

Date: 27 August 2019
Michelle Bachelet
United Nations High Commissioner for Human Rights
Palais Wilson, United Nations Office of the High Commissioner for Human Rights
Geneva, Switzerland

Re: Release of the United Nations Database of Businesses Engaged in Activities Related to Israeli Settlements

Dear High Commissioner,

As you are aware, in March 2016, United Nations Human Rights Council (HRC) resolution 31/36 mandated your Office to produce a database of all businesses engaged in listed activities related to Israel's settlement enterprise (the Database), as detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of Israeli settlements on the rights of the Palestinian people throughout the Occupied Palestinian Territory (OPT). The resolution further stipulated that the data is to be presented and transmitted to the HRC at its 34th session, and the Database is to be updated annually.¹

The Database will bring an important degree of transparency on the activities of businesses which contravene rules and principles of international humanitarian and human rights law as a result of their operations in or with illegal Israeli settlements.

The undersigned organizations are deeply concerned that the release of the Database, including the names of companies facilitating Israel's settlement enterprise, has once again been delayed and was not published at the 41st HRC session. This delay comes over three years after the Council established the database mandate and more than two years after its initial scheduled release, at the 34th HRC session. We know of no other mandate given to the Office of the High Commissioner for Human Rights (OHCHR) by the HRC that has been subject to such a prolonged and open-ended delay.

The reasons for this delay have not been communicated with sufficient explanation or transparency, opening the OHCHR up to allegations that the delay could be due to political pressure.² During the recent 41st HRC session, a joint statement was delivered on behalf of 65 UN Member States, requesting you to "give urgency to fulfilling the mandate of resolution 31/36 in

¹ Human Rights Council, Resolution adopted by the Human Rights Council on 24 March 2016, A/HRC/RES/31/36, para. 17.

² Josef Federman, Josh Lederman and Jamey Keaten, 'Israel races to head off UN settlement 'blacklist'' (AP, 26 November 2017), available at: <https://www.apnews.com/9f910e5a7b264c38aad504a6147d9898> ; Nick Cumming-Bruce, 'Clash Over Israeli Settlements Has a New Front: A Delayed U.N. Report' (The New York Times, 5 March 2019), available at: <https://www.nytimes.com/2019/03/05/world/middleeast/israel-united-nations-boycott-companies.html>.

its entirety, by publishing of the Database including the names of companies benefiting from economic activities in Israeli settlements in the Occupied Palestinian Territory, and not risk jeopardizing the independence of the Office or setting a precedent where other mandates could be discredited and therefore not implemented.”

In addition, a joint statement delivered on behalf of 27 UN Member States, stressed the “crucial importance that the High Commissioner and her Office are able to operate and execute their mandates in an independent manner and without interference, of any kind,” and to allow for genuine and effective accountability and justice for affected individuals and communities around the world. Fulfilling this mandate without further delay would affirm the independence and impartiality of OHCHR.³

Since the adoption of HRC resolution 31/36, the Israeli government has escalated the construction of new settlements in the West Bank.⁴ Some Israeli officials, notably the Prime Minister, have also indicated that they will seek to formally “annex” parts of the West Bank.⁵ Israel’s settlement enterprise constitutes serious violations of international humanitarian law and entrench a system of gross human rights violations and institutionalized discrimination that Palestinians residing in the occupied territory suffer from on a daily basis.

The undersigned organizations acknowledge the need to ensure due diligence in the mandates entrusted to the OHCHR. However, with regard to HRC resolution 31/36, we understand that all companies considered for inclusion on the Database should have been contacted by now and have had ample time to respond. Over a year ago, on 7 August 2018, the then High Commissioner indicated in a letter addressed to the HRC President:

³ In a joint letter sent to the OHCHR on 27 November 2018, over 100 civil society organizations from around the world said that: “Further delays in the publication of the Database will only serve to undermine its establishment, and the important work done by your Office [OHCHR] and others, including members of civil society, to realize this necessary initiative to promote state and business responsibilities to protect and respect human rights.” See: <http://www.alhaq.org/advocacy/targets/united-nations/1328-100-palestinian-regional-and-international-organisations-call-on-high-commissioner-for-human-rights-to-publish-the-un-database-on-business-enterprises-with-activities-related-to-israeli-settlements-in-the-opt>.

