T A L A: Trace, Authenticate, Locate, and Choose to Act!

Investors’ Guidelines on Business and Human Rights in the Occupied Palestinian Territory
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Introduction

The Investors’ Guidelines on Business and Human Rights in the Occupied Palestinian Territory (OPT) aim to inform investors, as well as policymakers and civil society working in the field of business and human rights, on the contextualization of corporate responsibility and the application of enhanced human rights due diligence in the Occupied Palestinian Territory1 (OPT) as defined by the United Nations Guiding Principles on Business and Human Rights (UNGPs) and other complementary guidelines such as the Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.2

Since 1967, Israel has occupied the Palestinian territory, encompassing the West Bank, including East Jerusalem, and the Gaza Strip. Israel’s administration of the occupied Palestinian territory is primarily regulated by international humanitarian law and international human rights law, along with applicable provisions of international criminal law and customary international law.


It is important to note that **Israeli settlements constructed in the OPT are illegal and constitute a flagrant violation of international law.** This has been reasserted through United Nations (UN) Security Council Resolution 2334 of 23 December 2016. Similarly, recognition of the illegality of the settlements has been reaffirmed in hundreds of UN General Assembly resolutions as well as in the reports of the UN Secretary-General.³ In addition, regional organizations including the Arab League, and the European Union (EU) and its member states maintain the longstanding position that Israeli settlements in the OPT are illegal under international law.⁴

Al-Haq monitors and documents corporate complicity in human rights violations in the OPT and the involvement of Israeli and international companies in the illegal settlement enterprise. It is time to ensure that businesses conduct enhanced corporate due diligence assessments to prevent human rights violations and to take all necessary steps to meet their obligations expressed in national laws, in the UNGPs, in the OECD guidelines on business and human rights and in international law governing military occupation and international armed conflict.


a. **Development Obstacles:** Investments which support businesses illegally operating in or with Israeli settlements in the occupied West Bank including East Jerusalem, legitimate settlements and reinforce and sustain their presence. Settlements thrive off the unlawful confiscation of Palestinian natural resources and land, which exacerbates further instability in the OPT, negatively impacting economic development therein.

b. **Lacking Standards:** Through field research, it is evident that there is little to no official supervision over industrial zones and production lines within settlements in the West Bank, including East Jerusalem, allowing for the unregulated production of hazardous materials, while undermining industrial hygiene, safety and quality standards.

c. **Misleading:** In 2015, the European Commission published an Interpretive Notice on indication of origin of goods from territories occupied by Israel since June 1967, obligating businesses to properly label products originating from Israeli settlements as such, as well as exempting such goods from preferential treatment. On 12 November 2019, the Court of Justice of the European Union (CJEU) enforced the position of the European Commission in its 2015 Interpretive Notice. Israeli and international businesses operating in or with settlements deliberately mislabel goods exported.

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5 Field information obtained by Al-Haq.


to EU member states and to other parts of the world. As a stakeholder investing in settlements’ goods and services, you are financing the deliberate mislabeling of goods and products leading to misinformation and tampering, which may account to crimes and/or civil offences in your country of origin.

d. **War Crimes:** Investing in settlements is illegal and jeopardizes long-term profits. Groups, victims, and states can pursue legal remedies at home or abroad to end illegal operations which may amount to international crimes. You may be tried in a court of law for financing and contributing to the commission of acts which may amount to war crimes and crimes against humanity under international law. In order to avoid or mitigate such consequences, investors and stakeholders are advised to properly assess their investments to avoid complicity in war crimes from the outset.

e. **Negative Publicity:** On 12 February 2020, the UN Office of the High Commissioner for Human Rights (OHCHR) published a database of companies conducting business in or with the illegal settlements, as mandated under UN Human Rights Council (HRC) resolution 31/36 adopted on 24 March 2016 (hereafter ‘the database’). The database currently names 112 companies conducting business with or in illegal settlements contrary to international law. HRC resolution 31/36 requires that the database is updated annually. By investing in illegal Israeli settlements, your company risks being placed on the database, which may result in reputational damage and financial loss.

