

CORPORATE SOCIAL RESPONSIBILITY RELATING TO ISRAEL'S ACTIVITIES WITHIN THE OCCUPIED STATE OF PALESTINE

It is widely accepted that Israel's settlements are illegal under public international law, international humanitarian law and international criminal law. This short document outlines violations caused by Israel's activities within the occupied State of Palestine and highlights the responsibility of international businesses within context of Corporate Social Responsibility (CSR).

ISRAEL'S SETTLEMENT ENTERPRISE IS ILLEGAL UNDER THE FOLLOWING BODIES OF LAW

Fourth Geneva Convention:

- ▶ Art. 49, para. 6: prohibits occupying power from transferring its population into occupied territory.
- ▶ ICJ Advisory Opinion (2004): Israel's policy since 1977 of incentivizing and facilitating transfer of Israelis into OPT violates art. 49, para. 6.

Rome Statute of the International Criminal Court

- ▶ Article 8(2)(b)(viii) makes transfer of occupying power's population into occupied territory, directly or indirectly, a war crime.

UN Security Council resolutions

- ▶ Numerous UNSC resolutions have declared that settlements are illegal, including 446, 452, 465, 471 and 476.

VIOLATION OF PALESTINIAN RIGHTS

Israel's settlement enterprise denies the Palestinian people's basic right to self-determination and gives rise to numerous other human rights violations. Settlements and their infrastructure (including the annexation wall, 'settler-only' bypass roads and restricted areas surrounding settlements) severely hinder Palestinians' ability to move freely. This restricts their access to agricultural land, basic services such as schools and hospitals, places of worship, and even family and friends in neighboring towns and villages.

To create space to establish and expand settlements, Palestinians routinely are forcibly evicted from their family homes, which are often demolished.¹

Settlements exploit Palestinian natural resources, including water. The average Israeli uses more than four times the amount of water per day as the average Palestinian.²

¹ According to UNOCHA a total of 633 homes and other structures were demolished during 2013, rendering 1103 people (including 558 children) homeless.

² The World Health Organization recommends a minimum domestic water consumption of 100 liters per capita per day. The average individual Palestinian domestic consumption, at 70 liters per day, falls 30 liters below this minimum, while the average Israeli consumes three times the recommended minimum (280 liters). In the southern West Bank, there are communities that use less than 15 to 20 liters per capita per day.

Under the pretext of “security” for illegal settlers, the Israeli military carries out arbitrary raids on people’s homes and businesses on a daily basis, and arrests and detains men women and children as young as 12, often without trial or charge.³

UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGP) (“RUGGIE PRINCIPLES”)⁴

The UNGP are a non-binding global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. They are meant to elaborate existing standards and practices for states and businesses, rather than to establish new international law obligations. Unlike earlier UN attempts to create global human rights standards for business activity, the UNGP have been widely endorsed by states and businesses.

The UNGP establishes a three-pillar “protect, respect and remedy” framework: (1) states’ duty to protect human rights; (2) corporate responsibility to respect human rights; and (3) states’ responsibility to provide access to effective remedies.

RELEVANT PROVISIONS OF THE UNGP

I. STATE DUTY TO PROTECT HUMAN RIGHTS

7. States should help ensure that business enterprises operating in those contexts [conflict-affected areas] are not involved with such abuses, including by:
 - (a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships
 - (c) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation
 - (d) Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.

II. CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

11. Business enterprise should ... avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
13. The responsibility to respect human rights requires that business enterprises:
 - (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.
17. ...business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts...

³ In 2013, the Israeli military carried out 5559 raids against Palestinian civilians, arresting 4533 people (Palestine Monitoring group) including 900 children (Ministry of Prisoners’ Affairs)

⁴ The full text of the UN Guiding Principles is available at: http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf

CSR IN THE CONTEXT OF ISRAEL'S SETTLEMENT ENTERPRISE

Good CSR practices allow businesses to avoid contributing to human rights violations occurring in the Palestine-Israel conflict. Doing business with Israeli companies involved in the settlement enterprise carries legal, political and reputational risks, including potential liability for contributing to violations of international humanitarian law and international human rights law.

Significantly, the UNGP recognize that businesses may be liable for aiding and abetting international crimes, including human rights violations, if they “knowingly provid[e] practical assistance or encouragement that has a substantial effect on the commission of a crime.”⁵ The Principles advise that:

Conducting appropriate human rights due diligence should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged human rights abuse. However, business enterprises conducting such due diligence should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses.

Businesses must therefore ensure that they are not supporting the illegal Israeli settlement regime in the occupied Palestinian territory. This involves ensuring that no company operates in, or has contracts with, Israeli settlement enterprises. For conglomerates, care should be taken to ensure that subsidiary companies, joint ventures etc., are not involved in settlements. Compliance efforts should also include not purchasing goods or services from Israeli companies which are complicit in Israel's settlement regime.

In this way, businesses can be assured that they are fulfilling their commitment to corporate social responsibility and upholding universal principles of human rights.

⁵ UN Guiding Principles on Business and Human Rights, Art. 17, commentary.