HUMAN RIGHTS WATCH

OCCUPATION, INC.

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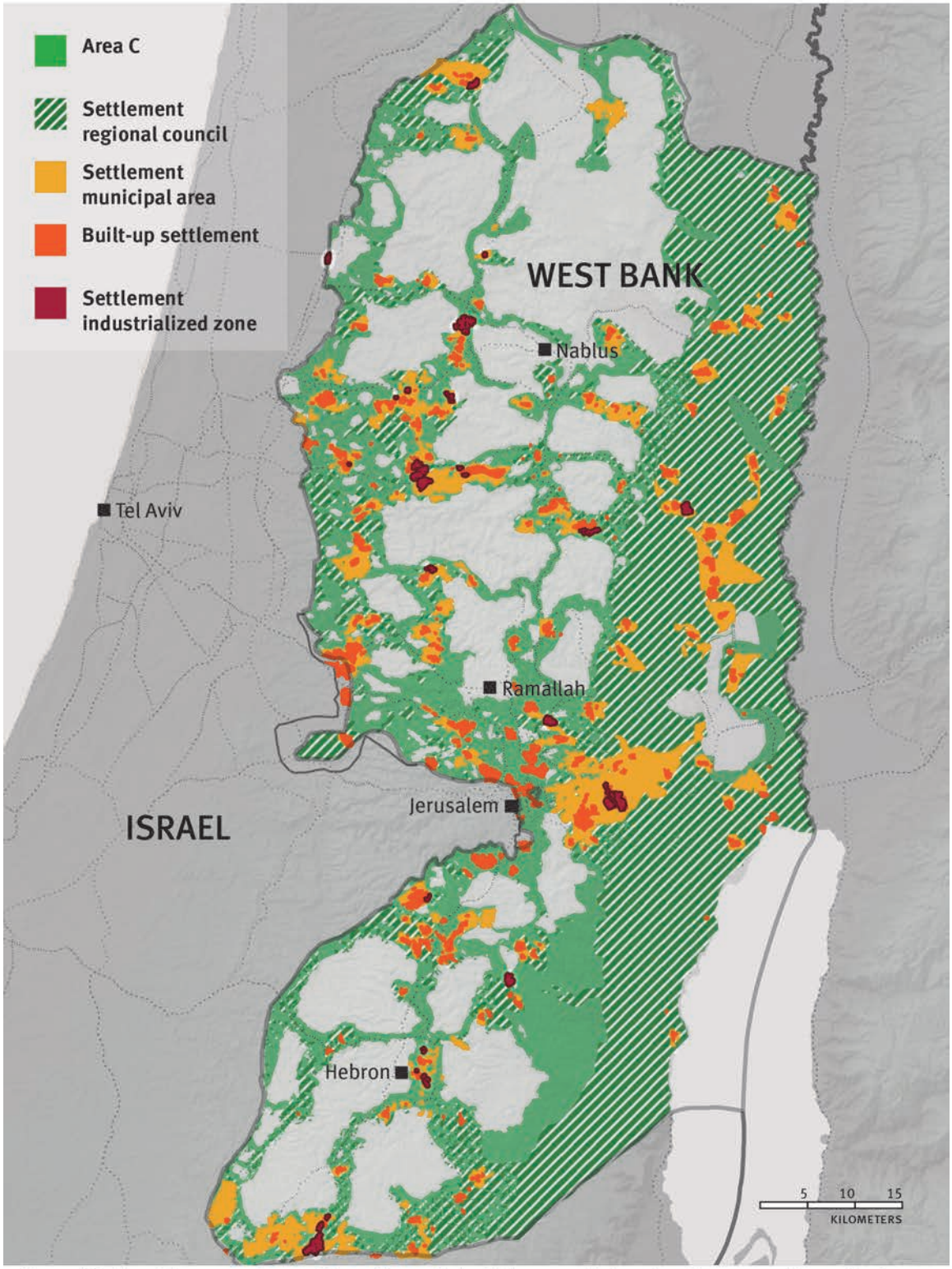
How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights

There are now more than 500,000 Israeli settlers living in 237 settlements in the Israeli-occupied West Bank including East Jerusalem. Israel prohibits Palestinians from developing the areas it designates for settlement regional councils, which make up 70 percent of the part of the West Bank under its administrative control, called Area C.



Source: Btselem, February 2008, except the settlement industrial zones, which are based on geographic coordinates Israel's Civil Administration provided to Dror Etkes in November 2014.

Summary

Almost immediately after Israel's military occupation of the West Bank in June 1967, the Israeli government began establishing settlements in the occupied Palestinian territories. From the outset, private businesses have been involved in Israel's settlement policies, benefiting from and contributing to them. This report details the ways in which Israeli and international businesses have helped to build, finance, service, and market settlement communities. In many cases, businesses are "settlers" themselves, drawn to settlements in part by low rents, favorable tax rates, government subsidies, and access to cheap Palestinian labor.[1]

In fact, the physical footprint of Israeli business activity in the West Bank is larger than that of residential settlements. In addition to commercial centers inside of settlements, there are approximately 20 Israeli-administered industrial zones in the West Bank covering about 1,365 hectares, and Israeli settlers oversee the cultivation of 9,300 hectares of agricultural land. In comparison, the built-up area of residential settlements covers 6,000 hectares (although their municipal borders encompass a much larger area).

Israeli settlements in the West Bank violate the laws of occupation. The Fourth Geneva Convention prohibits an occupying power from transferring its citizens into the territory it occupies and from transferring or displacing the population of an occupied territory within or outside the territory. The Rome Statute, the founding treaty of the International Criminal Court, establishes the court's jurisdiction over war crimes including the crimes of transfer of parts of the civilian population of an occupying power into an occupied territory, and the forcible transfer of the population of an occupied territory. The ICC has jurisdiction over crimes committed in or from the territory of the State of Palestine, now an ICC member, beginning in June 13, 2014, the date designated by Palestine in a declaration accompanying its accession.

Israel's confiscation of land, water, and other natural resources for the benefit of settlements and residents of Israel also violate the Hague Regulations of 1907, which

[1] Note that this report refers collectively to all companies that do business in or with settlements as "settlement businesses," regardless of whether they are located in settlements.

prohibit an occupying power from expropriating the resources of occupied territory for its own benefit. In addition, Israel's settlement project violates international human rights law, in particular, Israel's discriminatory policies against Palestinians that govern virtually every aspect of life in the area of the West Bank under Israel's exclusive control, known as Area C, and that forcibly displace Palestinians while encouraging the growth of Jewish settlements.

As documented in this report, it is Human Rights Watch's view that by virtue of doing business in or with settlements or settlement businesses, companies contribute to one or more of these violations of international humanitarian law and human rights abuses. Settlement businesses depend on and benefit from Israel's unlawful confiscation of Palestinian land and other resources, and facilitate the functioning and growth of settlements. Settlement-related activities also directly benefit from Israel's discriminatory policies in planning and zoning, the allocation of land, natural resources, financial incentives, and access to utilities and infrastructure. These policies result in the forced displacement of Palestinians and place Palestinians at an enormous disadvantage in comparison with settlers. Israel's discriminatory restrictions on Palestinians have harmed the Palestinian economy and left many Palestinians dependent on jobs in settlements—a dependency that settlement proponents then cite to justify settlement businesses.

Following international standards articulated in the United Nations Guiding Principles on Business and Human Rights, businesses are expected to undertake human rights due diligence to identify and mitigate contributions to human rights violations of not only their own activities but also activities to which they are directly linked by their business relationships. They are also expected to take effective steps to avoid or mitigate potential human rights harms—and to consider ending business activity where severe negative human rights consequences cannot be avoided or mitigated.

Based on the findings of this report, it is Human Rights Watch's view that any adequate due diligence would show that business activities taking place in or in contract with Israeli settlements or settlement businesses contribute to rights abuses, and that businesses cannot mitigate or avoid contributing to these abuses so long as they engage in such activities. In Human Rights Watch's view, the context of human rights abuse to which settlement business activity contributes is so pervasive and severe that businesses should cease carrying out activities inside or for the benefit of settlements, such as building

housing units or infrastructure, or providing waste removal and landfill services. They should also stop financing, administering, trading with or otherwise supporting settlements or settlement-related activities and infrastructure.

Human Rights Watch is not calling for a consumer boycott of settlement companies, but rather for businesses to comply with their own human rights responsibilities by ceasing settlement-related activities. Moreover, consumers should have the information they need, such as where products are from, to make informed decisions.

This report uses illustrative case studies to highlight four key areas where, in Human Rights Watch's view, settlement companies contribute to and benefit from violations of international humanitarian and human rights law: discrimination; land confiscations and restrictions; supporting settlement infrastructure; and labor abuses. These case studies are not necessarily the worst examples of settlement businesses, but demonstrate how businesses operating in settlements are inextricably tied to one or more of these abuses.

How Businesses Contribute to and Benefit from Discrimination

Israel operates a two-tiered system in the West Bank that provides preferential treatment to Jewish Israeli settlers while imposing harsh conditions on Palestinians. Israeli courts apply Israeli civil law to settlers, affording them legal protections, rights and benefits not enjoyed by their Palestinian neighbors who are subject to Israeli military law, even though under international humanitarian law, military law governs the occupied territories regardless of citizenship. Israel's privileged treatment of settlers extends to virtually every aspect of life in the West Bank. On the one hand, Israel provides settlers, and in many cases settlement businesses, with land, water infrastructure, resources, and financial incentives to encourage the growth of settlements. On the other hand, Israel confiscates Palestinian land, forcibly displaces Palestinians, restricts their freedom of movement, precludes them from building in all but 1 percent of the area of the West Bank under Israeli administrative control, and strictly limits their access to water and electricity.

In 2010, Human Rights Watch published a report, *Separate and Unequal*, documenting Israel's systematic discrimination against Palestinians in favor of settlers. The report found that the impact of these policies on Palestinians at times amounts to forcible transfer of the population living under occupation, since many Palestinians who are unable to build a

home or earn a living are effectively forced to move to areas under Palestinian Authority control or to emigrate entirely out of the West Bank. This new report builds on Human Rights Watch's previous findings and considers the ways in which settlement businesses are deeply bound up with Israel's discriminatory policies.

By virtue of facilitating the settlement regime, settlement businesses, in Human Rights Watch's view, contribute to the discriminatory system that Israel operates for the benefit of settlements. These businesses also directly benefit from these policies in myriad ways. The report describes two such ways. One is the financial and regulatory incentives that the Israeli government provides to settlement businesses, but not to local Palestinian businesses, in order to encourage the economic development of settlements. The other is the discriminatory way that the Civil Administration, the unit in the Israeli military responsible for civilian affairs in the West Bank, issues permits for the construction and operation of settlement companies, often on land confiscated or expropriated from Palestinians in violation of international humanitarian law, while severely restricting such permits for Palestinian businesses. It is therefore Human Rights Watch's view that businesses operating in or with settlements are inextricably linked to, and benefit from, Israel's privileged and discriminatory treatment of settlements at the expense of Palestinians.

As an illustrative example, the report contrasts the operating conditions of a quarry in the West Bank owned and operated by a European company, to the operating conditions of Palestinian-owned quarries in the West Bank town of Beit Fajar. Whereas Israel issued a permit to the European company to operate the quarry on an area of land that Israel declared belongs to the state, Israel has refused to issue permits for nearly all of the 40 or so Beit Fajar quarries, or for almost any other Palestinian-owned quarry in the area of the West Bank under Israel's administrative control. The World Bank estimates that Israel's virtual ban on issuing Palestinians permits for quarries costs the Palestinian economy at least US$241 million per year. Yet Israel licenses eleven settlement quarries in the West Bank despite this exploitation of resources in occupied territory violating international humanitarian law.

Article 55 of the Hague Regulations of 1907 makes occupied property subject to the laws of usufruct. The generally accepted interpretation of these rules permits an occupying power to appropriate the resources of the occupied territory only for the benefit of the protected

population or if justified by military necessity. Yet the settlement quarries pay fees to settlement municipalities and the Civil Administration, which cannot be said to benefit the Palestinian people, and sell 94 percent of the materials they produce to Israel or Israeli settlements, in violation of these laws.

How Businesses Contribute to and Benefit from Land Confiscation and Restrictions

This report also describes how settlement businesses depend on, contribute to, and benefit from Israel's unlawful confiscation of and restrictions on Palestinian land for the benefit of settlements. Some settlement businesses operate in residential settlements, or provide services to them, while others operate in "industrial zones" specially built for settlement businesses.

Such businesses depend on Israel's unlawful confiscation of Palestinian land to build the settlements in the first place. Based on the findings of the report, it is Human Rights Watch's view that by facilitating settlements' residential development, these businesses also contribute to the further confiscation of Palestinian land, restrictions on Palestinian access to their lands, and their forced displacement from these lands. The report highlights the case of Ariel, a settlement Israel first established in 1978. The 4,615 *dunams* (462 hectares) of land on which Ariel was initially built was seized by military order ostensibly for security purposes. In the decades since, Israel has built three security fences around the settlement, each time encompassing hundreds more *dunams* of privately owned Palestinian agricultural land.