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The proposed TALA approach indicates crucial aspects that should be taken into consideration by investors when confronting Israel’s prolonged occupation of the Palestinian territory, which includes an ongoing process of \textit{de facto} annexation caused by contemporary colonialism and maintained by an apartheid regime\textsuperscript{9} imposed on the Palestinian people.

TALA approach can assist all stakeholders in implementing processes of enhanced human rights due diligence in conflict affected areas, to help ensure accountability, and to avoid complicity in aiding and abetting violations of international humanitarian law and international human rights law.

Identification of investment and its impacts taking into account the entire supply chain and its links to human rights violations. Transparency and traceability of the investment is crucial towards responsible supply chain management.

Ensuring participation and involvement of the most vulnerable groups of rights holders affected by the investment. In conflict affected areas, it is imperative that misleading and inaccurate claims, and misinformation which contributes to the legitimization of human rights violations, is identified as such, and that accurate and reliable information be authenticated in order to identify and respect relevant human rights considerations.

The geographical aspect of business operations is crucial to identifying and flagging unethical investments.

Once the link between investments and human rights violations is identified, it is important to take immediate action, and to choose to act with accountability in order to avoid further complicity in violations of human rights and international law.
Regardless of the **form of investment in the settlement enterprise**, you may be at risk of causing, contributing to, or being otherwise linked to violations of human rights and international law, including war crimes and crimes against humanity. It is necessary to trace and keep track of your investments in order to avoid complicity in such violations and in international crimes.

**Foreign Direct Investment and Stocks and Shares**

If the company/entity you are investing in has directly acquired another company in Israel through direct investment, it is important to assess the recently acquired company’s operations, geographical location, and subsidiaries, if any.

**This is necessary to ensure that the company does not operate in an illegal Israeli settlement or has links to an illegal Israeli settlement through its subsidiary/ies or supply chain.**

Israeli businesses, as well as foreign businesses based in Israel, may have direct connections to settlements through packaging plants and production facilities operated by the company itself, a subsidiary, or through outsourcing operations to a
third party illegally operating in the OPT.\textsuperscript{10} 

- The first step to tracing the company’s production line and supply chain is done through identifying its assets, services, and products. This information should be disclosed to investors in the case of a public shareholding entity through annual reports, minutes, and financial disclosures. Reviewing the entity’s official website or corporate profile may also be helpful in further understanding corporate relations and investments.

- The second step is to assess the type of production or services being provided in order to authenticate the information (see the next chapter) as well as the labelling on the products.

For example, company X’s website markets one of their top selling agricultural products as ‘Farm Dates’. The labelling and information on the packaging of the product as well as the brand name will allow you to trace the origins of the produce and locate it within the supply chain, keeping in mind that this company may have several facilities in the OPT and could be engaged in misinformation through mislabeling.

In case of services provided rather than of products, you may inquire through your company, as a stakeholder, regarding the nature of the services being provided as well as the location/s of where those services are provided. The geographical aspect is important in order to determine the links, if any, to illegal settlements.

If difficulties arise during the process of tracing production and/or services, you may utilize various online databases such as:

✔ **Who Profits** www.whoprofits.org

✔ **Corporate Watch** www.corporatewatch.org

✔ **UN Database** The UN High Commissioner for Human Rights Report on Business Activities Related to Settlements in the OPT

**Investment Funds (mutual funds, closed-end funds, and exchange-traded funds)**

This is a form of investment where money is pooled from several investors and is invested according to an agreed upon investment and development strategy. In other words, investments are diversified and may change in form and management. In such investments, the first step is to access the investment and development strategy as well as the prospectus placed by the firm. Both documents will provide investors with information regarding the nature of holdings that the firm maintains, as well as the firm’s investment strategies, management fees, lifetime, objective/s, current investments, success rate, internal rate of return, and other financial elements that may be helpful in assessing your investment.