⁴ See for example: United Nations Meetings Coverage and Press Releases ‘Special Coordinator Reports Largest Expansion of West Bank Settlements in 2 Years, as He Briefs Security Council on Middle East Peace Process’, 20 June 2019, available at: <https://www.un.org/press/en/2019/sc13853.doc.htm>.

⁵ See for example: On 6 April 2019, Israel’s Prime Minister, Benjamin Netanyahu said: “I’m going to apply sovereignty, but I don’t distinguish between settlement blocs and the isolated settlement points, because from my perspective every such point of settlement is Israeli” See David M. Halbfinger, ‘Netanyahu Vows to Start Annexing West Bank, in Bid to Rally the Right’ (New York Times, 6 April 2019), available at: <https://www.nytimes.com/2019/04/06/world/middleeast/netanyahu-annex-west-bank.html?module=inline>.

Consistent with paragraph 26 of the 2018 report, after all 206 companies have been contacted, OHCHR expects to provide the Council [HRC] shortly thereafter an update, including the names of those engaged in listed activities.⁶

The undersigned organizations recognize the efforts exerted by the OHCHR in the creation and development of the Database thus far. We maintain our position that the Database is not only important for the protection of the rights of the Palestinian people, but also constitutes an important development in international efforts to ensure respect for international law by State and non-State actors. Moreover, the Database is an important tool to strengthen the implementation of international law and standards, including the UN Guiding Principles on Business and Human Rights, in situations of conflict and occupation.

High Commissioner,

In the OPT, as in other cases of belligerent occupation, the absence of accountability has enabled the Occupying Power, Israel, to engage in activity in violation of international law in the occupied territory with near total impunity. This has allowed many private actors, including businesses, to contribute to and benefit from, sometimes unwittingly, gross human rights violations. The 2013 report of the UN commissioned International Fact-Finding Mission to investigate the implications of the Israeli settlements on the human rights of the Palestinian people, found that “business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements”.⁷ This has detrimentally affected the lives of millions of Palestinians, depriving them of their fundamental human rights.⁸

In light of the aforementioned, and your undertaking in your letter of 4 March 2019 to the HRC President to finalize the mandated activity “in coming months,” **the undersigned organizations urge you, as the UN High Commissioner for Human Rights, to fully implement the mandate provided in HRC resolution 31/36, by releasing and transmitting the data including the names**

⁶ Letter from High Commissioner for Human Rights, Zeid Ra’ad al-Hussein, to the President of the Human Rights Council, Ambassador Vojislav Šuc, on 7 August 2018, available at: <https://extranet.ohchr.org/sites/hrc/PresidencyBureau/BureauRegionalGroupsCorrespondence/Corresp2014DL/180807LetterfromHCdatabase.pdf>.

⁷ Human Rights Council, Report 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, 7 February 2013, A/HRC/22/63.

⁸ “The violations of human rights associated with the settlements are pervasive and devastating, reaching every facet of Palestinian life, owing to settlement development and infrastructure, Palestinians suffer from restrictions on freedom of religion, movement and education; their rights to land and water; access to livelihood and their right to an adequate standard of living; their rights to family life; and many other fundamental rights.” Human Rights Council, Database of all business enterprises involved in the activities detailed in paragraph 96 of the report 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, 26 January 2018, A/HRC/37/39.

of companies involved in the specified activities, to the Human Rights Council, so that it may be considered at the Council's 42nd session in September 2019, and by annually updating the Database.

The full implementation of this mandate by the OHCHR would support and assist in the respect and protection of international law and universal human rights, regardless of the political context.

We thank you for your consideration of our letter and remain at your service should you require further information.

