

Ms. Michelle Bachelet  
United Nations High Commissioner for Human Rights  
Palais Wilson – United Nations Office of the High Commissioner for Human Rights  
Geneva, Switzerland

**Date: 28 February 2019**

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

Dear Madam High Commissioner,

The undersigned Palestinian non-governmental human rights organisations, networks, coalitions, trade unions, and movements,<sup>1</sup> based in the Occupied Palestinian Territory (OPT), urge you to publicly release the United Nations (UN) Database of businesses engaged in activities detailed in paragraph 96 of the UN Fact-Finding Mission report on illegal Israeli settlements, and in line with Human Rights Council resolution 31/36 (2016), during the 40<sup>th</sup> Regular Session of the Human Rights Council in March 2019.

**We warn that further delays in the publication of the UN Database and continued lack of transparency between the Office of the High Commissioner for Human Rights (OHCHR) and affected communities will only serve to undermine both the Office and the establishment of the UN Database. It would also foster an already-existing culture of impunity for human rights abuses and internationally recognised crimes in the OPT, committed by both State and non-State actors, including business enterprises.**

Over the past three years, Palestinian, regional, and international civil society organisations have stressed the importance of the UN Database as an initiative to facilitate the regulation of business activities in the OPT in a transparent manner, warn businesses of potential legal and other risks as a result of their operations and relationships, and to ensure accountability for adverse human rights impacts. The principles on which the UN Database is premised are reflected in the UN Guiding Principles on Business and Human Rights, among other strands of international law. Civil society organisations from Palestine and around the world have already expressed their disappointment and grave concern that the results of the process have not yet been

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<sup>1</sup> This letter has been also endorsed by: The Rights Forum, The Centre for Research on Multinational Corporations (SOMO), the Cairo Institute for Human Rights Studies (CIHRS), Trócaire, International Service for Human Rights (ISHR), International Federation for Human Rights (FIDH), Conectas Direitos Humanos and EuroMed Rights.

communicated publicly, with the necessary transparency, three years since the establishment of the UN Database mandate.<sup>2</sup>

Israel's prolonged occupation, including *de jure* and *de facto* annexation of parts of the occupied West Bank, stands in violation of international law, whereby Palestinians are systemically denied their right to self-determination and permanent sovereignty over natural resources, among other basic rights. Palestinians are consequently left with few resources to develop an independent and viable economy,<sup>3</sup> contributing to high unemployment rates among Palestinians in the OPT. In OHCHR's first report on the UN Database, the section on "Preliminary observations of responses of business enterprises" notes the obstruction of the Palestinian economy and appropriation of Palestinian natural resources by Israel, as Occupying Power, which has also served as the primary driver of Palestinians to seek work in settlements.<sup>4</sup> In addition, OHCHR has explicitly stated that the presence of Palestinian workers in settlements "does not exempt businesses of their responsibilities under the Guiding Principles."<sup>5</sup>

Israeli settlements are manifestly illegal, constituting a grave breach of international law and a war crime. For this reason, States are under an obligation not to recognise them as lawful, nor to provide aid or assistance to maintain their presence. The UN, including the

<sup>2</sup> Al-Haq, '100 Palestinian, Regional and International Organisations Call on High Commissioner for Human Rights to Publish UN Database on Business Enterprises with Activities Related to Israeli Settlements in the OPT', 27 November 2018, available at: <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>; Al-Haq, 'Palestinian Organisations Support Release of UN Database Report and Call for Third State Action to End Corporate Complicity in Occupation', 25 January 2018, available at: <http://www.alhaq.org/advocacy/targets/united-nations/1178-palestinian-organizations-support-release-of-un-database-report-and-call-for-third-state-action-to-end-corporate-complicity-in-occupation>; Al-Haq, 'Joint NGO Statement in Support of the UN Human Rights Database on Business Activities related to Settlements in the Occupied Palestinian Territory', 12 January 2017, available at:

