

Pfizer Inc,
235 East 42nd Street,
New York,
NY 10017,
United States of America.

14 January 2021

To whom it may concern,

I am writing to you on behalf of Al-Haq, a Palestinian human rights organisation with special consultative status with the United Nations Economic and Social Council, to express concern regarding the discriminatory use of the Pfizer-BioNtech COVID-19 vaccine by the State of Israel. Al-Haq notes Pfizer's commitment to ethical and responsible conduct, including through adherence to the "International Bill of Rights" and UN Guiding Principles on Business and Human Rights.¹ Nonetheless, it has come to our attention that the Israeli government's roll-out of your vaccine does not meet these standards, and may moreover amount to a targeted policy of racial discrimination.

As noted by your company in its Human Rights Policy Statement, "As a biopharmaceutical company, the right to health is of paramount importance."² We applaud your commitment "to speaking out against discrimination, confronting conscious and unconscious bias, and leading courageous conversations with colleagues and with those in our communities so that we can make a meaningful impact."³ However, to give action such a policy, as set out in the UN Guiding Principles, requires adequate and effective measures to be taken to ensure the prevention and mitigation of adverse human rights impacts, and to ensure that appropriate remediation is available.⁴ In doing so, businesses must apply these principles to situations wherein the adverse impacts are directly linked to their operations, products, or services, even where the business has not itself directly contributed to these impacts.⁵ Further, businesses must ensure a higher level of

¹ Pfizer, Human Rights, available at: <https://www.pfizer.com/purpose/workplace-responsibility/human-rights-statement>.

² Pfizer, *Human Rights Policy Statement* (August 2020), pp. 1.

³ *Ibid.*, pp. 2.

⁴ Office of the UN High Commission for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011), Principle 11, pp. 13.

⁵ *Ibid.*, Principle 13(b), pp. 14.

scrutiny and oversight in situations of armed conflict and occupation,⁶ including through enhanced human rights due diligence.⁷

The situation in Palestine is characterised by institutionalised racial domination and oppression,⁸ belligerent occupation, armed conflict, and unlawful annexation.⁹ The United Nations Committee on the Elimination of Racial Discrimination (CERD) in its 2019 concluding observations, following its review of the State of Israel, noted that Palestinians on both sides of the Green Line are subjected to policies and practices amounting to racial segregation and apartheid.¹⁰ Palestinians living within the territory of the State of Israel are, in effect, second class citizens in a state which considers the right of self-determination to be exclusive to Israeli-Jews.¹¹

Similarly, Palestinians living within the Occupied Palestinian Territory (OPT), composite of the West Bank, including East Jerusalem, and the Gaza Strip, are subjected to a myriad of discriminatory policies and practices, ranging from the excessive and lethal use of force to arbitrary movement and residency restrictions. Central to the occupation and annexation of the OPT is Israel's illegal settlement enterprise, whereby Palestinian land is seized and misappropriated for use in the construction and maintenance of illegal Israeli settlements, universally recognised as

⁶ *Ibid.*, Principle 12, pp. 15.

⁷ Al-Haq and Global Legal Action Network, *Business and Human Rights in Occupied Territory: Guidance for Upholding Human Rights* (2020), pp. 58-69, available at: https://www.alhaq.org/cached_uploads/download/2020/04/27/business-and-human-rights-in-the-opt-interactive-1587981596.pdf.

⁸ See Al-Haq *et al*, *Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports* (11 November 2019), available at: https://www.alhaq.org/cached_uploads/download/2019/11/12/joint-parallel-report-to-cerd-on-israel-s-17th-19th-periodic-reports-10-november-2019-final-1573563352.pdf.

⁹ Al-Haq, *Annexing a City: Israel's Illegal Measures to Annex Jerusalem Since 1948* (2020), available at: https://www.alhaq.org/cached_uploads/download/2020/05/11/annexing-a-city-web-version-1589183490.pdf; Al-Haq, *Establishing Guidelines To Determine whether the Legal Status of 'Area C' in the Occupied Palestinian Territory represents Annexed Territory under International Law* (2020), available at: https://www.alhaq.org/cached_uploads/download/2020/07/17/establishing-guidelines-interactive-1-1594999806.pdf.

¹⁰ See CERD, *Concluding observations on the combined seventeenth to nineteenth reports of Israel* (12 December 2019) UN Doc. CERD/C/ISR/CO/17-19, para 23; see also CERD, *Concluding observations of the Committee on the Elimination of Racial Discrimination* (3 April 2012) UN Doc. CERD/C/ISR/CO/14-16, para 11; see also Al-Haq, *Racism and Institutionalised Discrimination in the Roll-Out of the COVID-19 Vaccine* (14 January 2021), available at: <https://www.alhaq.org/advocacy/17767.html>.