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The next step is to identify the current holdings, including holding company/ies and the company/ies in which the fund management firm is investing. This may be accessed directly through the firm’s website at the end of each month. Most firms provide detailed information of their holdings. Make use of the details by identifying the company’s name as well as the location, to ascertain whether the company is operating in an illegal settlement.

Finally, assess the company’s operations through the company’s profile that may be available online through their website. If the company profile is not provided, communicate with the company and request information regarding their operations and project portfolio, if any. If the company has ongoing operations or projects in Israel, it is important to ensure that the company is not linked to settlements. The online databases noted above maintain profiles on businesses operating in the settlements as well as businesses linked to settlements. If the company name appears in the search results, it may be linked to illegal Israeli settlements or the settlement enterprise. If the name of the company does not appear on any of the databases, it is recommended to conduct broader online research.12 If information regarding Israeli businesses and settlements appears, it is important to authenticate and obtain supporting material. Follow the next step in the TALA module in order to implement best authentication practices in order to avoid possible complicity in international law violations, including war crimes.

12 You may utilize free online databases such as Thomson Reuters Corp: <https://www.reuters.com/finance/stocks/company-profile/TRI.TO> and Bloomberg Israel: <https://www.bloomberg.com/middleeast>. 
Pension Funds

Tracing your pension funds is dependent on the nature of individual institutions or companies. If you, as an employee, are invested in private funds through your company’s pension scheme, rather than state pension funds, you are required to resort to your former employer in order to obtain information regarding your funds. You should request information regarding your pension scheme and portfolio. In many cases, employers tend to outsource retirement investments to investment firms. After you have obtained information regarding the investment funds firm, request that the firm provides you with information regarding their investments.

If you are invested in a State pension fund, request that the institution provides you with information regarding their investments. This information is usually available to the public.

Several Israeli banks, as well as international banks, have been complicit in war crimes by contributing to the financing of the illegal settlement enterprise, including settler activities through providing banking services to settlers, financing settler businesses, and facilitating settlement unit finances. In order to avoid complicity in such war crimes, it is best to follow the tracing method most relevant to the type of investment.

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Authentication of information is the process by which proof of factuality is obtained. It is important to ensure that the information you have obtained is factual. In some cases, Israeli and international corporations, have attempted to mislead investors by supplying manifestly unfounded ‘legal’ arguments to legitimize their presence and/or operations in the OPT, or by completely denying their existence in the OPT.\textsuperscript{14} Several prominent Palestinian civil society organizations monitor and document business and human rights related issues in the OPT. You may authenticate information obtained from the various sources by conducting a brief research on the organizations’ websites regarding the topic. For example, if you have obtained an online media article titled “Company ‘X’ Denies Links to Settlements”, conduct at least two separate searches; the first with the article’s title, and the second with the company’s name.

Civil society organizations may also provide you with further documentation in order to authenticate and support the information you have already obtained. Legal analysis may be provided on specific issues on a case-by-case basis, examining breaches of international law, potential liability and recommendations.

You may refer to the following organizations:

Civil Society Organizations

1. Al-Haq (Occupied Palestinian Territory) www.alhaq.org
2. Al-Mezan (Occupied Palestinian Territory) www.mezan.org
3. Amnesty International (Occupied Palestinian Territory) www.amnesty.org
4. B’Tselem (Israel) www.btselem.org
5. Cairo Institute for Human Rights Studies (Region) www.cirhs.org
6. Human Rights Watch (Occupied Palestinian Territory) www.hrw.org
7. Jerusalem Legal Aid and Human Rights Center (Occupied Palestinian Territory, Jerusalem specific topics) www.jlac.ps
8. Society of Saint Yves (Occupied Palestinian Territory, Jerusalem specific topics) www.saintyves.org

International Networks and Centers

1. Business and Human Rights Centre www.business-humanrights.org
The geographical location of the business operation is crucial to identifying and flagging unethical and unlawful investments. Notably, many businesses that operate in illegal Israeli settlements are not necessarily headquartered there. For example, businesses based in Israel or abroad often contribute to business activities in the illegal settlements through supply chains, subsidiaries, or joint ventures. Businesses involved in operations in relation to settlements tend to conceal such information from the public.