<http://www.alhaq.org/advocacy/targets/united-nations/1154-joint-ngo-statement-in-support-of-the-un-human-rights-database-on-business-activities-related-to-settlements-in-the-occupied-palestinian-territory>

<sup>3</sup> "The complex system of restrictions on movement and access imposed by Israel is the most significant impediment to Palestinian private sector growth." See the World Bank, Area C and the Future of the Palestinian Economy, 2013, p. 3-4, available at: <http://documents.worldbank.org/curated/en/137111468329419171/West-Bank-and-Gaza-Area-C-and-the-future-of-the-Palestinian-economy>

<sup>4</sup> Report of the United Nations High Commissioner for Human Rights, '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 civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem', 1 February 2018, A/HRC/37/39, paras. 52-57.

<sup>5</sup> *Ibid.* "OHCHR notes that the employment of Palestinians, even on favourable terms, does not exempt businesses of their responsibilities under the Guiding Principles concerning their overall engagement in or with the settlements. The Guiding Principles make clear that, while business enterprises may undertake certain commitments or activities to support and promote human rights, these "do not offset a failure to respect human rights throughout their operations.""

Security Council, General Assembly, and Human Rights Council, has repeatedly reiterated the illegality of Israeli settlements, and the need to distinguish in dealings between the State of Israel and occupied territory. In light of this, we urge OHCHR to consider the release of the UN Database alongside recent developments and efforts in this regard stemming from Member States, such as Chile and Ireland, to distinguish in their dealings between Israel and the OPT and to prohibit settlement goods, in line with international law and their obligations as third State parties.

Within the context of Israel's escalating settlement construction and expansion, annexationist policies and measures, persistent disregard for Palestinians' right to life, dignity, and their right to self-determination, it is of paramount importance that the UN Database is considered by your Office as a vital practical and effective tool to ensure that States and corporations do not continue to benefit from a situation of prolonged occupation and injustice. This will also contribute towards the genuine realisation of the Palestinian right to self-determination and permanent sovereignty over natural resources, among other rights, and to achieving justice for the Palestinian people through international law mechanisms.

In line with the aforementioned, Palestinian civil society urge that your Office stands in the face of political adversity on this issue and insist on making the UN Database a public document and process to demonstrate the gravity of the Office's mandates and to ensure respect for and implementation of international law, including in the OPT and in respect of the rights of the protected Palestinian population therein. Accordingly, we urge you to release the UN Database and the names of companies listed therein during the 40<sup>th</sup> Regular Session of the Human Rights Council in March 2019.

For further information, please consult the two joint letters attached, which were communicated to your Office by Palestinian, regional and international civil society organisations in this regard in February and November 2018.

Yours sincerely,

***Signatories:***

**Members of the Palestinian Human Rights Organisations Council (PHROC):**

1. Addameer Prisoners' Support and Human Rights Association
2. Aldameer Association for Human Rights
3. Al-Haq
4. Al Mezan Center for Human Rights
5. Badil Resource Center for Palestinian Residency and Refugee Rights
6. Defence for Children International Palestine Section
7. Hurryat – Centre for Defense of Liberties and Civil Rights
8. Jerusalem Center for Legal Aid and Human Rights (JLAC)

9. Ramallah Center for Human Rights Studies
10. The Palestinian Center for Human Rights (PCHR)

**The Palestinian Coalition for Economic, Social and Cultural Rights “Adaleh”:** a coalition of 71 Palestinian institutions, including trade unions and NGOs.

**The Palestinian Non-Governmental Organizations Network (PNGO):** a coalition of 145 Palestinian NGOs in the OPT.

*Endorsed by:*

1. The Rights Forum
2. The Centre for Research on Multinational Corporations (SOMO)
3. Cairo Institute for Human Rights Studies (CIHRS)
4. Trócaire
5. International Service for Human Rights (ISHR)
6. International Federation for Human Rights (FIDH)
7. Conectas Direitos Humanos
8. EuroMed Rights