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UN Database Critical for Corporate Accountability amid Ongoing Settlement Expansion and Escalating Attacks against Palestinians

Israel continues to commit systematic and widespread violations of international human rights and humanitarian law¹ against the Palestinian people, including the crime against humanity of apartheid.²

Israel's illegal settlement enterprise constitutes a fundamental policy and root cause driving the continuation and intensification of grave violations of the rights of Palestinian people including the rights to self-determination and control over national wealth and resources. As noted by Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 Mr. Michael Lynk, "The Israeli settlements are a major source of human rights violations, and they are the engine of Israel's occupation... built on confiscated Palestinian property; they rely upon the illegal appropriation of Palestinian natural resources, including water, land and minerals; and they have forced Palestinians into smaller and more constricted space on their own territory."³

While the international community has consistently condemned the construction and expansion of Israeli settlements, the United Nations has failed to take sufficient action to ensure deterrence or accountability for this illegal policy and other instances of grave violations of international law. Moreover, Israel continues to create and consolidate demographic facts on the ground through a policy of illegal transfer of the Palestinian population,⁴ including through the expropriation of Palestinian land and natural resources, the demolition of Palestinians homes, the enabling of settler

¹ OHCHR, "Gaza-Israel escalation: End violence now, then work to end occupation, say UN experts," 18 May 2021, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27102&LangID=E>; and OHCHR, "Bachelet appeals for de-escalation amid increasing bloodshed, incitement, volatility in Occupied Palestinian Territory and Israel," 15 May 2021, available at:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27095&LangID=E>.

² See CIHRS, "Regional and Palestinian Organizations Submit Report on Israeli Apartheid to UN Committee on the Elimination of Racial Discrimination," 21 November 2019, available at: <https://cihrs.org/regional-and-palestinian-organizations-submit-report-on-israeli-apartheid-to-un-committee-on-the-elimination-of-racial-discrimination/?lang=en>; HRW, "A Threshold Crossed

Israeli Authorities and the Crimes of Apartheid and Persecution," 27 April 2021, available at: <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>; and B'Tselem, "A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid," 12 January 2021, available at: https://www.btselem.org/publications/fulltext/202101_this_is_apartheid.

³ OHCHR, "Israeli settlements: UN expert condemns US decision to "jettison international law"," 19 November 2019, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25319&LangID=E>.

⁴ See CIHRS, "Regional and Palestinian Organizations Submit Report on Israeli Apartheid to UN Committee on the Elimination of Racial Discrimination," 21 November 2019, available at: <https://cihrs.org/regional-and-palestinian-organizations-submit-report-on-israeli-apartheid-to-un-committee-on-the-elimination-of-racial-discrimination/?lang=en>.

violence through impunity, and the maintenance of a coercive environment⁵ designed to drive the transfer of Palestinians in the occupied West Bank. These policies have continued throughout the ongoing global pandemic.

Business involvement in the creation, maintenance and expansion of settlements in the West Bank incentivize and propagate these grave violations of international law. As such, member states of the Human Rights Council (HRC) recognized the importance of taking effective measures to address corporate involvement in Israel's illegal settlement enterprise by establishing the UN database of businesses involved in activities related to Israeli settlements through HRC resolution 31/36 in 2016. However, since its conception and establishment, undue political pressure has consistently attempted to censure or do away with the work and mandate⁶ of the database. Nevertheless, a group of cross-regional states⁷ has maintained that the OHCHR should implement all mandates entrusted to it by the HRC in line with the principles of independence and impartiality.

In February 2020, the initial report of the UN database was released, following a three-year delay. States and civil society welcomed the publication of the database which demonstrated the commitment of the UN Office of the High Commissioner for Human Rights (OHCHR) to upholding human rights standards and the rule of law in pursuit of justice and accountability while reaffirming its independence and impartiality.

In the report, the OHCHR recognized the importance of the annual update by stating that “where there are reasonable grounds to believe that, based on the totality of the information available, the business enterprise is ceasing or no longer involved in the relevant activity, the business enterprise would be removed from the database.” The HRC mandate clearly provides for the annual updating of the database report, and the OHCHR was scheduled to release the updated list of companies during the 46th Human Rights Council session in February 2021. Civil society has stressed that adding and removing companies from the UN database creates a necessary incentive and deterrent against engaging with Israel's illegal settlement enterprise. Furthermore, UN members states that

⁵ See for example, OCHA 2019 Humanitarian Needs Overview, 2019, 1 January 2019, https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/2018/12/humanitarian_needs_overview_2019-%281%29.pdf.

