

H.E. Prince Zeid Ra'ad Al Hussein
High Commissioner for Human Rights
Palais Wilson – United Nations
Geneva, Switzerland

22 February 2018

Joint Open Letter to the High Commissioner for Human Rights

Re: Release of UN Database of Businesses Operating in Israeli Settlements

Your Excellency,

The undersigned 33 organizations welcome the report your office released on 26 January 2018 pursuant to Human Rights Council resolution 31/36 on Israeli settlements in the Occupied Palestinian Territory (OPT), with regards to producing a Database of all business enterprises engaged in certain specified activities related to the Israeli settlements in the OPT. Our organizations acknowledge the significant progress made in establishing the Database, and in setting out a clear methodology, and a solid normative framework for this purpose. The report reiterates the unequivocal language of UN Security Council resolution 2334: the establishment by Israel of settlements in the OPT has no legal validity, and constitutes a serious and flagrant violation of international law. It further affirms that businesses should be prepared to accept any consequences – reputational, financial, or legal – of involvement in human rights violations. Given the clarity with which your office has addressed and rebutted the standard arguments proffered by certain companies seeking to justify their engagement in the settlements, going forward there can be no doubt that an enterprise which conducts such activities does so at its own peril.

While we acknowledge the progress made to date, there is much work left to do. In that regard, and conscious of the fact that this mandate was created almost two years ago, we would urge your office to complete its review of all companies named as a matter of urgency. As many of our organizations have already highlighted, the Database should be a mechanism that assists states in meeting their obligations under international law, including the obligation not to recognize as lawful – even implicitly – the illegal situation created by Israeli settlements and not to contribute to maintaining this illegal situation. This entails regulating businesses domiciled in their territory to ensure they are not engaged in listed activities in settlements.

In moving forward with this process, we would ask your office to further clarify and elaborate on specific matters of methodology and processes. For example, as part of the screening process, we would ask that your office define the ‘minimal and remote’ business activities that would result in the business being excluded from the Database,

and explain how this definition may relate to sub-contracting relationships and supply chains. For purposes of increased transparency, we would urge you to reconsider providing enterprises with the option of keeping the substance of written responses confidential. While we acknowledge that there may be a value in companies submitting information confidentially during the fact-finding stage for the purpose of enabling constructive engagement, we nonetheless suggest that company responses to allegations of fact be made public. Alternatively, as a minimum, an accurate summary of the company's response should be publicly released. This disclosure constitutes vital access to information for affected communities and individuals in the settlement areas. Similarly, in relation to your communications with states that have relevant business enterprises domiciled in their countries, we request that you provide more information on commitments such 'home' States may have agreed to undertake in this regard. Moreover, the data gathered on companies involved in human rights violations in the OPT should be transmitted by the OHCHR to the Human Rights Council (HRC) as an annually updated official document providing a living Database.

The undersigned organizations acknowledge the effort and resources required to accomplish the progress highlighted in the report, where your office has reviewed 321 companies allegedly involved in activities pursuant to paragraph 96 of the fact-finding mission report on the settlements (A/HRC/22/63). We strongly suggest that all the businesses that were duly screened and contacted according to the methodology and standard of proof set out in the report, and who subsequently provided a response rejecting the process and mandate of OHCHR or have not provided a response within the given 60 day timeframe, should be immediately released. It should be recalled that the purpose of the Database is to be a living document with periodic updates. As such, the release of any current findings would be a first step towards the ongoing work set out in the mandate. In addition, we believe that there must be a clear time frame set for an enterprise's engagement with your Office, including a maximum timeframe for those companies that opt to constructively engage with your Office, for the sake of increased transparency and clarity of the process for all stakeholders involved.

We are aware that UN bodies, including your office, have been facing unprecedented pressure by some states and organizations to prevent the release of this Database. We therefore applaud your office for releasing this report nonetheless. The Database presents a significant step forward for the business and human rights agenda worldwide. It sets an example of an efficient tool to ensure greater accountability for corporate human rights abuses, including the right of victims to an adequate remedy, particularly in situations of occupation. It also assists states to bring their companies into compliance with the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), as well as principles of international humanitarian and human right law. An effective database would give a glimmer of hope to the Palestinian people enduring half a century long military

occupation, and stand as a reminder that the international community is committed to putting an end to the illegal settlement enterprise that is stifling their economy, depleting their natural resources, and undermining their human rights.

In light of the above, we urge you to:

- a) Immediately list businesses that have been duly screened and contacted according to the methodology and standard of proof set out in the report, and who subsequently provided a response rejecting the process and mandate of OHCHR, or have not provided a response within the given 60 day timeframe;
- b) Continue working with civil society organizations and human rights defenders in full transparency for the completion and continuous updating of the Database, and the strengthening of methodologies and procedures;
- c) Ensure that appropriate resources are allocated so as to allow for continued development of the Database mechanism;
- d) Include, in the coming report, direct recommendations for States on how to engage with the new mechanism to help them distinguish in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967, as stipulated by UNSCR 2334.

Yours sincerely,

Al-Haq

Amnesty International

Cairo Institute for Human Rights Studies

Al Mezan Center for Human Rights

ADDAMEER Prisoner Support and Human Rights Association

Aldameer Association for Human Rights

Arab Organization for Human Rights

Article 1 Collective

Asian Forum for Human Rights and Development (FORUM-ASIA)

BADIL - Resource Center for Palestinian Residency and Refugee Rights

Bytes For All, Pakistan

CNCD-11.11.11

Community Action Center – Al-Quds University

Conectas Direitos Humanos

DCI - Defense for Children International – Palestine

EuroMed Rights

Forum Tunisien Pour les Droits Economiques et Sociaux
Hurryyat - Center for Defense of Liberties and Civil Rights
International Federation for Human Rights (FIDH)
International Trade Union Confederation
Italian General Confederation of Labour
Jerusalem Legal Aid and Human Rights Center
Lawyers for Palestinian Human Rights (LPHR)
National Institution of Social Care & Vocational Training
Odhikar
Palestinian Centre for Human Rights
Palestina Solidariteit vzw, Belgium
Plateforme des ONG françaises pour la Palestine
Ramallah Center for Human Rights Studies
QADER for Community Development
Trócaire
Health Work Committees
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