The report examines two illustrative case studies—a bank and real estate agency active in Ariel—to demonstrate the manner in which businesses finance, develop and profit from the illegal settlement housing market on lands seized from Palestinians. Many other banks and real estate agencies are active in settlements, and the focus on these companies is purely illustrative and not intended to single them out as particularly problematic.

The first case study looks at the role of an Israeli bank in the construction of a six-building complex in Ariel called Green Ariel. The bank is financing the project and provides mortgages to Israeli buyers there and elsewhere in Israeli settlements. The bank's website advertises the pre-sale of apartments in several other buildings under construction in

settlements. This is one example of the many banks that finance settlement construction or provide mortgages to settlers.

The operations of a US-based global real estate franchise is another case study illustrating business involvement in the settlement housing market. Like other real estate agencies, the branches located inside Israel offer properties for sale and rent in Ariel and other settlements; it also has a branch in the settlement of Ma'aleh Adumim.

By contributing to and benefitting from Israel's unlawful confiscation of land, the financing, construction, leasing, lending, selling and renting operations of businesses like banks and real estate agencies help the illegal settlements in the West Bank to function as viable housing markets, enabling the government to transfer settlers there.[2] In this way, in Human Rights Watch's view, companies involved in the settler housing market contribute to two separate violations of international humanitarian law: the prohibition on an occupying power expropriating or confiscating the resources of the occupied territory for its own benefit and the prohibition on transferring its civilians to occupied territory. By benefitting from the preferential access to land and financial incentives for doing business in the settlements, these businesses also benefit from Israel's unlawful discrimination against Palestinians.

Israel's confiscation of land for settlements and settlement businesses violates international law, regardless of whether the land was previously privately held, "absentee land" or so-called "state land." Businesses operating on these unlawfully confiscated lands are inextricably tied to the ongoing abuses perpetuated by such confiscations. While Israel maintains that its human rights obligations do not extend to the occupied territories, the International Court of Justice, endorsing the position of the United Nations Human Rights Committee, has refuted Israel's position on the grounds that a state's obligations extend to any territory under its effective control. Israel also wrongly asserts that the Fourth Geneva Convention's prohibition on an occupying power to "deport or

[2] The US-based franchisor of the global network has claimed that it sold its rights to the Israeli franchise to its European affiliate, and therefore is not in a direct contractual relationship with the Israeli franchise. However, according to regulatory files submitted to the US Securities and Exchange Commission, the global franchisor retains control over any franchisee operating under the its brand. See discussion in Chapter IV below. Neither headquarters nor the Israeli franchise responded to letters from Human Rights Watch inquiring about the amount of royalties, if any, that the Israeli franchise pays to headquarters.

transfer parts of its own civilian population into the territory it occupies" does not apply to voluntary transfers. Both the plain meaning of article 49 of the Convention—which only refers to "transfer" in this clause but expressly refers to "forcible transfers" in the context of a different prohibition in the same article—and the International Committee of the Red Cross's commentary contradict this position.

How Businesses Support the Infrastructure of Unlawful Settlements

Businesses also play a vital role in sustaining the settlements, thereby facilitating and benefitting from Israel's violation of the international law prohibition on an occupying power transferring its civilian population into occupied territory and contributing to Israel's discrimination against Palestinians in the West Bank. Businesses provide services of all kinds to settlers. At the same time, they contribute to the economic development of settlements by providing employment to settlers and tax revenues to settlement municipalities.

The report highlights, as an illustrative example, a company providing waste management services in Israeli settlements in the West Bank, including Ariel and the nearby Barkan industrial zone. It operates a landfill in the Jordan Valley on land that Israel confiscated in violation of the laws of occupation and helps to sustain the presence of settlements. The company also benefits from Israel's discriminatory approval requirements that favor Israeli companies servicing settlements but discriminate against Palestinian companies servicing Palestinians. In 2004, Israel invested in upgrading the facility in the Jordan Valley and the Civil Administration gave it a permit to operate there, even though the site currently exclusively services Israeli and settlement waste.

Meanwhile Palestinians have struggled to obtain funding and permits for landfills. All authorized landfills servicing Palestinians are funded by international donors. In one case, Israel has refused to retroactively approve a Palestinian site, and in another, it forces a Palestinian landfill site to accept waste from settlements established in violation of international law.

More generally, settlement businesses provide employment to settlers, which is a key to attracting and maintaining settlers. Around 55,440 settlers—about 42 percent of the settlement workforce—are employed in public or private sector jobs in Israel's settlements.

Settlement businesses also pay taxes to settlement municipalities, thus contributing to the sustenance of the settlements. Although the tax rates are often lower than rates inside Israel, they still make up a sizable share of the municipality's income.

For example, the 2014 projected budget of the settlement of Barkan, which is associated with the industrial zone of the same name, anticipated that around 6 percent of its budget—350,000 shekels of a six million shekels ($87,500 of $1,500,000) budget—would come from corporate taxes, and that Barkan would take in another nearly million shekels ($250,000) in water taxes, a portion of which factories in the industrial zone would pay. In 2014, the subsidiary of a European cement company that owns a quarry in the West Bank paid €430,000 ($479,000) in taxes to the Samaria Regional Council for its operation of the Nahal Raba quarry.[3]

Without the participation and support of such private businesses that service Israel's settlements, the Israeli government would incur much greater expenses to sustain the settlements and their residents. In this way, businesses contribute to Israel's maintenance and expansion of unlawful settlements.

How Businesses Contribute to and Benefit from Labor Abuse

While all settlement-related business activity runs afoul of international standards on the human rights responsibilities of businesses, regardless of labor conditions, the lack of clear labor protections for Palestinians working in settlements creates a high risk of discriminatory treatment and other abuses. As noted, Israeli courts apply Israeli civil law to settlers, while Palestinians are subject to Jordanian law as it existed at the start of the occupation in 1967, except as amended by military order. In 2007, Israel's Supreme Court ruled that, in the case of labor laws, this two-track legal system is discriminatory, and Israeli law should govern employment conditions of Palestinians in settlements, giving Palestinian employees the right to sue their employers in Israeli courts for violations of Israeli labor laws. But the government has not implemented this ruling, and claims it cannot investigate and enforce compliance with these laws.

[3] The report uses an exchange rate of 4 New Israeli Shekels (NIS) and .90 euros per US dollar.

The virtually complete lack of government oversight, as well as Palestinian workers' dependency on Israeli-issued work permits, creates an enabling environment for settler employers to pay Palestinian workers below Israel's minimum wage and deny them the benefits they provide to Israeli employees. Notwithstanding the international humanitarian law prohibition against applying Israeli law to occupied territory, Israel is obliged by international human rights law to ensure that all civilians under its effective control enjoy all human rights without discrimination according to ethnicity, citizenship, or national origin and therefore must bring conditions for Palestinian workers in settlements in line with those of settlers.

According to the workers' rights group Kav LaOved, at least half of settlement companies pay Palestinian workers less than Israel's minimum hourly wage of 23 shekels ($5.75), with most of these workers receiving eight to 16 shekels per hour ($2 to $4), no vacation, sick days, or other social benefits, and no pay slips. Human Rights Watch spoke to one worker, Hani A. (pseudonym), who is employed in a factory in Barkan that produces Hanukah candles and plastic containers. He said he works 12-hour night shifts, receives only one half-hour break, and earns 8.5 shekels ($2.12) per hour. Another person, Mujahid, who worked in Barkan until September 2014, told Human Rights Watch he earned 16 shekels ($4) per hour and worked between 12 and 15 hours a day. He recalled one week during which he worked from 3 a.m. to 8 p.m.

The report highlights the illustrative case of a textile manufacturer in Barkan that supplied linens to an upscale American home goods chain. In 2008, 43 employees, almost half of whom were women, sued the exporter, alleging they were earning hourly wages of 6 to 10 shekels ($1.50 to 2.50) and receiving no social benefits; women workers alleged they were receiving around 2 shekels less per hour than the men. The exporter settled all the cases out of court. The co-owner of the business claims that all employees currently receive minimum wage and full benefits under Israeli law. The exporter moved its facilities from the occupied territories in October 2015.

Supporters of settlement businesses have argued that they benefit Palestinians by providing them with employment opportunities and paying wages that exceed wages for comparable jobs in areas where Israel has ceded limited jurisdiction to the Palestinian Authority. They have raised concerns that, in some cases, ceasing Israeli business activity in settlements may force the layoff of Palestinian workers. Some have even described

settlement businesses as models of co-existence or an alternative path to peace through economic cooperation.

The employment of Palestinians in settlement businesses does not, in any case, remedy settlement businesses' contribution to violations of international human rights and humanitarian law. The cumulative impact of Israeli discrimination, as documented in this report and numerous others, is to entrench a system that contributes to the impoverishment of many Palestinian residents of the West Bank while directly benefitting settlement businesses, making Palestinians' desperate need for jobs a poor basis to justify continued complicity in that discrimination.

The World Bank estimates that discriminatory Israeli restrictions in Area C of the West Bank, most of which are directly linked to Israel's settlement and land policies, cost the Palestinian economy $3.4 billion a year. These restrictions drive up unemployment and drive down wages in areas of the West Bank. Farmers in Area C are particularly hard hit by Israel's unlawful and discriminatory land and water policies, causing many to lose their traditional livelihoods. Many Palestinians are therefore left with little choice but to seek employment in settlements, providing a steady source of cheap labor for settlement companies.

The head of the village council of Marda, an agricultural village which lost much of its land to Ariel, told Human Rights Watch: "We used to have 10,000 animals, now you can barely find 100, because there is nowhere for them to graze. So the economy collapsed and unemployment increased." As a result, many of the villagers now have little choice but to work in settlements, he said.

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As noted, many of the violations documented in this report under the four headings listed above are intrinsic to long-standing Israeli policies and practices in the West Bank. Companies operating in or with settlements cannot mitigate or avoid contributing to these abuses through their own operations. For this reason, Human Rights Watch recommends that, absent a radical shift in Israeli policies and practices that would allow businesses to operate in accordance with their responsibilities under international law, businesses should cease settlement-related activities, including operating in settlements or financing,

administering or otherwise supporting settlements or settlement-related activities and infrastructure.

The UN Guiding Principles provide that enterprises should undertake human rights due diligence to identify and mitigate the adverse human rights impact not only of their own activities but also activities to which they are directly linked by their business relationships. In the latter case, businesses should ensure that their supply chains are not tainted by serious abuses. A business would not necessarily be expected to completely sever all its relationships with another actor that is operating in the settlements, but it would need to ensure that its relationships are not themselves contributing to or otherwise inextricably bound up with serious abuses.

Moreover, states have certain obligations given the nature of Israel's violations in the West Bank. The Fourth Geneva Convention requires states to ensure respect for the Convention, and they therefore cannot recognize Israeli sovereignty over the occupied Palestinian territories or render aid or assistance to its unlawful activities there. In an advisory opinion, the International Court of Justice found that states also have such obligations because Israel's settlement regime—as well as the separation barrier, the main focus of the opinion—violate international laws that are *erga omnes*, meaning that all states have an interest in their protection.

As a result, Human Rights Watch recommends that states review their trade with settlements to ensure they are consistent with their duty not to recognize Israeli sovereignty over the occupied Palestinian territories. For example, states should require and enforce clear origin labeling on settlement goods, exclude such goods from receiving preferential tariff treatment reserved for Israeli products, and not recognize or rely on any certification (such as organic or health and safety) of settlement goods by Israeli government authorities unlawfully exercising jurisdiction in the occupied territories.

In addition to states' obligations under international humanitarian law, the UN Guiding Principles call on states to respect the principles and develop guidelines to implement them. A number of states are currently developing national action plans for this purpose. States should provide guidance to companies operating in conflict-affected areas, including in situations of military occupation such as the occupied Palestinian territories.

Recommendations

To Businesses Active in Israeli Settlements

- Cease activities carried out inside settlements, such as building housing units or infrastructure, the extraction of non-renewable resources, or providing waste removal and landfill services.
- Avoid financing, administering or otherwise supporting settlements or settlement-related activities and infrastructure, such as through contracting to purchase settlement-manufactured goods or agricultural produce, to ensure the businesses are not indirectly contributing to and benefiting from such activities.
- Conduct human rights due diligence to ensure that supply chains do not include goods produced in settlements.

To Israel

- Abide by Israel's obligations as the occupying power and dismantle settlements, including industrial zones and business operations, in the occupied West Bank, including East Jerusalem.
- Lift unlawful and discriminatory restrictions on Palestinians in occupied territory that contribute to Palestinian poverty and unemployment, including restrictions on Palestinian land and development and extraction of natural resources. End any policies on the operations of business in the occupied territories that violate international humanitarian or human rights law, including those that permit the extraction of natural resources when this does not benefit the population of the occupied territory or is not strictly required by military necessity.
- Cease providing financial incentives, including subsidies for development costs in settlements and lower tax rates, to Israeli and international businesses located in the occupied West Bank.
- Cease registering the establishment or permitting the operation of Israeli or international businesses in the occupied West Bank unless the purpose of the operations is to benefit the Palestinian people and is consistent with international humanitarian law.