¹¹ See Adalah, *Proposed Basic Law: Israel – The Nation State of the Jewish People* (16 July 2018), available at: <https://www.adalah.org/uploads/uploads/Adalah%20Position%20Paper%20-%20Basic%20Law%20Jewish%20Nation%20State%20-%20ENGLISH%20-%2015072018%20-%20FINAL.pdf>.

being contrary to international law,¹² and constitutive of the international crime of unlawful population transfer.¹³ Accordingly, in 2018, the Office of the High Commissioner for Human Rights noted that “considering the weight of the international legal consensus concerning the illegal nature of the settlements, themselves, and the systematic and pervasive nature of the negative human rights impact caused by them, it is difficult to imagine a scenario in which a company would engage [with settlements] in a way that is consistent with the Guiding Principles and international law.”¹⁴

Israel is leveraging the use of the Pfizer-BioNtech vaccine to further entrench these injustices, as it has done throughout the COVID-19 pandemic.¹⁵ Despite its obligations to uphold the highest standard of health under both international human rights,¹⁶ international humanitarian law,¹⁷ and its own domestic legal system,¹⁸ Israel

¹² UN Security Council Resolution 2334 (23 December 2016) UN Doc. S/RES/2334; International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (9 July 2004) Advisory Opinion, para 120.

¹³ Article 49(6), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (adopted 12 August 1949, entry into force 21 October 1950) 75 UNTS 287.

¹⁴ UN 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* (1 February 2018) UN Doc. A/HRC/37/39, para 41; see also Amnesty International, *Think Twice: Can companies do business with Israeli settlements in the Occupied Palestinian Territories while respecting human rights?* (2019), available at: <https://www.amnesty.org.uk/files/2019-03/Think%20Twice%20report.pdf?BrN9N0VX3RkzTJRouKYC46LE43hCpTU=>.

¹⁵ Al-Haq, Jerusalem Legal Aid and Human Rights Center (JLAC) and Medical Aid for Palestinians (MAP), *Covid-19 and the Systematic Neglect of Palestinians in East Jerusalem* (July 2020), available at: https://www.alhaq.org/cached_uploads/download/2020/07/14/covid-19-ver1-4-interactive-1594716699.pdf; Al-Haq, *Legal Briefing Paper: COVID-19 and the Right to Health of Palestinians under Israeli Occupation, Colonisation, and Apartheid* (December 2020), available at: https://www.alhaq.org/cached_uploads/download/2020/12/08/covid-19-and-the-right-to-health-interactive-1-page-view-1-1607410547.pdf.

¹⁶ UN, Statement by UN Human Rights Experts Universal access to vaccines is essential for prevention and containment of COVID-19 around the world (9 November 2020), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26484&LangID=E>; Amnesty International, *A Fair Shot: Ensuring Universal Access to COVID-19 Diagnostics, Treatments and Vaccines* (2020), available at: <https://www.amnesty.org/download/Documents/POL3034092020ENGLISH.PDF>.

¹⁷ International Committee of the Red Cross, ‘Covid-19 vaccines and IHL: ensuring equal access in conflict-affected countries’ (5 November 2020), available at: <https://blogs.icrc.org/law-and-policy/2020/11/05/covid-19-vaccines/>; see also Maha Abdallah and Vito Todeschini, ‘The Right to Health in the Occupied Palestinian Territory during the COVID-19 Pandemic’ (19 May 2020) *Opinio Juris*, available at: <https://opiniojuris.org/2020/05/19/the-right-to-health-in-the-occupied-palestinian-territory-during-the-covid-19-pandemic/>.

¹⁸ Eyal Benvenisti, ‘Israel is Legally Obligated to Ensure the Population in the West Bank and Gaza Strip are Vaccinated’ (7 January 2021) *Just Security*, available at:

has intentionally excluded Palestinians in the West Bank and Gaza Strip from its vaccination effort. In doing so, Israel is mass-vaccinating settlers in the West Bank and East Jerusalem while neglecting the occupied Palestinian population subject to its effective control.¹⁹ In addition, Israel's policy of refusing vaccinations to Palestinian prisoners in Israeli jails has been criticised by UN experts as contrary to Israel's international legal obligations.²⁰

As such, Al-Haq notes that Pfizer's responsibility is triggered under the UN Guiding Principles to ensure that its vaccine is not used to contribute to adverse human rights impacts, or to reinforce and further entrench the unlawful situation in Palestine as it stands. **I am therefore writing to enquire whether, as part of its human rights due diligence procedure, Pfizer sought assurances from the State of Israel that the Pfizer-BioNtech vaccine would be equitably distributed in compliance with international human rights standards. In addition, Al-Haq calls on Pfizer to issue a public statement in support of the principle of non-discrimination in public health, stressing that all peoples under Israel's effective control must have their inalienable right to health respected and vindicated.**

We remain at your disposal should you have any further questions or require any assistance in this.

Yours sincerely,



Shawan Jabarin,
General Director,
Al-Haq.

<https://www.justsecurity.org/74091/israel-is-legally-obligated-to-ensure-the-population-in-the-west-bank-and-gaza-strip-are-vaccinated/>.

¹⁹ The Guardian, 'Palestinians excluded from Israeli Covid vaccine rollout as jabs go to settlers' (3 January 2021), available at: <https://www.theguardian.com/world/2021/jan/03/palestinians-excluded-from-israeli-covid-vaccine-rollout-as-jabs-go-to-settlers>.

²⁰ UN, Israel/OPT: UN experts call on Israel to ensure equal access to COVID-19 vaccines for Palestinians (14 January 2021), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26655&LangID=E>.