Below is a list of settlements categorized as residential, industrial, agricultural, and quarries. If your investments are linked to any of the settlements mentioned below, follow the final step of TALA in order to take the necessary action to protect your investments from unethical funding.

1. Residential Settlements (Settlement Regional Councils)
   - Bik’at HaYarden
   - Gush Etsion Regional Council
   - Har Hebron Regional Council
   - Mateh Binyamin Regional Council
   - Megilot Regional Council
   - Shomron Regional Council
2. Industrial Settlements

- **Alfei Menashe**: Located within the Palestinian Governorate of Qalqilya, Alfei Menashe is constructed on unlawfully appropriated land belonging to Palestinians from the villages of Wadi al-Rasha and Habla.

- **Ariel-West**: Located north of the Palestinian city of Salfit, Ariel-West is constructed on unlawfully appropriated land belonging to Palestinians from Salfit city and the villages of Marda, Iskaka, Kifl Haris, and Qira.

- **Atarot**: Located on confiscated land of the Palestinian villages of Beit Hanina, Al-Ram and Dahiyat al Bareed.

- **Barkan**: Located on the Palestinian villages’ lands of Qarawat Bani Hassan and Sarta.

- **Baron**: Located within the Palestinian Governorate of Nablus, Baron is constructed on unlawfully appropriated Palestinian lands belonging to the citizens of the city of Nablus and the villages of Deir Sharaf, Qusin, and Sahal Deir Sharaf.

- **Gush Etsion**: Located within the Palestinian city and Governorate of Hebron, Gush Etsion is constructed on unlawfully appropriated Palestinian lands belonging to citizens from the town of Beit Fajjar and the village of Umm Salama.

- **Kiryat Arba’**: Located in the Palestinian city of Hebron. Private lands owned by Palestinian families in Al Mugheer Valley (between Bani Nu’eim and Hebron city) have been confiscated to facilitate the settlement expansion.

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– **Mevo Horon**: Located in East Jerusalem, Mevo Horon is constructed on unlawfully appropriated Palestinian lands belonging to citizens from the villages of Beit Nuba, Yalo, and Imwas. The three villages were razed in 1967 displacing over 10,000 Palestinians. The settlement was constructed on the remains of the three villages.

– **Mishor Adumim**: Located on lands confiscated from the Palestinian villages of al-Eizariya, Isawiya, and az-Za’ayyem.

– **Nitsanei Shalom** (also known as **Geshuri**): Located within the Palestinian city boundaries of Tulkarem; it is constructed on unlawfully appropriated Palestinian lands belonging to citizens from the city of Tulkarem.¹⁶

– **Sha’ar Binyamin**: Located within the Palestinian Governorate of Ramallah and Al-Bireh, Sha’ar Binyamin is constructed on unlawfully appropriated lands belonging to Palestinians from the villages of Mikhmas and Abu Shosheh.

– **Shahak-Shaked**: Located on private Palestinian village lands in ‘Anin and Dhaher Al-Malih town in the Jenin Governorate.

– **Shiloh**: Located on lands of the Palestinian village of Turmus’ayya, north west of Ramallah.

– **Shima Meitarim**: Located within the Palestinian city and Governorate of Hebron, Shima Meitarim is constructed on unlawfully appropriated Palestinian lands belonging to citizens from the villages of Wedadie and Khirbet Zanuta.