To Third-Party States

- Assess trade with settlements and adopt policies to ensure such trade is consistent with states' duty not to recognize Israeli sovereignty over the occupied Palestinian territories. This includes requiring exporters to accurately label goods produced in settlements as such, excluding such goods from preferential treatment under Free Trade Agreements with Israel, and refraining from recognizing the Israeli government's authority to certify the conditions of production of settlement goods (such as compliance with organic or other criteria).
- Avoid offsetting the costs of Israeli government expenditures on settlements by withholding funding given to the Israeli government in an amount equivalent to its expenditures on settlements and related infrastructure in the West Bank.
- Provide guidance on implementing the UN Guiding Principles on Business and Human Rights to companies operating in conflict-affected areas, including in the context of military occupations such as the occupied Palestinian territories.

Methodology

This report examines Israeli and international companies engaged in activities related to Israeli settlements and the ways in which they contribute to and benefit from Israel's violations of international humanitarian and human rights law in the occupied West Bank. The scope of the report does not include the Golan Heights, although some of the analysis may be applicable there, nor does it include the Gaza Strip, since Israel removed its settlements from there in 2005.

The five case studies of companies selected for this report highlight the wide range of business involvement in Israeli settlements, and the range of international legal prohibitions and human rights abuses implicated in each sector examined. The case studies are illustrative of the more general problem–none imply that the businesses described are the most problematic cases.

In researching this report Human Rights Watch reviewed court decisions; data provided by the Civil Administration, Palestinian Authority officials, and non-governmental organizations; Israeli state comptroller reports; transcripts of Knesset committee meetings; and other documents.

Human Rights Watch interviewed 20 Palestinians whose land was confiscated, expropriated or subject to significant restrictions due to settlements and related infrastructure; 25 Palestinians who previously worked or currently work in Israeli settlements; and eight Palestinian businessmen. Human Rights Watch also interviewed two Israeli lawyers and two Palestinian lawyers specialized in issues related to Palestinian employment in settlements, and an additional Palestinian lawyer specialized in land cases. An Arabic translator facilitated many of the interviews with Palestinians. Human Rights Watch consulted broadly with Palestinian and Israeli trade unions and workers' rights and human rights organizations.

All interviewees freely consented to be interviewed and Human Rights Watch explained to them the purpose of the interview, how the information gathered would be used, and did not offer any remuneration. In some cases interviewees requested to remain anonymous or

to be identified only by their first names and first initial. The report indicates where pseudonyms are used.

Human Rights Watch held some of the interviews with Palestinians in small group settings, including one larger group of seven farmers who own land Israel confiscated or made subject to restrictions. Researchers sought responses to questions about each case from the relevant companies, as well as the Civil Administration. Wherever possible, we took information about settlements from Israeli government sources. Human Rights Watch staff conducted field research for three weeks in December 2014 and ten days in March 2015.

Human Rights Watch wrote letters to all companies that appear as case studies in the report, as well as Israel's Civil Administration, sharing its preliminary findings and requesting relevant information. Two companies, Heidelberg Cement and a textile manufacturer, responded in writing; their responses are reflected in the report and are reproduced in the annex, unedited apart for the redaction of certain names. Human Rights Watch also met with a co-owner of the textile manufacturer and had a number of phone conversations with a representative of an American retailer that sources from the manufacturer; these conversations are reflected in the report. No other companies responded.

Note on currency conversion: this report used an exchange rate of 4 New Israeli Shekels (NIS) and .90 euros per US dollar.

I. The Problematic Human Rights Impact of Settlement Businesses

In the immediate aftermath of Israel's occupation of the West Bank in June 1967, Israeli civilians, supported by the Israeli government and protected by Israeli security forces, began moving across Israel's eastern border to "settle" the land in order to claim it as part of "the Jewish state."[4] Today, the Israeli civilian presence has grown into a network of more than half a million settlers living in 137 settlements officially recognized by the Ministry of Interior, and more than 100 settlement outposts, which are unauthorized but still receive substantial state support.[5] The population of settlements grew 23 percent from 2009 to 2014, far outpacing growth of less than 10 percent in Israel overall.[6]

These virtually exclusively Jewish cities, towns, and villages are, for the most part, seamlessly assimilated into Israel's infrastructure and economy, such that they appear almost indistinguishable from Israel.[7] In 1967, Israel also directly annexed East Jerusalem,

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[4] In the immediate aftermath of the 1967 war until the Likud came to power in 1977, the Allon Plan, named for Deputy Prime Minister at the time, Yigal Allon, guided Israeli settlement policy. The plan sought to establish settlements in the Jordan Valley, Gush Etzion and Hebron Hills with the intent to annex these regions to Israel. "Allon Plan," The Knesset website https://www.knesset.gov.il/process/asp/event.asp?ID=8 (accessed June 29, 2015). By 1968, Israel had established at least one settlement in each of these three regions, as well as the Golan Heights. See footnote 351.

[5] Includes 12 settlements in East Jerusalem. For the number of authorized settlements, see Israel Central Bureau of Statistics, "Localities and Population, by District, Sub-District, Religion and Population Group B'Tselem," *Statistical Abstract of Israel 2014*. For unauthorized outposts, see B'Tselem,"Settlements," undated, http://www.btselem.org/settlements (accessed October 21, 2015).

[6] These numbers do not include East Jerusalem. "West Bank Settlement Expansion Surged Under Netanyahu," *Haaretz*, December 15, 2014, http://www.haaretz.com/news/diplomacy-defense/1.631924 (accessed June 29, 2015). Note that official Israeli national data, here and elsewhere in this report, include Israeli settlements.

[7] According to the 2014 census, 400 Arabs and 349,100 Jews live in West Bank settlements (not including East Jerusalem). Israel Central Bureau of Statistics, "Localities and Population by Population Group, District, Sub-District, and Natural Region," Statistical Abstract of Israel 2014 http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_17&CYear=2014 (accessed June 29, 2015). The rates of Palestinians living in East Jerusalem settlements are slightly higher. The two settlements with by far the highest percentage of Arab residents are the area around Mount Scopus, which is 16 percent Arab, and French Hill, which is 7.5 percent – including many who have Israeli citizenship; the next highest rates are Pisgat Ze'ev and Neve Yaakov, which are 1 to 2 percent Arab. Dan Williams, "Leave or Let Live? Arabs Move into Jewish Settlements," *Haaretz*, December 7, 2014, http://www.haaretz.com/news/features/1.630419 (accessed June 30, 2015).

a 72 square kilometer area of the West Bank. This area remains occupied territory under international humanitarian law.[8]

Israeli settlements, including in East Jerusalem, violate Israel's international humanitarian law obligations and are a central feature of Israeli policies that dispossess, discriminate against, and forcibly displace Palestinians in violation of their human rights.[9] While the Israeli government is responsible for the unlawful and discriminatory policies that enable and encourage settlement expansion, private actors, including Israeli and international businesses across all sectors, play a critical role in developing the land that Israeli authorities appropriate into settlement cities and towns.

Israeli and international businesses choosing to locate in settlements and settlement zones, thereby becoming "settlers" themselves, make up a significant portion of Israel's civilian presence on the ground. Israel administers approximately 20 industrial zones covering 13,650 *dunams* (1,365 hectares) in the West Bank, Israeli settlers oversee the cultivation of 93,000 *dunams* (9,300 hectares) of agricultural land, and settlement businesses operate 187 shopping centers inside of settlements as well as eleven quarries that supply around 25 percent of Israel's gravel market.[10] The geographic footprint of Israeli commercial activity in the West Bank exceeds the built-up area of residential settlements,

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[8] See e.g. *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, International Court of Justice, July 9, 2004, chapeau.

[9] Human Rights Watch, *Separate and Unequal: Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories*, December 2010, https://www.hrw.org/report/2010/12/19/separate-and-unequal/israels-discriminatory-treatment-palestinians-occupied.

[10] The Macro Center for Political Economics reported the number of shopping centers in a 2010 study. Chaim Levinson, "Settlements Have Cost Israel $17 Billion, Study Finds," Haaretz, March 23, 2010, http://www.haaretz.com/print-edition/news/settlements-have-cost-israel-17-billion-study-finds-1.265190 (accessed June 29, 2015). The size of industrial zones is based on satellite imagery Dror Etkes provided to Human Rights Watch, October 31, 2014; note that the number of industrial zones cited varies since no official list exists, see footnote 322 for a more detailed explanation. The number of *dunams* cultivated by settlers is cited in Kerem Navot, "Israeli Settler Agriculture as a Means of Land Takeover in the West Bank," August 2013, http://rhr.org.il/heb/wp-content/uploads/Kerem-Navot.pdf (accessed April 9, 2015), p. 16. The number of Israeli-run quarries operating is reported Ministry of Housing, "Report by the Committee to Examine Land Policies in the Quarry Sector," April 2015, http://www.moch.gov.il/SiteCollectionDocuments/odot/veaadat_balenikov/doch_sofi_2642015.pdf (accessed October 21, 2015), p. 10. See also Israel State Comptroller, Annual Report 65a, Ministry of National Infrastructure, Energy, and Water, "Ensuring the Supply of Mining and Quarrying Materials," 2014, p. 370.

estimated to be about 60,000 *dunams* (6,000 hectares).[11] These numbers reflect the magnitude of commercial activity's share in Israel's civilian presence in the West Bank. By locating in, establishing, expanding, and supporting settlements, businesses contribute to Israel's rights violations. Such businesses depend on and contribute to Israel's unlawful confiscation of Palestinian land and other resources, and facilitate the functioning and growth of settlements. The businesses also benefit from these violations, as well as Israel's discriminatory policies that privilege settlements at the expense of Palestinians, such as by profiting from access to unlawfully confiscated Palestinian land and water, government subsidies, and Israeli-issued permits for developing land that Israel severely restricts for Palestinians.

This report describes two types of businesses engaged in settlement activity to show how businesses across a range of sectors with varying involvement in settlements contribute to rights abuses.

The first type of settlement business includes companies that manage the practical demands of constructing and maintaining settlements. Three of the report's case studies fall into this type: a bank that finances and provides mortgages for settlement homes, a real estate franchise that sells them, and a waste management company that processes settlement trash. The direct contribution these companies make to Israel's unlawful settlement regime is self-evident. As is discussed in more detail below in the chapter on legal obligations, the transfer of civilians, directly or indirectly, by the occupying power into the occupied territory is a war crime. Many such businesses also locate in settlements and depend on land and other resources that Israel unlawfully confiscated from Palestinians, thereby contributing to additional rights violations. Israeli settlements in the West Bank also entrench and benefit from Israel's human rights abuses against Palestinian residents in the West Bank. This is also discussed in more detail below in the chapter on discrimination.

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[11] Kerem Navot, "Israeli Settler Agriculture as a Means of Land Takeover in the West Bank," August 2013, p. 16. This report puts the built-up area of residential settlements at 60,000 *dunams* (6,000 hectares). However, the total area Israel designates as within settlement municipal boundaries is nine times larger than the built-up area. Only a part of the land within a settlement municipality is formally expropriated, but the Israeli military has declared the entire area a closed military zone. Palestinians therefore require a special permit to enter, effectively denying Palestinian landowners access. See B'Tselem, "By Hook or By Crook," July 2010, http://www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf (accessed April 9, 2015), p. 30.

The second type of settlement business includes companies that engage in activities that do not directly provide services to residential settlements, yet nonetheless are based in settlements or settlement industrial zones. These businesses, which may be drawn by economic reasons, such as access to cheap Palestinian labor, low rents, or favorable tax rates, constitute the most significant commercial presence in settlements.[12] They are principally manufacturers located in settlement industrial zones and agricultural producers, but this type also includes Israeli-administered companies engaged in extracting West Bank resources, such as quarries.

In Human Rights Watch's view, such businesses also contribute to and benefit from Israel's rights abuses. First, they support residential settlements by providing employment to settlers and paying taxes to settlement municipalities. Second, their large physical footprint and disproportionate consumption of resources substantially contribute to Israel's unlawful confiscation of Palestinian land and natural resources. Third, settlement manufacturers and farmers benefit from Israel's discriminatory policies and its violations of international humanitarian law–in fact, many may choose to locate in settlements to take advantage of the benefits conferred by these policies and violations.

Many settlement manufacturers and agricultural producers rely heavily on exports, such that businesses around the world become implicated in the abuses described in this report through their supply chain. These imports also implicate third-party states in a way that other kinds of settlement businesses do not, since the settlement goods pass through their borders, frequently labeled as made in Israel and benefitting from tariff agreements between the importing state and Israel.

