



Robust methodology key to success of UN database of businesses involved in Israel's settlements

Civil society releases submission on normative framework, criteria for inclusion

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The Global Legal Action Network (GLAN), the Centre for Research on Multinational Corporations (SOMO), and the International Federation for Human Rights (FIDH) are publicly releasing their joint submission to the Office of the High Commissioner for Human Rights (OHCHR) which is in the process of setting up a database of businesses operating in Israel's settlements in the occupied Palestinian territory. The decision to publish this submission comes in response to the OHCHR's initial progress report released in January 2018. While the organisations behind the submission welcome the report and the efforts made to develop the database, gaps remain regarding the normative framework and criteria for inclusion on the database.

The joint submission released today proposes a robust normative framework that transparently sets out the criteria for inclusion of a business, based on existing business and human rights law and practice, so as to provide sufficient guidance to businesses and home-states about how certain business transactions related to the settlements adversely impact human rights. It also maps the variety of ways that Israeli and foreign businesses are involved in Israel's settlements, and suggests an appropriate standard for a business' inclusion in the database.

Many businesses and their home states remain unaware of the precise nature of their responsibilities under international standards, and fail to act in line with them by maintaining business operations in illegal settlements in occupied territory.

The OHCHR's January 2018 progress report states that the database will not include businesses whose involvement in settlement related activity is "minimal and remote" (para. 41). It does not however provide guidance on the type of business activities that "directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements" (HRC Resolution 31/36, para. 17), thus contributing to human rights abuses of the Palestinian population in the West Bank.



While the database is focused on the business environment of Israel's settlements, this guidance would also apply to settlements established and maintained in other ongoing cases of occupation. It would also further home-state regulation of corporate nationals' transnational activities in domestic law, and ensure that such corporate dealings do not expose domestic subjects, e.g. other companies and individuals, to economic and legal risks.

The organisations behind the submission urge the OHCHR to set out the database's criteria for inclusion, based on a business' level of involvement with settlements. Failure to provide such guidance on the methodology of the database to businesses and their home states, would risk negatively impacting the authority and legitimacy of the mechanism. The authors also call for information about the working procedures of the database to be transparently communicated; including clear timeframes, burden of proof standards, criteria for assessing the adequacy of a business' efforts to terminate or review settlement related operations, and a fair and reasonable procedure for challenging the inclusion of a business in the database.

Despite political pressure and budgetary restrictions, it would be wrong to limit the mandate of the OHCHR to the mere annual publication of a report. This approach is at odds with the necessary working procedures of a living mechanism such as a database, which assumes its ability to provide regular updates and to interact with businesses and home-states. To this end, the UN should ensure that the OHCHR is allocated a renewable and adequate budget that permits it to effectively monitor, report, and analyse information as necessary to operate the database in line with the mandate granted to it by HRC Resolution 31/36.