“Settling Area C: The Jordan Valley Exposed”, 05 February 2018, available at: <https://www.alhaq.org/publications/8057.html>; and Badil “Coercive Environments: Israel's Forcible Transfer of Palestinians in the Occupied Palestinian Territory,” February 2017, available at: <https://badil.org/phocadownloadpap/badil-new/publications/research/working-papers/FT-Coercive-Environments.pdf>.

⁶There have been several media reports highlighting political interference exerted against the publication of the Database. See for example: 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-uk-uae-boycott-companies.html>.

⁷ Joint statements delivered during HRC 41:

- **Statement delivered by Tunisia on behalf of 64 states: OIC except** (Albania -Cameroon -Togo), Palestine, Bolivia, Democratic People's Republic of Korea, El Salvador, Namibia, Philippines, South Africa, Syrian Arab Republic, Venezuela, Zimbabwe
- **Statement delivered by Chile on behalf of 27 European/Latin American states:** Albania, Austria, Belgium, Bulgaria, Chile, Croatia, Denmark, Estonia, Finland, Germany, Iceland, Ireland, Liechtenstein, Luxemburg, Malta, Mexico, Montenegro, Netherlands, Norway, Panama, Peru, Portugal, Slovenia, Spain, Sweden, Switzerland, Uruguay

established the database have articulated a clear position that the mandate, as entrusted to the OHCHR, provides for the annual updating of the list of companies.

However, on 18 March 2021, civil society organizations expressed deep concern following the [statement](#) by High Commissioner Michelle Bachelet during the 46th HRC session that the database report was not completed due to budgetary constraints and resource challenges and “noted the question of resource requirements for any further work.”

While recognizing that budgetary constraints are an issue facing the United Nations’ work, the OHCHR needs to implement all mandates entrusted to it in a non-selective manner. Our organizations know of no other mandates entrusted to the OHCHR which were indefinitely suspended due to budgetary constraints.

This again raises concerns about continued pressure by a select group of countries aimed at preventing the High Commissioner and her office from implementing the mandate in relation to the annual updating of the UN database. Our organizations reiterate that there should be no selectivity in the implementation of mandates entrusted to the OHCHR by the HRC, and the imperative of ensuring the independence and impartiality of the OHCHR with respect to all mandates entrusted to it.

Most recently, resolution A/HRC/S-30/L.1 adopted during the 30th Special Session of the HRC recalled the “Guiding Principles on Business and Human Rights, which place responsibilities on all business enterprises to respect human rights by, inter alia, refraining from contributing to human rights abuses arising from conflict”. The UN database of businesses involved in Israel’s settlement enterprise is a practical and effective transparency tool. It ensures that corporations do not continue to benefit from a situation of prolonged occupation and injustice without taking the risk of being listed in the UN database and strengthens the implementation of international law and standards, including the UN Guiding Principles on Business and Human Rights to situations of occupation.

We therefore urge UN member states to:

- Reaffirm the call to the OHCHR to implement all mandates entrusted to the office by the HRC in line with the principles of independence and impartiality;
- Call on the budget committee to provide an urgent, clear and public explanation regarding the budgetary implications of HRC resolution 31/36;
- Ensure the completion and publication of the 2021 update to the UN database of companies involved in Israel’s settlement enterprise as mandated by HRC 31/36;
- Call on the OHCHR to provide a clear and public timeline for the publication of the 2021 update, in private letters, as well as in public statements at the upcoming 47th session of the HRC.
- Call on the OHCHR to implement the Database mandate in complementarity with the newly mandated ongoing COI, as established by the Human Rights Council at its 30th

Special Session,⁸ bearing in mind the reference to the UN Guiding Principles on Business and Human Rights and the role that business enterprises have continued to play in the colonization of Palestine and their involvement in the economic incentive structure perpetuating the ongoing displacement and dispossession of Palestinians as part of the root causes of the recent escalation in violence.

⁸ A/HRC/S-30/L.1