The report includes two case studies of this second type of business. The case of a quarry highlights how settlement businesses benefit from Israeli policies that discriminate against Palestinians. The case of a textile manufacturer examines labor conditions for Palestinians working in settlement businesses. Because of the significance of settlement industrial zones and agriculture for international businesses and third-party states, an

[12] One business owner who spoke to Human Rights Watch said he moved to a settlement industrial zone to gain access to Palestinian workers; in Israel, such access is limited to the "periphery," which is far from ports, he said. Human Rights Watch interview (name withheld), Hod HaSharon, Israel, June 10, 2015. The economic draw of locating in settlements is highlighted in news articles. See e.g. Michal Margalit, "In Settlement Industrial Zones, No Anxiety About Labeling Goods," *Globes*, May 21, 2012; Danny Rubinstein, "The High Cost of Divorce," *i24 News*, October 2, 2015.

annex to this report provides an in-depth analysis of the scale and human rights impact of these sectors.

The United Nations Guiding Principles on Business and Human Rights provide that enterprises should undertake human rights due diligence to identify and mitigate the human rights harm not only of their own activities but also activities to which they are directly linked by their business relationships. Businesses should ensure that their relationships with other businesses, including those in their supply chain, are not tainted by abuses.

Many of the violations and abuses that companies operating in or with the settlements facilitate or benefit from are intrinsic to long-standing Israeli policies and practices in the West Bank and therefore beyond the control of companies to avoid or mitigate. For this reason, Human Rights Watch recommends that businesses cease settlement-related activities.

Businesses should not locate in settlements, or provide financing, services, or other support to settlements; they should also cease trading with settlement businesses. A business would not necessarily be expected to completely sever all its relationships with another actor that is operating in the settlements, but it would need to ensure that its relationships are not themselves contributing to or otherwise inextricably bound up with serious abuses.

Moreover, states have certain obligations given the nature of Israel's violations in the West Bank. The Fourth Geneva Convention requires states to ensure respect for the Convention, and they therefore cannot recognize Israeli sovereignty over the occupied Palestinian territories or render aid or assistance to its unlawful activities there. In an advisory opinion, the International Court of Justice found that states also have such obligations because Israel's settlement regime—as well as its separation barrier, the main focus of the opinion—violate international laws that are *erga omnes*, meaning that all states have an interest in their protection.

As a result, Human Rights Watch recommends that states review their trade with settlements to ensure they are consistent with their duty not to recognize Israeli sovereignty over the occupied Palestinian territories. For example, states should require

and enforce clear origin labeling on settlement goods, exclude such goods from receiving preferential tariff treatment reserved for Israeli products, and not recognize or rely on any certification (such as organic or health and safety) of settlement goods by Israeli government authorities unlawfully exercising jurisdiction in the occupied territories.

II. International Legal Obligations

International Humanitarian Law

Settlements violate Article 49 of the Fourth Geneva Convention, which governs occupied territories: "The occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."[13] The Fourth Geneva Convention also prohibits individual or mass forcible transfers of protected persons in an occupied territory, or their deportation from that territory.[14] In 2004, the International Court of Justice, citing the Fourth Geneva Convention and other sources of international law, affirmed that "the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law."[15]

The Rome Statute, the treaty establishing the International Criminal Court (ICC), includes among its list of war crimes within the Court's jurisdiction "[t]he transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory."[16] Although Israel is not a member of the ICC, Palestine acceded to the Rome Statute on January 2, 2015, which entered into force April 1, 2015 for the territory of the State of Palestine. The Palestinian government lodged a declaration giving the court a mandate to investigate crimes committed in or from Palestine back to June 13, 2014. The United Nations General Assembly accorded Palestine non-member observer state status in 2012, allowing it to become a party to international conventions, but this does not change the legal status of the occupation.

In almost all cases, settlements entail an additional international humanitarian law violation: Israel's confiscation of Palestinian land and other resources in violation of the

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[13] Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21, 1950, art. 49.6.

[14] Ibid., art. 49.1.

[15] International Court of Justice, Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, July 9, 2004, para. 120.

[16] Rome Statute of the International Criminal Court, A/CONF.183/9, July 17, 1998, entered into force July 1, 2002, art. 8.

Hague Regulations of 1907.[17] Article 55 of the Hague Regulations makes public resources in occupied territory, including land, subject to the rules of usufruct. A generally accepted legal interpretation of these rules is that "the occupying power can only dispose of the resources of the occupied territory to the extent necessary for the current administration of the territory and to meet the essential needs of the [occupied] population."[18] According to the Israeli legal scholar Eyal Benvenisti, "there is little doubt today that this condition is binding on all uses of immovable public property."[19]

Private property is subject to more stringent protection under international humanitarian law. The Hague Regulations state that "Private property cannot be confiscated" and the Fourth Geneva Convention prohibits the destruction of private property unless "absolutely necessary" for military purposes.[20]

Human Rights

International human rights law has long established the basic principles of non-discrimination and equality.[21] Discrimination is where laws, policies or practices treat persons in similar situations differently due to, among other criteria, race, ethnic background or religion, without adequate justification. States are obliged not to take any step that "has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms" based on race,

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[17] See Hague Regulations of 1907, art. 55 (making occupied real estate subject to the laws of usufruct). An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid., art. 46; Fourth Geneva Convention, art. 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[18] Institut de Droit International, *Bruges Declaration on the Use of Force*, September 2, 2003, http://www.idi-iil.org/idiE/declarationsE/2003_bru_en.pdf. See also *United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez*, International Legal Materials, vol. 16, no. 3 (May 1977), pp. 733-753 (quoting the London International Law Conference of 1943: "The rights of the occupant do not include any right to dispose of property, rights or interests for purposes other than the maintenance of public order and safety in the occupied territory"); Eyal Benvenisti, *The International Law of Occupation* (Oxford: Oxford University Press, 2012), p. 82; James Crawford, *Opinion: Third Party Obligations with Respect to Israeli Settlements in the Occupied Palestinian Territories*, January 24, 2012, p. 25.

[19] Eyal Benvenisti, *The International Law of Occupation*, p. 82.

[20] Hague Regulations of 1907, art. 46; Fourth Geneva Convention, art. 53.

[21] Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948), art. 2. UN Human Rights Committee, General Comment 18, Non-discrimination (Thirty-seventh session, 1989), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, HRI\GEN\1\Rev.1,1994, para. 1.

color, descent, or national or ethnic origin.[22] The prohibition against racial discrimination is considered one of the most basic in international human rights law–the International Covenant on Civil and Political Rights states specifically that even in times of public emergencies, measures taken by states to derogate from other rights obligations must not "involve discrimination solely on the grounds of race ... or religion."

While Israel maintains that its human rights obligations do not extend to the occupied territories, the United Nations Human Rights Committee, the body charged with interpreting and enforcing the ICCPR, has repeatedly found that "the provisions of the Covenant apply to the benefit of the population of the occupied territories."[23] The International Court of Justice endorsed this view in its Advisory Opinion regarding Israel's separation barrier: the ICCPR "is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory."[24]

With regard to the treatment of employees, the United Nations Guiding Principles on Business and Human Rights specify that corporations have a responsibility to respect domestic law, in addition to, at a minimum, rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. These fundamental principles include a prohibition on discrimination, defined as the disparate and worse treatment of members of a group based on prohibited grounds such as ethnicity or national origin. Companies are expected to undertake effective due diligence measures to help ensure that they do not engage in discrimination themselves.[25] Due diligence should also endeavor to ensure that other entities including a company's suppliers and partners do not engage in discrimination that is directly linked to the company's business operations, products or services by their business relationships.[26]

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[22] International Convention on the Elimination of Racial Discrimination (ICERD), art. 1. Israel ratified the Convention on January 3, 1979.

[23] Most recently included in Human Rights Committee, "Concluding Observations on the Fourth Periodic Report of Israel," CCPR/C/ISR/CO/4, November 21, 2014, para. 5. See also the numerous prior Human Rights Committee concluding observations on Israel, e.g. CCPR/CO/ISR/3, September 3, 2010, para. 5; CCPR/CO/78/ISR, August 5, 2003, para. 11; and CCPR/C/79/Add.93, August 18, 1998, para. 10.

[24] *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, International Court of Justice, July 9, 2004, Para. 111.

[25] United Nations Guiding Principles on Business and Human Rights, No. 17.

[26] Ibid.

Israel's "two-track" legal system in the West Bank, which applies a combination of Jordanian law and Israeli military orders to Palestinians and Israeli law to Israelis, violates the human rights prohibition on discrimination. Notwithstanding the international humanitarian law prohibition on Israel extending its domestic laws and enforcement authority to the occupied territories as though it were the sovereign there, international human rights law nonetheless requires Israel to avoid discrimination between Israeli settlers and Palestinian residents of the West Bank—or, in the words of the Committee on the Elimination of Racial Discrimination, "to ensure that all civilians under its effective control enjoy all human rights without discrimination based on ethnicity, citizenship, or national origin."[27] As the Committee noted, Israel denies that its human rights obligations extend to occupied territory, but went on to say that that position is inconsistent with the extended nature of the occupation.[28]

Both international humanitarian and human rights law strictly restrict a state's right to forcibly transfer or displace people from one area to another. The Fourth Geneva Convention permits a state to evacuate civilians only for their own security or for "imperative military reasons," and in that case the state must provide the displaced people with accommodation "to the greatest practicable extent" and allow their return to their homes as soon as possible.[29] The prohibition of forcible transfer extends beyond cases where a military force directly and physically relocates a population under its control, to cases where the military force renders life so difficult for the population that they are essentially forced to leave.[30] The ICTY Appeals Chamber has held that "forcible transfer" is "not to be limited to [cases of the use of] physical force" but that "factors other than force itself may render an act involuntary, such as taking advantage of coercive circumstances."[31]

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[27] CERD, "Consideration of reports submitted by States parties under article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination, Israel, CERD/C/ISR/CO/14-16, March 9, 2012.

[28] Ibid., para. 10.

[29] Fourth Geneva Convention of 1949, art. 49. For a more detailed discussion, see Human Rights Watch, *Separate and Unequal*, p. 148-150.

[30] The following analysis draws from Grazia Careccia and John Reynolds, Al-Nu'aman Village: A Case Study of Indirect Forcible Transfer, Al Haq, 2006, pp. 24-26.

[31] *The Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T, Appeals Chamber, Judgment, 22.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR), which Israel ratified in 1991, requires the Israeli authorities to respect the right to adequate housing. The Committee responsible for interpreting the ICESCR has made clear that the right to adequate housing includes protection from involuntary removal from one's home by the state (known as "forced eviction" under human rights law) unless the state can show it is a reasonable and proportionate step that complies with other human rights principles.

Furthermore, in human rights jurisprudence on the right to property or possessions, regional courts, including the European and Inter-American Courts of Human Rights, have concluded that states should recognize as property, individual, family and group traditional use and occupation of buildings and lands, even where such property rights have not been formally recognized in property registries but where the occupier has been treated as having property rights for a long period of time. All property rights can be interfered with only when there is clear domestic law, the interference is for a legitimate aim, the interference is the least restrictive possible, and adequate compensation is paid. Permanent seizure or destruction of property can be justified only where no other methods are possible and compensation is paid.

Business and Third-Party State Obligations

Although governments have primary responsibility for promoting and ensuring respect for human rights, businesses also have a responsibility to avoid causing or contributing to human rights abuses. Companies have a responsibility to identify and mitigate potential human rights problems linked to their operations, and to ensure that victims of such abuses have access to an appropriate remedy. Human Rights Watch opposes business operations that cause, facilitate, exacerbate or contribute to serious human rights abuses or international humanitarian law violations, unless those business operations are able to either eliminate that connection or ensure that the abuses or violations at issue are substantially mitigated or remedied.[32]

[32] Human Rights Watch has previously called for businesses to cease operations in contexts where "companies cannot avoid the taint of complicity in human rights violations: their activities are inextricably intertwined with the abuses, the abuses are gross, the corporate presence either facilitates or continues to benefit from violations, and no remedial measure exists to mitigate those abuses." Human Rights Watch, *Sudan, Oil, and Human Rights*, November 2003, https://www.hrw.org/reports/2003/sudan1103/sudanprint.pdf (accessed January 6, 2016), p. 520. In that case, Human Rights Watch recommended that oil companies, contractors, and subcontractors suspend their activities in Sudan until several minimum benchmarks are met. Ibid., p. 526. In *Separate and Unequal*, Human Rights Watch recommended that

This principle is reflected in the United Nations "Protect, Respect, and Remedy" Framework and the UN Guiding Principles on Business and Human Rights, which are widely accepted by companies and governments. Under the Guiding Principles, companies have a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as to "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." Companies are expected to undertake adequate due diligence to identify the potential adverse human rights impact arising from their activities and that of their suppliers, and to help ensure that victims have access to adequate remedies for any abuses that occur in spite of these efforts. Companies should refrain from doing business where serious adverse human rights impacts are unavoidable.