Yours sincerely,

Undersigned:

1. 11.11.11
2. ActionAid Palestine
3. Agricultural Development Association (PARC)
4. Al Ataa' Charitable Society
5. Al Mezan Centre for Human Rights
6. Aldameer
7. Al-Haq
8. Alliance of Concerned Jewish Canadians
9. Al-Tadamoun Charitable Association
10. ALTSEAN-Burma
11. American Friends Service Committee
12. Amnesty International
13. Association ADALA (Pour le Droit à un Procès équitable)
14. Association Belgo-Palestinienne WB
15. Association for Women's Rights in Development (AWID)
16. Association France Palestine Solidarité (AFPS)
17. BADIL
18. Bahrain Center for Human Rights
19. Beladi Foundation
20. Bisan Center for Research & Development
21. Broederlijk Delen
22. Cairo Institute for Human Rights Studies
23. CCFD – Terre Solidaire
24. Civic Coalition for Palestinian Rights in Jerusalem
25. CNCD-11.11.11
26. Community Action Center - Al Quds University
27. Conectas Direitos Humanos

28. Conflict and Environment Observatory
29. Consejo de Pueblos Wuxhtaj de Guatemala
30. Coopération Internationale pour le Développement et la Solidarité (CIDSE)
31. CVPR PO
32. DanChurchAid
33. Dawlaty
34. Defender centre for Human Rights
35. Defense for Children International - DCI Palestine
36. El Comité Ambiental en Defensa de la Vida y la Corporación SOS Ambiental de Colombia
37. EuroMed Rights
38. European Middle East Project (EuMEP)
39. FIDH
40. Filastiniyat
41. Foro Ciudadano de Participación por la Justicia y los Derechos Humanos Argentina
42. Fundaciòn Promociòn Humana
43. Global Legal Action Network (GLAN)
44. Gulf Center for Human Rights
45. Health Work Committee
46. Human Rights and Democracy Media Center "Shams"/Palestine
47. Human Rights Watch
48. International Accountability Project
49. International Service for Human Rights (ISHR)
50. Islandnet
51. Jerusalem Legal Aid and Human Rights Center (JLAC)
52. Jewish Voice for Peace
53. Just Peace Advocates/Mouvement Pour Une Paix Juste
54. Lawyers for Palestinian Human Rights (LPHR)
55. Libyan center for Freedom of Press
56. Libyan organization for legal Aid
57. Ma'an Development Center
58. MADA - Palestinian Center For Development & Media Freedoms
59. Médecins du Monde – France
60. Mid-Islanders for Justice and Peace in the Middle East
61. Mwatana for Human Rights (Yemen)
62. National Society for Rehabilitation
63. NAWA for Culture & Arts Association
64. Netherlands Palestine Committee
65. Norwegian Church Aid

66. Novact - International Institute for Nonviolent Action
67. Oxfam
68. Palestinian and Jewish Unity (PAJU)
69. Palestinian Center for Human Rights (PCHR)
70. Palestinian Counseling Center (PCC)
71. Palestinian Human Rights Organization (PHRO)
72. Palestinian Non-Governmental Organisations Network (PNGO)
73. Palestinian Women Development Society
74. Palestinian Working Women Society for Development (PWWSD)
75. Pax Christi Flanders
76. Pax Christi International
77. PAX for Peace
78. Plateforme des ONG françaises pour la Palestine (PFP)
79. POSCO PRATIRODH SANGRAM SAMITI (PPSS)
80. Premiere Urgence Internationale
81. Project on Organizing, Development, Education and Research (PODER)
– regional, Latin America.
82. Rural Women's Development Society
83. SOLSOC
84. SOMO
85. Sudanese Monitor for Human Rights
86. Syrian Center for Legal Studies and Research
87. Syrian Center for Media and Freedom of Expression (SCM)
88. Syrian Network for Human Rights
89. Syrians for Truth and Justice (STJ)
90. The Association Switzerland-Palestine
91. The Democracy Center
92. The Jus Semper Global Alliance
93. The National Society for Democracy and Law
94. The Regina Peace Council
95. The Rights Forum
96. The Union of Palestinian Women Committees
97. Trocaire
98. Union of Agricultural Work Committees (UAWC)
99. US Campaign for Palestinian Rights (USCPR)
100. Viva Salud
101. War on Want
102. Women Studies Center
103. Women's Center for Legal Aid and Counselling (WCLAC)