed the release of the database in his report to the General Assembly and highlighted that it puts "a spotlight on corporate activity – both Israeli and international – in the settlements and advances public and corporate understanding of the adverse human rights environment sustained by the settlements." (11)

Lynk also raised concerns that in the first report of the database "a number of companies with important supply relationships with the settlements and/or the occupation were not included." He called for these concerns to be addressed by properly identifying "the scope of all business involvement with the settlements and the occupation" in order for the database to serve as a "living tool" (12).

In line with HRC resolution 31/36, the OHCHR is mandated to annually update the database, including by adding businesses engaged in activities related to Israeli settlements and removing listed companies when there is clear proof of disengagement. This provides an important deterrent for businesses against engaging with the illegal settlement enterprise which constitutes grave breaches amounting to internationally recognized crimes under international law.

Local, regional, and international organizations remain committed to continuing to support the OHCHR's work on the database. In this context, our organizations urge:

1. The OHCHR to continue to work toward the annual update of the database and publicly share the 2021 update upon completion of the review.
2. The OHCHR to increase transparency regarding the annual update process for the database, including by providing a clear and public timeline for the publication of the 2021 update.
3. Member States of the United Nations to support the OHCHR in fulfilling its mandate in its entirety to annually update the UN database and ensure the allocation of necessary financial resources to this end.
4. Member States that are home states of companies listed in the database must take the necessary measures to ensure that business enterprises within their territory and/or jurisdiction respect international law and other relevant laws throughout their operations and relationships in the oPt. To this end, states should deny businesses listed in the UN database and others that are involved in violations of international law access to public support and services, including by excluding them from public procurements.
5. Member States should issue clear guidelines and advisories to private actors and business enterprises - in line with international law - surrounding risks and legal repercussions of grave breaches of international law should they be involved with Israel's settlement enterprise.

The Civic Coalition for Palestinian Rights in Jerusalem, the Palestinian Counselling Centre, the Palestinian Non-Governmental Organizations Network, Addameer Prisoner Support and Human Rights Association, the Community Action Center (Al-Quds University), the Jerusalem Center for Legal Aid and Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.

1) 'Database of all business enterprises involved in the activities detailed in paragraph 96 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',

https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Documents/A_HRC_43_71.docx

2) 'Report of the independent international factfinding 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',

https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-63_en.pdf

3) See B'Tselem, "In pandemic, of all times: Number of Palestinians Israel has left homeless hits four-year record," 4 November 2020, available at:

https://www.btselem.org/press_releases/20201104_number_of_palestinians_israel_left_homeless_hits_four_year_record_in_pandemic.

4) OHCHR, 'Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context' (27 July 2020), UN Doc A/75/148.

5) See Al Haq et al., "Joint Urgent Appeal to the United Nations Special Procedures on Israel's Continued

Demolitions Amidst a Global Pandemic," 25 January 2021, p. 3, available at:

https://www.alhaq.org/cached_uploads/download/2021/01/25/210125-joint-urgent-appeal-on-israels-continued-demolitions-amidst-a-global-pandemic-25-01-2021-1611570818.pdf

6) Al-Haq, 'De Facto Annexation Continues with House Demolitions using Hyundai bulldozers, Destruction of Palestinian Lands, Infrastructure and Pillage' (16 July 2020)

https://www.alhaq.org/advocacy/17124.html#_ftn1. During demolitions carried in 2019 and 2020 a regular usage of machinery from Hyundai (145 instances), JCB (142), CAT (57) and Volvo (88) were documented and reported by victims of demolitions (source: Al-Haq's Documenting and Monitoring Department). See also: <https://lphr.org.uk/latest-news/jcb-to-be-investigated-after-uk-government-body-accepts-lphr-complaint-is-material-and-substantiated-relating-to-involvement-in-israels-human-rights-violations-against-palestinians/>

7) [https://cihrs.org/31-palestinian-european-human-rights-organisations-networks-trade-unions-demand-basque-company-caf-be-included-in-un-settlement-database/?lang=en&ct=t\(EMAIL_CAMPAIGN_COPY_01\)](https://cihrs.org/31-palestinian-european-human-rights-organisations-networks-trade-unions-demand-basque-company-caf-be-included-in-un-settlement-database/?lang=en&ct=t(EMAIL_CAMPAIGN_COPY_01))

8) See for example: Al-Haq, 'More than 100 Organizations Call for the Release of the UN Database of Businesses Engaged in Activities with Israeli Settlements' (29 August 2019)

<http://www.alhaq.org/advocacy/14950.html> and CIHRS, 'Civil society calls for annual updates of database on corporate involvement in Israeli settlements' (16 June 2020)

<https://cihrs.org/civil-society-calls-for-annual-updates-of-database-on-corporate-involvement-in-israeli-settlements/?lang=en>

9) During HRC 43, states from Africa, Asia, Europe and Latin America welcomed the release of the database. States also called for the annual update of the database, including in two joint statements on behalf of OIC and the Arab Group, reflecting the position of 57 states. OIC statement: <https://cihrs.org/wp-content/uploads/2021/01/OIC.pdf>

10) "In July 2019, during the 41st Human Rights Council session, some 90 states, in two joint statements, emphasized the crucial importance that the High Commissioner and her Office maintain their independence and are able to execute their mandates impartially and without interference." <https://www.hrw.org/news/2019/10/01/joint-statement-continued-delay-un-database-un-high-commissioner-human-rights#>

11) Report A/75/532 of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (22 October 2020), <https://undocs.org/A/75/532>

12) Ibid.