Moreover, settlement businesses profiting from land and resources that Israel unlawfully appropriated from Palestinians may violate an international law prohibition–which also exists in many domestic legal systems–against an individual or company knowingly benefitting from the fruits of illegal activity. This principle is enshrined in Article 6 of the United Nations Convention Against Transnational Organized Crime, which prohibits "the acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime." In his report on businesses profiting from Israeli settlements, the UN Special Rapporteur on the Situation of Human Rights in Palestinian Territories Occupied Since 1967 also analyzed such businesses' responsibilities under international criminal law and found that businesses that play a causal role to Israel's transfer of its citizens to settlements "in certain instances may be enough to make them accomplices of that crime."[33]

Third-party states also have obligations under international humanitarian law. Article 1 of the Fourth Geneva Convention provides that: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." At a

businesses profiting from settlements review their conduct to avoid directly contributing to serious violations of international law, including where necessary ending such operations altogether. Based on our research of settlement agriculture as part of our investigation of child labor in settlement farms, Human Rights Watch recommended in *Ripe for Abuse*, published in April 2015, that businesses cease trading with settlement agricultural producers.

33 Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Doc. No. A/68/376 (September 10, 2013), para. 57.

minimum, this creates an obligation for states not to act contrary to the Convention, and thus prohibits states from recognizing Israel's sovereignty over the territory it occupies.

The International Court of Justice, in an advisory opinion regarding the legality of the separation barrier that Israel constructed in the West Bank, found that Israel's settlement regime violates obligations under international humanitarian law "which are essentially of an *erga omnes* character," meaning they apply to all states, and all states have a legal interest in their protection.[34] On this basis, as well as states' duty to ensure respect for the provisions of the Fourth Geneva Convention, the court concludes: "[A]ll states therefore are under an obligation not to recognize the illegal situation resulting from the construction of the wall in Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation, not to render aid or assistance in maintaining the situation created by such construction."[35] Although the focus of the case was the separation barrier that Israel constructed around settlements rather than the settlements themselves, the court affirmed that the illegality of settlements under international law and so the applicability of the same obligation not to recognize the unlawful situation resulting from Israel's settlements, or to aid or assist Israel's violations.[36]

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[34] International Court of Justice, *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, July 9, 2004, para. 157.

[35] Ibid., para. 159.

[36] Ibid., para. 120. The legal scholar James Crawford concludes on this basis that "States are under an obligation of non-recognition and must not aid or assist Israel in its perpetuation of the settlement program." *Opinion: Third Party Obligations with Respect to Israeli Settlements in the Occupied Palestinian Territories*, January 24, 2012, p. 18.

III. How Businesses Contribute to and Benefit from Discrimination

Businesses contribute to and benefit from the two-tiered system of laws, rules, and services that Israel operates in the parts of the West Bank that are under its exclusive control, which provides preferential services, development, and benefits for Jewish settlers while imposing harsh conditions on Palestinians. Settlement companies contribute to Israel's discriminatory policies by facilitating the presence of settlements, but they also directly benefit from discriminatory economic policies that, on the one hand, encourage settlement business by, for example, providing subsidies and low tax rates, while on the other hand stifle Palestinian businesses and the Palestinian economy by imposing discriminatory restrictions on them.

The 1995 Oslo interim agreement gave Israel exclusive control over what the agreement called Area C, which covers 60 percent of the West Bank, while it ceded some control to the newly established Palestinian Authority in Areas A and B. Area C, which is the only contiguous area of the three areas in the West Bank, contains all Israeli settlements and substantial amounts of the West Bank's water sources, grazing and agricultural land, and the land reserves required for developing cities, towns, and infrastructure.[37] Areas A and B are made up of 227 cantons that include most Palestinian towns and cities. The interim agreement was intended as a temporary stage in preparation for Palestinian statehood within five years, but it still remains in effect, and Israel maintains full administrative and military control over Area C.[38]

A 2010 Human Rights Watch report, *Separate and Unequal*, documented Israel's discriminatory laws and practices that favor settlers at the expense of Palestinians in Area C. It highlighted four major areas of discrimination—construction, zoning, and demolitions; freedom of movement; water; and land confiscation—the only discernable purposes of

[37] World Bank, *Area C and the Future of the Palestinian Economy*, October 2013, p. viii.

[38] The Israeli Palestinian Interim Agreement on the West Bank and the Gaza Strip, September 28, 1995, preamble.

which appear to be promoting life in the settlements while in many instances stifling growth in Palestinian communities and even forcibly displacing Palestinian residents.[39] The discriminatory nature of Israel's settlement regime is not an incidental shortcoming but rather one of the occupation's central features. In fact, according to the International Committee of the Red Cross's 1958 commentary on the Geneva Convention, the convention's drafters chose to prohibit an occupying power from transferring its citizens into occupied territory because of its close link with discrimination and economic harm against the local population: "Certain Powers," it notes, "transferred portions of their own population to occupied territory for political or racial reasons or in order, as they claimed, to colonize these territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race."[40]

[39] Human Rights Watch, *Separate and Unequal*, pp. 144-151.

[40] Jean S. Pictet, International Committee of the Red Cross, *Commentary: IV Geneva Convention* (1958), p. 283.

HOW ISRAELI GOVERNMENT POLICY...

MAKES POSSIBLE SETTLEMENT EXPANSION	RESTRICTS PALESTINIAN GROWTH
Israel approved plans for Jewish settlements covering **26% of Area C*** and designated **70% of Area C** for settlement regional councils, but made these areas off-limits for Palestinian construction or development.	Israel approved building plans for Palestinians on **1% of Area C**. In 2015, Israel demolished 601 Palestinian structures in the West Bank, including East Jerusalem, displacing 1,215 people.
Israel designated **90 settlements** as "National Priority Areas," qualifying Israeli residents and businesses for government subsidies.	**No Palestinian areas** in the West Bank or East Jerusalem are designated as National Priority Areas, and therefore do not qualify for special government subsidies.
Over 560,000 Israeli settlers live in around 237 settlements. In 2013, Israel's comptroller found that Israel collects **no leasing fees from 83 rural settlements**, effectively giving them unlawfully confiscated land for free.	About 300,000 Palestinians live in Area C and another 370,000 in East Jerusalem. Between 2000 and 2012, Israel **rejected 94% of Palestinian building-license requests** in Area C.
Israeli-administered quarries in the West Bank produce **10 to 12 million tons** of stone annually, **94%** of which is transferred to the Israeli and settlement markets.	According to the Palestinian Union of Stone and Marble, Israel issued **no new permits to Palestinian businesses for quarrying** in Area C since 1994. Today, Palestinian quarries in the West Bank produce **¼** of the amount of stone that Israeli-administered West Bank quarries produce.
According to the Israeli Finance Ministry, in 2013 Israel **exported more than $600 million worth** of industrial goods manufactured in Israeli settlements, including in East Jerusalem and the Golan Heights.	The World Bank estimates that Israeli restrictions in Area C **cost the Palestinian economy $3.4 billion** annually. The additional revenues would generate $800 million in government tax receipts, equal to **½** the Palestinian Authority's debt.

* Area C covers 60% of the West Bank and is under exclusive Israeli administrative control. It contains most of the West Bank's open land and natural resources.

Encouraging Settlement Business: Government Financial Incentives

Successive Israeli government have actively encouraged the migration of Israeli and international businesses to settlements by offering a variety of financial incentives that they do not provide to Palestinian businesses in areas of the West Bank under its control. A significant channel of government support is its categorization of most Jewish settlements and almost all settlement industrial zones as National Priority Areas (NPAs), a classification also reserved for areas within Israel facing economic hardship or located near a border.[41] The government also provides support by investing in public infrastructure projects to help draw businesses to the area.

NPAs are eligible for a series of financial benefits, which, according to the Ministry of Construction, have four aims: "(1) to alleviate housing shortages affecting many residents of Israel; (2) to encourage positive migration to these communities; (3) to encourage development in these communities; and (4) to improve the economic resilience of these communities."[42] From 1998 until 2002, Israel categorized all settlements as NPAs.[43] The government drew a new map of NPAs in 2002 that included 104 settlements, but Adalah, an Israeli civil rights group, challenged it on grounds of discrimination, since only four of the 553 communities designated as NPAs were Arab (all inside of Israel).[44] In 2006, the Supreme Court found that the map discriminated against Arab communities in Israel and ordered the government to come up with a new map within one year. Seven years after the court ordered it to do so, the government approved a revised map of NPAs, accepted by the court, which includes 90 settlements. Almost all settlement industrial zones are NPAs, as

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41 Ministry of Construction, "National Priority Communities," http://www.moch.gov.il/odot/yeshuvey_adifut_leumit/Pages/yeshuvey_adifut_leumit.aspx (accessed April 10, 2015).

42 Ibid.

43 Decision No. 3485 (October 1, 1998). For an official list, see Ministry of Finance, "Notice Regarding Classification of National Priority Areas," http://www.tamas.gov.il/NR/exeres/E14D5B29-8173-49C6-B6FC-7E2B9FA1F4BD.htm (accessed June 30, 2015).

44 Decision No. 2228 (July 14, 2002). For an official list, see Ministry of Construction, "Government Decisions," http://www.moch.gov.il/Gov_Decisions/Pages/GovDecision.aspx?ListID=f33e0a4b-aa35-4b12-912e-d271a6476a11&WebId=fe384cf7-21cd-49eb-8bbb-71ed64f47de0&ItemID=153 (accessed June 30, 2015). For English-language background on the legal challenge, see Adalah, "On the Israeli Government's New Decision Classifying Communities as National Priority Areas," February 2010, http://adalah.org/newsletter/eng/feb10/docs/english%20layout.pdf (accessed June 30, 2015).

are 23 settlements in the Jordan Valley and the Dead Sea region, where most settlement agriculture is located.[45]

For NPA settlements, government benefits include reductions in the price of land, preferential loans and grants for purchasing homes, grants for investors and for the development of infrastructure for industrial zones, indemnification for loss of income resulting from custom duties imposed by European Union countries, and reductions in income tax for individuals and companies.[46]

In "urban" NPAs, which is the classification of most settlement NPAs, the government may subsidize up to 50 percent of development costs, up to 107,000 shekels (US$26,750) per housing unit, depending on the topography of the area.[47] In "rural" NPAs, which include agricultural settlements in the Jordan Valley, the government may subsidize up to 70 percent of development costs, with a maximum of 150,000 shekels ($37,500) per housing unit, again depending on topography.[48] First-time home purchasers in NPAs also benefit from subsidized mortgages and a beneficial mortgage interest rate of 4.5 percent. Many of these subsidies—such as for development and commercial infrastructure—directly benefit businesses located in settlements. In 2013, for example, the government gave development grants of 2.17 million shekels ($543,000) to a furniture company in Barkan and 937,000 shekels ($234,000) to a plastics factory there.[49]

Furthermore, companies in NPAs that qualify for "approved enterprise" status are eligible for special benefits from the Ministry of Economy over and above what they would otherwise receive. Approved factories can benefit from two potential packages: direct

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[45] An official list of National Priority Areas is available on Prime Minister Office's website at http://www.pmo.gov.il/Secretary/GovDecisions/2013/Pages/des667.aspx (accessed July 1, 2015). For a detailed analysis in English see also B'Tselem, *By Hook or By Crook*, July 2010, p. 40, http://www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf (accessed July 1, 2015).

[46] Ibid. Israel developed a separate set of criteria specifically in regard to tax benefits, which went into effect on January 1, 2015. Some settlements designated as NPAs are no longer entitled to tax benefits under these new criteria.

[47] Ibid.

[48] "List of NPAs," Ministry of Construction, http://www.moch.gov.il/odot/yeshuvey_adifut_leumit/Pages/reshimat_yeshuvey_adifut_leumit.aspx (accessed July 1, 2015).

[49] "List of Companies Approved for Investment in 2013," Center for Investments, Ministry of Economy, http://www.economy.gov.il/Industry/InvestmentCenter/DocLib/maanakum_2013.pdf (accessed July 1, 2015).

grants and national tax benefits.[50] The first track offers companies 20 percent subsidies for any investment in real property. Alternatively, the tax track offers a reduced corporate tax rate of 6 percent in some NPAs (as opposed to 12 percent tax in other areas), beginning in 2015.[51]

Israel also encourages businesses to move to settlements by investing in public infrastructure to support them. Policy statements from the years during which Israel was first developing the settlement economy reveal that Israel intentionally provided settlement companies with financial incentives, including by designating settlements as NPAs and investing in necessary infrastructure, in order to encourage them to locate in the West Bank. In a 1982 Knesset meeting, Gideon Patt, Minister of Industry and Trade, said that his ministry had established six industrial zones in the occupied territories, in addition to small industrial buildings. "And we're also pushing factories there," he said. "They don't fall from the sky. They come from encouragement."[52]

Two years later Minister Patt spelled out what kinds of encouragement his ministry offers. He reported that the government succeeded in bringing 300 factories to seven newly established settlement industrial zones by building necessary infrastructure and by classifying these areas as NPAs, and designating some of the factories there as "approved enterprises," thereby making them eligible for generous financial incentives. He also said his ministry was working to establish both regional industrial centers to serve centrally

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[50] Law for the Encouragement of Capital Investments, 1959. In the past, companies had to choose between these packages, but now "preferred companies" can be eligible for both. Ministry of Economy, *2013 Freedom of Information Report*, p. 27, http://economy.gov.il/Publications/Publications/DocLib/freedom-of-information-report-2013.pdf (accessed December 20, 2015). For how "preferred factory" status is linked to "approved" status, see the Ministry of Economy's review of grants under the investments law, http://www.economy.gov.il/Industry/InvestmentCenter/Pages/InvestmentGrants.aspx/ (accessed December 20, 2015).