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3. Agricultural settlements

There are three types of agricultural settlements, mainly located in the Jordan Valley - a Moshav Ovdim (workers’ moshav), a Moshav Shitfui (collective moshav), and a Kibbutz:

- Almog
- Beqa’ot
- Gitit
- Hagdud & Gilgal
- Kalia
- Mechola
- Na’ama
- Na’aran
- Netiv Hagdud
- Patza’el
- Roi
- Tomer

4. Quarries

- Adora/ Trans-Judea Quarry/ Hotzei Yehuda Quarry (Ador) / Doura, Hebron
- Alei Zahav / Kafr Al-Deek, Salfit
- Beit Hagai / Doura and Al-Thahiriya, Hebron
- Beitar Illit Quarry (a mobile quarry) / between Housan and Wadi Fukin, Bethlehem
- Ben Ari / Suba-Idhna, Hebron
- Gal Illit / South Thahiriya, Hebron
- Keitar / West Al-Zawiya, Salfit
- Kochav Hashahar Quarry / East of Kufr Malek, Ramallah
- Mazor Atiqa Quarry / Al-Zawiya, Salfit
- Medan / Abu Al-Hinna Al Burj, Hebron
- Meitarim Quarry / Zanota, Southern Hebron hills
- Nahal Raba Quarry / Zawiya, Salfit
- Natuf Quarry / Shuqba, Shabatin, Qibya and Na’lin, Ramallah
- Rahwa Quarry / Lahav Quarry / Al-Thahiriya, Hebron
- Salit Adummim / Anata, Jerusalem
- Tzofim Quarries / Jayus, Qalqilya
- Wad Al-Khalil / Khirbet Al-Rahwa, Hebron
- Yattir Quarry / Al-Thahiriya, Hebron
Choose to Act!

If you have successfully obtained information linking your investments with settlements, it is important to act as soon as possible in order to avoid further complicity in the illegal Israeli settlement enterprise in the Palestinian territory.

☐ Initiate communication with fellow board members, fellow investors and other stakeholders to ensure they receive the information you have obtained. It is important to open such channels in order to raise awareness and influence positive decision making.

☐ If you are already invested, initiate tasks to research the speediest and the most cost-effective method of divesting. You may also engage in collective efforts with fellow stakeholders in order to influence general decisions regarding your investments, in order to reduce costs and losses.
Utilize your voting rights and powers within the decision-making process of your investing firm, business, or other entity/ies to reverse such investments or adjust policies that may tend to violate international law through direct or indirect complicity. It is important to establish the current violations perpetuated by the Israeli occupation and its grave effects on Palestinian human rights including the Palestinian right to self-determination.

Utilize all tools provided to you (social media, meetings, periodic evaluations and reporting, etc.) and seize every opportunity to influence decisions.

Advocate for the allocation of investments from Israeli settlements into an ethical market. You can invest ethically and still profit.

Prior to committing to any passive investment contract, ensure that you inform your funds/portfolio manager of your decision regarding opting out from investments related to Israeli settlements. You may utilize the above process in order to provide a comprehensive understanding of the domain of your investments in relation to settlements.
About Al-Haq

Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah in the Occupied Palestinian Territory (OPT). Established in 1979 to protect and promote human rights and the rule of law in the OPT, the organisation has special consultative status with the United Nations Economic and Social Council.

Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, irrespective of the identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable. Al-Haq conducts research; prepares reports, studies and interventions on the breaches of international human rights and humanitarian law in the OPT; and undertakes advocacy before local, regional and international bodies. Al-Haq also cooperates with Palestinian civil society organisations and governmental institutions in order to ensure that international human rights standards are reflected in Palestinian law and policies. Al-Haq has a specialised international law library for the use of its staff and the local community.

Al-Haq is the West Bank affiliate of the International Commission of Jurists - Geneva, and is a member of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), Habitat International Coalition (HIC), ESCR-Net – The International Network for Economic, Social and Cultural Rights, the Palestinian Human Rights Organizations Council (PHROC), and the Palestinian NGO Network (PNGO). In 2018, Al-Haq was a co-recipient of the French Republic Human Rights Award, whereas in 2019, Al-Haq was the recipient of the Human Rights and Business Award. In 2020, Al-Haq received the Gwynne Skinner Human Rights Award presented by the International Corporate Accountability Roundtable (ICAR) for its outstanding work in the field of corporate accountability.