[51] In the past, approved companies in this track paid no taxes for 10 years. Freedom of Information Report, Ministry of Economy, 2012, p. 25, http://economy.gov.il/Publications/Publications/DocLib/FOI-report-2012.pdf (accessed December 1, 2015).

[52] "Review of Trade Office Operations," Meeting No. 89 of the Tenth Knesset, May 25, 1982, http://knesset.gov.il/tql/knesset_new/knesset10/HTML_27_03_2012_05-50-30-PM/19820525@19820525017@017.html (accessed December 1, 2015). Patt expressed doubt about the government's decision to invest in settlement industrial zones, noting that it comes at the expense of investment inside the country (notably in the Galil and Negev regions), but acquiesced to the expressed policy goals of the government.

located settlements and industries linked to small settlements, "considering the employment needs of those communities."[53]

Settlement agriculture businesses benefit from another type of economic incentive: the apparently deliberate failure of the government to collect land fees owed to it. According to the state comptroller's report in 2013, the Civil Administration does not enforce a law requiring settlements to pay it leasing fees for 83 rural settlements on so-called "state land," resulting in a loss of 50 million shekels ($12.5 million) each year.[54] In the words of the comptroller: "this is a fundamental failure on the part of all the parties involved that has persisted for many years." As far back as 2005, the Civil Administration acknowledged the issue and attributed it to a lack of manpower, yet, to date, the Israeli government has not allocated additional resources to collect leasing fees. In 2011, the Finance Ministry finally decided to establish a collection unit, but it appears that it has yet to implement this decision.[55]

Stifling Palestinian Businesses and Economy: Discriminatory Restrictions

In contrast to settlements and settlement businesses, none of the Palestinian areas in Area C is eligible for National Priority Area (NPA) status despite being poorer and less developed than settlements. Nor do they receive most other basic government services that Israel provides to settlements, regardless of their NPA status. Many Palestinian communities in Area C rely on international funding to provide basic infrastructure, such as solar panels, schools, and water tanks.[56] In fact, Israel's policies of severely restricting

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[53] "Review of Trade Office Operations," Meeting No. 307 of the Tenth Knesset, May 15, 1984, http://knesset.gov.il/tql/knesset_new/knesset10/HTML_27_03_2012_05-50-30-PM/19840515@19840515001@001.html (accessed December 1, 2015).

[54] For an English summary, see Chaim Levinson, "Israel Losing Millions to Settlers Who Don't Pay Land Leasing Fees, Comptroller Finds," *Haaretz*, July 18, 2013, http://www.haaretz.com/news/national/.premium-1.536080#. Human Rights Watch is aware of only one case where the Civil Administration leased land in the West Bank to non-Jews since 1967: In 1998, a number of Bedouin families were able to lease land in exchange for evacuating the area they were living to make way for a new neighborhood in the settlement of Ma'aleh Adumim. See Human Rights Watch, *Separate and Unequal*, 2010, p. 121. Settlement regional councils and the Settlement Division of the World Zionist Organization reportedly have regulations that prohibit them from leasing land to non-Israeli citizens. See Amira Hass, "West Bank Water Shortage Forcing Palestinians to Lease Land From Settlers," *Haaretz*, August 2, 2013.

[55] No such unit is listed on the Ministry of Finance's website, available at http://www.mof.gov.il/Units/Pages/all_units.aspx (accessed November 30, 2015), and there have been no press releases regarding its establishment.

[56] OCHA, Area C Vulnerability Profile, 2014 https://www.ochaopt.org/documents/ocha_opt_fact_sheet_5_3_2014_en_.pdf (accessed December 1, 2015).

Palestinian access to building permits and restricting farmers access to their land, described in more detail below, has the cumulative impact of forcing many Palestinians to leave Area C.[57]

Some of these Israeli policies also violate international humanitarian law related to land confiscation; construction permits, zoning and demolitions; water; and freedom of movement.[58] These and other policies not only undermine Palestinian economic development, but also give a clear economic advantage to settlement companies compared to Palestinian companies.

One of the principal methods Israel uses to restrict Palestinian development is its refusal in almost all cases to grant Palestinians permits to build on or develop land or to extract resources.[59] The World Bank estimates that if Israel lifted administrative restrictions, such as on construction and resource extraction in Area C, it could generate $3.4 billion annually for the Palestinian economy, an increase of 35 percent in its GDP. The additional revenues would generate $800 million in government tax receipts, equal to half the Palestinian Authority's debt.[60] Instead, Israel refuses to issue any Palestinians a permit to harvest minerals such as potash and bromine from the Dead Sea, amounting to a nearly $1 billion loss annually.[61] Israel also restricts Palestinian access to large areas of land it designates as settlement municipal areas, firing zones, or nature preserves, and strictly limits the amount of water it allocates to Palestinians, which the World Bank estimates costs the agricultural sector $704 million annually.[62] A report by a group of Israeli, Palestinian, and international economists found that if an additional 100,000 *dunams* (10,000 hectares) of land were available for Palestinian development in the Jordan Valley, it could create between 150,000 and 200,000 jobs.[63]

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[57] See, e.g., "Israel: Court Permits Discriminatory Evictions," Human Rights Watch news release, May 19, 2015, https://www.hrw.org/news/2015/05/19/israel-court-permits-discriminatory-evictions.

[58] See Human Rights Watch, *Separate and Unequal*, 2010.

[59] As described in more detail below, between 2000 and 2012, Israel rejected over 94 percent of Palestinian construction permit requests. World Bank, "Area C and the Future of the Palestinian Economy," October 2, 2013, p. 16.

[60] World Bank, "Area C and the Future of the Palestinian Economy," October 2, 2013.

[61] Ibid., p. 13.

[62] Ibid., p. 11.

[63] Arie Arnon & Saeb Bamya, Group Aix, *Economic Dimensions of a Two-State Agreement Between Israel and Palestine*, June 2010, p. 239.

Many Israeli policies that harm Palestinian businesses and the Palestinian economy are directly related to settlements. Israel has designated 70 percent of Area C for settlement regional councils (which are off-limits to Palestinian construction) and has approved master plans for Jewish settlements covering 26 percent of Area C.[64] Israel also builds settlement infrastructure, such as roads, checkpoints, and the separation barrier, on expropriated Palestinian land, that at times increases Palestinian transportation delays and costs.[65]

Furthermore, Israel has developed building plans for Palestinians on only 1 percent of Area C, most of which has already been built up, and on this basis Israel in practice rejects almost all Palestinian building-permit requests without justification. According to the Civil Administration, between 2000 and 2012, Palestinians submitted 3,565 requests for building permits. Of these only 210 were granted.[66] Israel also altered Jordanian planning laws in place in the West Bank so as to exclude Palestinians from participation in planning processes, while military orders create a separate planning track for settlers, who participate in planning their own communities.[67]

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[64] United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian territory, "Area C of the West Bank: Key Humanitarian Concerns," January 2013, https://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_january_2013_english.pdf (accessed April 23, 2015). See also Amira Hass, "High Court to Rule Whether Palestinians are Denied Building Rights," *Haaretz*, April 27, 2014, http://www.haaretz.com/news/national/.premium-1.587508 (accessed April 23, 2015).

[65] Human Rights Watch, *Separate and Unequal*, p. 14-17.

[66] Since 2000, the approval rate for permit applications has varied between 0.9 to 6.9 percent with the exception of 2006 and 2008, where the rates were 24.4 and 22 percent, respectively. World Bank, "Area C and the Future of the Palestinian Economy," October 2, 2013, p. 16.

[67] Human Rights Watch, *Separate and Unequal*, p. 11. In June 2015, the Israeli Supreme Court rejected a legal appeal to restore Palestinian control over planning their communities in Area C. See Haggai Matar, "High Court: Palestinians Have No Planning Rights," *+972mag.com*, June 12, 2015, http://972mag.com/high-court-palestinians-have-no-planning-rights/107697/ (accessed December 2, 2015). For more on this case, see Rabbis for Human Rights, "Area C Planning Appeal," http://rhr.org.il/eng/area-c-planning-appeal/ (accessed December 2, 2015).

The Palestinian owner's son stands in a construction supply shop located on a main road leading to the settlement of Ariel. Like thousands of Palestinian-owned homes and structures in Area C and East Jerusalem, the entire business is threatened with Israeli demolition orders. Israel has zoned only one percent of Area C for Palestinian construction and rejected more than 94 percent of Palestinian construction permit requests from 2000 to 2012. © 2015 Private

The experience of Palestinian residents of the village of Haris, which abuts the highway between the settlements of Barkan and Ariel is illustrative of the discriminatory restrictions that Palestinians trying to work and live in Area C endure. Amin Daoud is a resident of Haris who owns 500 *dunams* (50 hectares) of land just outside the village. In 1978, Daoud said, he opened a construction supply business on his property, which sells to Palestinians and Israelis alike.[68] Since opening the business, he says he has received 18 demolition orders from the Israeli military because he lacked the required building permits; his land falls within Area C, the area under the military's exclusive control. To comply with a military order, Daoud said he was forced to remove the roof on an extension he made to his house, and in a separate incident Israeli authorities themselves destroyed a container that he used to store materials. In September 2014, he said he received demolition orders for his store and storage sheds, 50 *dunams* of olive trees, a stone veranda, even three family graves, in fact everything on his property, except for a house that was built before Israel occupied the West Bank in 1967. He pointed out a house

[68] Human Rights Watch interview with Amin Daoud, Haris, December 16, 2014.

under construction in the distance, located in "Area B," where Israel ceded authority over land-use issues to the Palestinian Authority, which he was building for his family at a cost of $100,000. "The family owns 500 *dunams* [in Area C] but we can't build on it."

On either side of Daoud's business, Palestinians from Haris had established car wash businesses. Israeli authorities have already demolished one of the carwashes because it lacked a permit, and the carwash on the other side received demolition orders for the same reason, Daoud said.[69] Nearby, at the entrance to Haris, another Haris resident had put some construction materials up for sale on a small plot of land, but Israeli Civil Administration officials had threatened to destroy the materials if the owner did not remove them.[70] The owner removed them, Hossam S., a Haris resident, said, but planted three olive tree seedlings as a small act of resistance. "Even these seedlings are illegal. We'll see if they'll demolish them," he said.[71]

Since most of Palestine's undeveloped lands are in Area C, Israeli land-use restrictions thwart the Palestinian construction sector and manufacturing, which requires open land for factories, and prevent Palestinians from benefitting from tourism near the Dead Sea or historical sites because they cannot build hotels, stores or other tourist infrastructure.[72] Israeli policy and practice create economic hardship for many of the 300,000 Palestinians who live in Area C, because it is virtually impossible to obtain a permit even to build a simple shop. Palestinian structures built without a permit is much more likely to be demolished than unauthorized settlement construction, which is often retroactively authorized.[73]

The livelihoods of Palestinians in Area C are particularly affected by land restrictions since many are farmers and herders. According to a 2014 study conducted by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 24 percent of Palestinians in

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[69] Ibid.

[70] Human Rights Watch interview with Hossam S., Haris, December 20, 2014.

[71] Human Rights Watch interview with Hossam S., Haris, December 20, 2014. Human Rights Watch is not aware if the owners applied for a permit. Palestinians often do not apply for permits, particularly in areas Israel has not "zoned" for residential building, since it is an expensive process that rarely leads to approval. See Human Rights Watch, *Separate and Unequal*, pp. 40-43.

[72] See Background section above. The World Bank estimates, for 2011, if restrictions on Area C were lifted potential value added in the construction sector could be increased by as much as $239 million, or 2 percent of Palestinian GDP and tourism could generate $416 million and 2,900 jobs. World Bank, "Area C and the Future of the Palestinian Economy," October 2, 2013, p. 24.

[73] Emily Schaeffer and Jeff Halper, Israel's Policy of Demolishing Homes Must End: A Submission to the UN Human Rights Council, March 2012, available at http://icahd.org/get-the-facts/analysis/ (accessed March 25, 2015).

Area C are farmers and 10 percent are herders, and 24 percent currently work in settlements.[74] A number of Palestinian residents of Area C told Human Rights Watch that many of those Palestinians working in settlements are farmers or herders who have lost access to their lands. In 2011, OCHA reported that families were leaving 10 of 13 communities it visited in Area C because Israeli "policies and practices implemented there make it difficult for residents to meet basic needs or maintain their presence on the land."[75]

Palestinian public infrastructure projects, like roads, water and sewage lines, or other utilities that connect major towns or cities in Areas A and B, often must be built across Area C.[76] Therefore, the Israeli military's denial of construction permits in areas under its control also harms Palestinians in areas under nominal Palestinian Authority control, deepening Palestinian dependence on Israeli products and services. Rawabi, a partly completed $1 billion residential and commercial project northwest of Ramallah located almost entirely in Area A, is not yet habitable because the Civil Administration delayed for years approving the required permits to connect the town to water infrastructure in Area C; in February 2015, it reportedly promised to approve the water connection.[77] The Jericho Industrial Zone in Area A has also experienced serious delays because the optimal route for a road to the zone crosses Area C, and Israeli authorities have not approved construction.[78]

Israel has exercised its control over Palestine's borders in ways that raise the costs for Palestinian imports and exports, discriminating against and harming the Palestinian businesses in all areas of the occupied territories that engage in importing and exporting goods. Israeli authorities frequently subject imported goods destined for West Bank

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74 OCHA, "Area C Vulnerability Profile," 2014, https://www.ochaopt.org/documents/ocha_opt_fact_sheet_5_3_2014_en_.pdf (accessed December 1, 2015).

75 OCHA, "Area C Fact Sheet," July 2011, http://www.ochaopt.org/documents/ocha_opt_area_c_fact_sheet_july_2011.pdf (accessed December 1, 2015).

76 World Bank, "Area C and the Future of the Palestinian Economy," October 2, 2013, p.16.

77 Ibid., p. 18. Anne-Marie O'Connor and William Booth, "Israel to Let Water Flow to West Bank Development at Center of Political Feud," *Washington Post*, February 27, 2015.

78 Ibid., p 16. Ali Erekat, the Acting Director of the Jericho Industrial Park, told Human Rights Watch that Israel still has not approved the request, forcing trucks to travel an extra 8 kilometers through a residential area to get to the park, rather than connecting directly to the nearby highway. Human Rights Watch phone interview, May 11, 2015.

Palestinians to delays, resulting in additional storage and other costs.[79] Israel often requires Palestinian producers, but not Israelis, to offload and reload goods that pass through Israeli checkpoints on their way to a port for export, which adds to the expense and time required for transport.[80] Israel justifies these measures on security grounds, but they are nonetheless discriminatory since they target businesspeople solely on the basis of their national origin.

Israeli restrictions on Palestinian access to international markets also maintain Palestinian dependency on the Israeli economy. Palestinian businessman Amin Daoud, for example, said he stopped importing construction materials directly from overseas in 2012, because of unpredictable, long delays at the port and the associated storage fees.[81] Now he buys everything from Israeli importers, he said, even though this reduces his profit margin and makes his goods less competitively priced. Daoud's situation is not unique: according to the United Nations Conference on Trade and Development (UNCTAD), 39 percent of exports from Israel to the occupied Palestinian territories are imported from third countries and resold to Palestinian consumers.[82] UNCTAD estimates that this phenomenon, known as "indirect imports," costs the Palestinian Authority US $115 million annually in lost customs duties, since Israel only transfers customs duties for goods whose original destination is the occupied Palestinian territory.[83]

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[79] World Bank, *Palestinian Trade: West Bank Routes,* December 16, 2008, p. 15. One source of delay is the name of the destination listed on the shipment. According to a European Commission survey, shipments indicating "West Bank" or "Palestine" as a destination without "Israel" invariably have problems clearing Israeli customs. Generally, Israel customs officials must issue a new form, at a cost of 300 to 1000 Euros and four to five-day delay. Palestinian importers attempt to minimize such delays by requesting that EU business partners indicate "Israel" on all shipments (e.g. "Jericho, Israel"), a position not in line with EU policy or international law. Paltrade, "Trade Agreements Between Vision, Implementation, and Impact," June 2010, p. 17.

[80] This process is known as "back-to-back transfers." According to a World Bank report, "[i]n addition to creating delays and uncertainties, the crossings also result in substantial damage to goods when they are cross loaded or manually inspected." *Palestinian Trade: West Bank Routes,* December 16, 2008, p. ii, http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/PalTradeWBRoutesDec08.pdf (accessed December 1, 2015).

[81] Human Rights Watch interview with Amin Daoud, Haris, December 16, 2014.

[82] United Nations Conference on Trade and Development, "Report on UNCTAD assistance to the Palestinian people," UN Doc. No. TD/B/60/3, July 8, 2013, p. 11.

[83] The Palestinian Authority loses an additional $190 million annually to smuggling. Where the smuggled goods are produced in Israel, the PA loses VAT and purchase tax revenue. Where goods are produced in a third country, tariff revenue is also leaked along with VAT and purchase tax revenue. By adding up the leakage from total imports and smuggling from Israel, UNCTAD estimates the total as more than $300 million a year. Ibid.

Case Study: Quarrying in the West Bank

The case of quarries in the West Bank is one example of the Israeli state's discriminatory treatment of Palestinian businesses in relation to its treatment of Israeli and international businesses. Natural stone is sometimes referred to as Palestine's "white oil" because of the potential economic value and abundant supply of this resource.[84] According to the Palestinian Union of Stone and Marble, the industry currently provides 15,000 to 20,000 jobs and adds $250 million to Palestine's GDP.[85] The industry is by far Palestine's largest exporter, making up 17 percent of all exports in 2011, and reaching 60 countries.[86]

Israeli restrictions, however, keep Palestinian businesses from tapping into the full potential of this industry. Most of the quarryable land, some 20,000 *dunams* (2,000 hectares) with a potential value of up to $30 billion, is located in Area C.[87] According to the Palestinian Union of Stone and Marble, Israel has refused to issue any new permits to Palestinian businesses for quarrying in Area C since 1994, even though the Oslo Accords explicitly provide for Israel to consider a request for such a permit "on its merits."[88] Because of this, as of July 2012, only nine Palestinian quarries operated "legally" in Area C with the required Israeli military permission.[89] The manager at one of these quarries told Human Rights Watch that the Civil Administration refused to renew his permit after it expired in 2012, as well as the permits of other authorized quarries.[90] Palestinian businesses that operate unauthorized quarries are vulnerable to the confiscation of their

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[84] "White Oil," World of Matter, http://www.worldofmatter.net/geology-disaster#path=geology-disaster.

[85] Palestinian Union of Stone and Marble, *Stone and Marble in Palestine: Developing a Strategy for the Future*, July 2011, http://blair.3cdn.net/328bd530dca6a02f4c_kum6b6dhi.pdf (accessed December 1, 2015).

[86] The World Bank estimates the sector contributes 15,000 jobs to the Palestinian economy. "Area C and the Future of the Palestinian Economy," October 2, 2013, p. 13.

[87] Ibid. The report notes that it is difficult to assess the potential value without the possibility of conducting geological surveys, but it concludes that a conservative estimate – excluding stone aggregates – is that restrictions on quarries cost the Palestinian economy $241 million a year. Ibid. p 15.

[88] Ibid., p. 13. "The Israeli side shall consider any request by Palestinian entrepreneurs to operate quarries in Area C on its merits," The Israeli Palestinian Interim Agreement, Annex III: Protocol Concerning Civil Affairs, Article 31, 4.

[89] Israel state comptroller, *Annual Report 63b*, July 17, 2013, p. 178.

[90] Human Rights Watch interview with Jamal T. (pseudonym), Beit Fajar, March 24, 2015. Copies of official documents regarding the expiration of the permit and the pending renewal request are on file with Human Rights Watch.

equipment, which Israel returns only after the payment of hefty fines, and other measures that greatly reduce the businesses' economic productivity.[91]

In a clear example of discriminatory treatment, Israel's Civil Administration has, in contrast, licensed 11 Israeli-administered quarries and crushers in the West Bank, which produce 10 to 12 million tons of stone annually.[92] The Civil Administration did not respond to a letter that Human Rights Watch sent requesting information on the justification for the difference in treatment. Furthermore, Israeli excavation of Palestinian stone for its own benefit is a violation of international humanitarian law applicable to occupation, and may amount to a war crime, as discussed in more detail below.

Article 55 of the Hague Regulations of 1907 subjects the resources of occupied territory to the laws of usufruct, which limits an occupying power to using such resources for its military needs or for the benefit of the occupied people. According to the Israeli legal scholar Eyal Benvenisti, "It is generally accepted that the occupant may not use them for its own domestic purposes."[93] Recognizing this restriction, the occupying coalition authority in Iraq, in 2003, established the Development Fund for Iraq, which collected profits from Iraqi oil to be used for the benefit of Iraqis.[94]

In violation of this obligation, settlement quarries transfer 94 percent of their product to the Israeli market, and, according to a National Mining and Quarrying Outline plan

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[91] Documentation gathered by World Bank researchers show fines ranging from 40,000 to 120,000 shekels, "Area C and the Future of the Palestinian Economy," October 2, 2013, p. 14; see "Beit Fajar Quarries" section below for Human Rights Watch's findings.

[92] Ministry of Housing, *Report by the Committee to Examine Land Policies in the Quarry Sector*, April 2015, http://www.moch.gov.il/SiteCollectionDocuments/odot/veaadat_balenikov/doch_sofi_2642015.pdf (accessed December 1, 2015).

[93] The Institut de Droit International's Bruges principles articulate this principle: "the occupying power can only dispose of the resources of the occupied territory to the extent necessary for the current administration of the territory and to meet the essential needs of the [occupied] population." The United States recognized this principle, for example, in a 1977 State Department Memorandum finding Israel's oil fields off the cost of Sinai contravened international law. See Eyal Benevisti, *The International Law of Occupation*, p. 82; and James G. Stewart, Open Society Foundations, *Corporate War Crimes*, p. 60. See International Law section. In a lawsuit brought by an Israeli NGO against the state and settlement quarries, Israel's Supreme Court of Justice held that the quarries do not violate international law because, among other reasons, of the jobs they provide to 200 Palestinians. *Yesh Din v. Commander of the IDF Forces in the West Bank,* HCJ 2164/09, December 26, 2011, http://www.yesh-din.org/userfiles/file/%D7%94%D7%9B%D7%A8%D7%A2%D7%95%D7%AA%20%D7%93%D7%99%D7%9F/psak.pdf (accessed December 1, 2015).

[94] United Nations Security Council Resolution 1483, Doc No. s/res/1483, May 22, 2003, p. 4.

prepared by Israel's Ministry of Interior, it provides around one-quarter of the total consumption of quarrying materials for the Israeli economy.[95] Israel collects royalties, at a rate of approximately $1.20 per ton, from the Israeli quarry owners, and settlement municipalities collect taxes.[96] In 2009, the total royalties paid for the use of the quarries by Israeli parties was 25 million shekels ($6.25 million).[97] According to a 2015 study commissioned by the Israel Land Authority, Israel's gravel market is heavily dependent on Israeli-owned West Bank quarries: "If not for quarry activity in the West Bank, the industry would have been mired in a crisis from a lack of supply years ago, which would have serious implications beyond the rise in prices (such as harming the ability to implement construction and/or infrastructure projects due to a lack of raw materials)."[98] This deficiency in supply could have been made up by Palestinian production, if not for of lack of access to permits and other restrictions. Data compiled by the Palestinian Union of Stone and Marble shows that, as a result of Israeli restrictions, Palestinian-owned quarries in the West Bank produce around one-quarter the amount of gravel as Israeli-administered West Bank quarries, most of which comes from a 50-year-old quarry that will soon no longer be productive.[99]

In addition to extracting Palestinian natural resources for Israel, settlement quarries allow Israel to externalize the environmental impact of extraction. In an interview with the *New York Times*, Itamar Ben David, chief environmental planner for the Society for the Protection of Nature in Israel, explained that he believes one reason for "how big a portion [of quarried materials] is supplied to Israel by the West Bank . . . is clearly that planning regulations and environmental assessment are less strong in the West Bank than in Israel. In Israel, nobody wants a quarry near his residential property."[100] In 2013, Israel's

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[95] *Yesh Din v. Commander of the IDF Forces in the West Bank,* HCJ 2164/09, p. 3 (quoting Ministry of Interior report). See also Expert Legal Opinion submitted to the court in support of petitioners, January 2012, http://yesh-din.org/userfiles/file/%D7%97%D7%95%D7%95%D7%AA%20%D7%93%D7%A2%D7%AA/QuarriesExpertOpinionEnglish.pdf (accessed January 6, 2016).

[96] Letter from Andreas Schaller, Director of Group Communications and Investor Relations, Heidelberg Cement to Human Rights Watch, May 19, 2015.

[97] *Yesh Din v. Commander of the IDF Forces in the West Bank,* HCJ 2164/09, p. 3.

[98] Ministry of Housing, *Report by the Committee to Examine Land Policies in the Quarry Sector*, April 2015, http://www.moch.gov.il/SiteCollectionDocuments/odot/veaadat_balenikov/doch_sofi_2642015.pdf (January 6, 2016).

[99] Palestinian Union of Stone and Marble, *The Aggregates Industry in the West Bank*, December 2011.

[100] Ethan Bronner, "Desert's Sand and Rocks Become Precious Resources in West Bank Dispute," *New York Times*, March 6, 2009.

comptroller found that the Civil Administration's failure to properly regulate abandoned quarries in Area C has led to "serious ecological and environmental harm."[101]

A Study in Contrasts: Nahal Raba Quarry and Beit Fajar

Nahal Raba Quarry

The Nahal Raba quarry is located on the western edge of the West Bank, on the opposite side of the 1949 armistice line from the Israeli city of Rosh Ha'Ayin. The German multinational Heidelberg Cement owns the quarry through its subsidiary, Hanson. The quarry, which opened in 1983, currently covers 600 *dunams* (60 hectares) of land that belong to the nearby Palestinian village of Zawiyah.[102] Israel's Civil Administration took control of the land by declaring it state land under its aggressive interpretation of an Ottoman law whereby land, even if privately owned, reverts to the state if not cultivated or otherwise used for three consecutive years.[103] Pursuant to this provision, since the early 1980s, Israel has declared 1.3 million *dunams* (130,000 hectares) to be state land.[104] In 2004, Israel built the separation barrier in the area to encompass the quarry from the east, unlawfully diverting the route of the barrier into occupied territory from the pre-1967 armistice line.[105] As a result, the quarry is seamlessly connected to Israeli territory, while the barrier separates the village of Zawiyah from its lands. There appears to be no other Israeli presence between Israel's border and the separation barrier, suggesting that other interests rather than security concerns dictated the barrier's incursion into Palestinian territory.[106]

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[101] State Comptroller, *Annual Report 63b*, July 17, 2013, p. 162.

[102] "Nahal Rabba Quarry – Center," Hanson, http://www.hanson-israel.com/page_13801 (accessed July 1, 2015). Human Rights Watch obtained a copy of the GIS layer the Civil Administration provided to Peace Now stating that the land belonged to Zawiyah.

[103] Database provided to Peace Now by Civil Administration. See B'Tselem, *By Hook or by Crook*, p. 25.

[104] Chaim Levinson, "Just 0.7% of land in the West Bank has been allocated to Palestinians, Israel admits," *Haaretz*, March 28, 2013.

[105] See International Court of Justice, *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, July 9, 2004.

[106] According to B'Tselem's map, the land between the armistice line and the separation barrier is included within the settlement regional council's borders, but in other areas (e.g. to the south of the quarry), the wall is not diverted to encompass the regional council area. In January 2015, the Civil Administration transferred 2,400 *dunams* (240 hectares) of land in this area to the Samaria Development Company, a settler body, for a new industrial zone. Chaim Levinson, "IDF to Probe Transfer of Pricey West Bank Land to Settler Body," *Haaretz*, January 29, 2015.

Nahal Rabba quarry, operated by Hanson, a subsidiary of Heidelberg Cement, is one of eleven Israeli- and Internationally-run quarries located in Area C of the West Bank and licensed by the Israeli government. These businesses sell nearly all of the quarried stone in the Israeli or settlement markets. This is in violation of international humanitarian law which requires that such natural resources should only be used for the benefit of the (Palestinian) population of the occupied territory. © 2015 Private

The quarry extracts dolomite and crushes it to produce around 4,000 tons of gravel per day; the gravel is used to produce concrete and asphalt, mostly for the Israeli market.[107] Pioneer, an Australian conglomerate, operated the quarry from 1986 to 2000.[108] In 2000, Hanson, at the time one of Britain's leading construction material producers, purchased Pioneer.[109] Heidelberg Cement, a German multinational and the world's third largest cement producer, acquired Hanson, including its Israeli subsidiary, which operated the quarry, in 2007.

[107] Human Rights Watch interviews with an employee in the operations division and a supervisor in the asphalt division (names withheld), Zawiyah, December 16, 2014. The supervisor, who is in touch with clients, said that the company only sells to Palestinians if they pay cash up front but Palestinians usually purchase through Israeli contractors. Heidelberg suggested in a letter to Human Rights Watch noted the Palestinian boycott of settlement goods as a reason that almost all its material is sold on the Israel market. Letter from Andreas Schaller, Director of Group Communications and Investor Relations, Heidelberg Cement to Human Rights Watch, May 19, 2015.

[108] Committee for Joining Local Municipalities. Ministry of Interior, "Notice Report," July 2011, http://www.moin.gov.il/SubjectDocuments/Vaadot_VHyhodGvulot_02.pdf (accessed January 6, 2016), p. 16.

[109] "History," Hanson, http://www.heidelbergcement.com/uk/en/hanson/about_us/history.htm (accessed July 2, 2015).

Heidelberg Cement continues to own and operate Nahal Raba Quarry, despite reports in 2009 that it was looking to sell its West Bank operations (or possibly all of Hanson Israel).[110] Hanson also owns concrete plants in two other settlements: Modi'in Illit and Atarot.[111] The Israeli conglomerate Mashav, the parent company of Nesher, Israel's sole cement producer, made a bid in July 2009 to acquire Hanson Israel, but Israel's Antitrust Authority opposed the deal on the grounds that Hanson is one of Nesher's largest clients.[112]

Heidelberg wrote in a letter to Human Rights Watch that, in 2014, Hanson paid around €3.25 million ($3.6 million) in royalties to the Israeli Civil Administration and an additional €430,000 ($479,000) in municipal taxes to the settlement Samaria Regional Council for its operation of the Nahal Raba quarry.[113] In the letter, Heidelberg defended its activities as fully complying with international law since the land was not privately owned, and emphasized that the royalties it pays Israel are transferred to the Civil Administration "for the benefit of residents of Area C." It also noted that it employs 36 Palestinian residents of the West Bank who receive the same benefits and salaries as their Israeli counterparts and that another 25 Palestinians work on the site daily through a sub-contractor.

The Israeli military commander successfully defended the Civil Administration's licensing of quarries in the West Bank on similar grounds in a case the Israeli nongovernmental organization (NGO) Yesh Din filed with Israel's Supreme Court in March 2009 against Israeli-administered quarries in the West Bank. The plaintiffs cited an earlier Supreme Court opinion to argue that Israeli-administered quarries in the West Bank violate international law. In the 1992 opinion, Justice Aharon Barak wrote:

> The Military commander may not consider the national, economic, and social interests of his country, inasmuch as they do not impair on its

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[110] E.g. Adri Neieuwolf, "Heidelberg Cement Tries to sell West Bank Mines as Legal, Boycott Pressure Grows," *Electric Intifada*, July 12, 2009, http://electronicintifada.net/content/heidelbergcement-tries-sell-west-bank-mines-legal-boycott-pressures-grow/8340 (accessed January 6, 2016).

[111] "Hanson Israel," Who Profits, http://whoprofits.org/company/hanson-israel-formerly-pioneer-concrete-israel (accessed July 2, 2015).

[112] Adi Ben-Israel, "Nochi Denkner Cancels Hanson Israel Acquisition," *Globes*, December 28, 2009. http://www.globes.co.il/en/article-1000526043 (accessed December 1, 2015).

[113] Letter from Andreas Schaller, Director of Group Communications and Investor Relations, Heidelberg Cement to Human Rights Watch, May 19, 2015. Attached as annex to this report.

security interest in the area, or on the interests of the local population, even if the army's needs are its military needs and not national security needs in the broader sense. A territory held through belligerent seizure is not a field open for economic or other exploitation.[114]

A Heidelberg Cement Group truck, which says "Hanson" in Hebrew, leaves the Nahal Rabba quarry. © 2015 Private

Israel's Supreme Court, however, rejected the Yesh Din petition in 2011, although it recommended that in general the Civil Administration not approve new quarries. The court based its opinion in part on the theory that "traditional occupation laws require adjustment to the prolonged duration of the occupation," and cited the employment of Palestinians as a benefit to the occupied population.[115] The court also held that the Israeli

[114] Yesh Din petition quoting Justice (then) A. Barak in HCJ 393/82 Jamait Askan v Commander of IDF forces in Judea and Samaria (pd 37(4) 785, pp 794-795, http://www.yesh-din.org/userfiles/file/Petitions/Quarries/Quarries%20-%20Petition%20ENG.pdf

[115] *Yesh Din – Volunteers for Human Rights v. Commander of the IDF Forces in the West Bank et al.,* HCJ 2164/09, December 26, 2011, p. 16.

military's Civil Administration, which pledged to collect fees from the quarry operators, similarly operated for the Palestinians' benefit.

However, the provision of jobs to protected persons does not render other violations of international humanitarian law in occupied territory lawful, including facilitating settlements by paying them taxes. Moreover, as the petitioners pointed out, the Civil Administration, in reality, enforces Israel's unlawful policies in Area C that restrict Palestinian land use, demolish Palestinian property without military necessity, and allocate land and resources to settlers.[116] Heidelberg's claim in its letter that its activities are lawful because the land on which the quarry is located was not privately owned is a red herring: the laws of occupation prohibit the occupying power from using any resources in occupied territory for its own benefit regardless of whether privately owned. There is an additional problem that neither Heidelberg nor the court addresses: Israeli-administered quarries benefit from Israel's allocation of permits to them that it denies to Palestinians.

Yesh Din requested an *en banc* review of its petition, a procedure by which especially important, difficult, or novel rulings are reheard by at least five justices.[117] Seven leading Israeli international law scholars filed an amicus brief in support of Yesh Din's petition, criticizing the court's interpretation of articles 43 and 55 of the Hague Regulations of 1907 on the grounds that it "stands in direct contradiction with the laws of occupation in light of their wording, spirit and purpose."[118] The Supreme Court rejected Yesh Din's petition for an *en banc* review, but held that the ruling does not constitute precedent.[119]

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[116] See Human Rights Watch, *Separate and Unequal*, 2010.

[117] See "About the Supreme Court of Israel," Versa – Cardozo Law School, http://versa.cardozo.yu.edu/about-supreme-court-israel (accessed December 1, 2015).

[118] Expert Legal Opinion to *Yesh Din – Volunteers for Human Rights v. Commander of the IDF Forces in the West Bank et al.*, HCJ 2164/09, December 26, 2011, http://yesh-din.org/userfiles/file/%D7%97%D7%95%D7%95%D7%AA%20%D7%93%D7%A2%D7%AA/QuarriesExpertOpinionEnglish.pdf (accessed December 1, 2015).

[119] Yesh Din, "Supreme Court: West Bank Quarries Ruling Does Not Constitute Precedent," July 25, 2012, http://www.yesh-din.org/postview.asp?postid=216 (accessed December 1, 2015).

Beit Fajar Quarries

Beit Fajar, a town located 10 kilometers south of Bethlehem with an estimated 13,500 residents, is one of the major centers of stone production in Palestine.[120] About 80 percent of the workforce is employed in the stone industry, mostly in one of the town's 150 stone workshops or the 40 quarries in the area.[121] The majority of the cutting factories are in Area B, which is under Palestinian administrative control, but most quarries are located in Area C, and therefore require an Israeli permit to operate.[122] According to four quarry managers and owners in the area, none currently has a permit to operate.[123]

In a few cases, Israel's Civil Administration had continued to renew the permit for quarries that it had authorized to operate in the 1990s. In March 2015, Human Rights Watch reviewed documents showing that Israel refused to renew the permit of one of these quarries that expired in 2012. The quarry owner's son, Jamal T. (pseudonym), who is the marketing manager, told Human Rights Watch that Israel apparently stopped renewing even these permits in 2012.[124] "I've been going to [the Civil Administration office in the Israeli settlement of] Beit El once or twice a month since 2012, but we still haven't gotten a permit. There used to be a few authorized quarries in this area–maybe five or six. But since 2012, no one has been able to renew his license," he said.[125]

Human Rights Watch spoke with another quarry owner, Samer T., who said he's been working in the quarry business since 2000 and currently owns three quarries in Area C near Beit Fajar.[126] The Civil Administration has refused to give him a permit, although he continues to submit a request every year, he said. Naif, a third quarry owner, said he, too, has not been able to obtain a permit for his two quarries.[127]

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[120] Palestine Central Bureau of Statistics, "Localities in Bethlehem Governorate by Type of Locality and Population Estimates, 2007-2016," http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/betlhm.htm (accessed December 1, 2015).

[121] The Applied Research Institute – Jerusalem, "Beit Fajjar Town Profile," 2010, http://www.ochaopt.org/documents/opt_arij_profile_beitjaffar.pdf (accessed December 1, 2015).

[122] Human Rights Watch interview with Maher Hushaysh, Bethlehem, December 17, 2014.

[123] Human Rights Watch interviews with Mousa Issa Ziada and Jamal, Beita Fajar, March 24, 2015; Abd and Naif, Beit Fajar, April 30, 2015.

[124] The name is fictional at the interviewee's request because he regularly does business with Israelis.

[125] Human Rights Watch interview, Jamal, Beit Fajar, March 24, 2015

[126] The name is fictional at the interviewee's request because he regularly does business with Israelis. Human Rights Watch interview with Samer T., Beit Fajar, April 30, 2015.

[127] Human Rights Watch interview with Naif, Beit Fajar, April 30, 2015.

Palestinian-owned quarry operating without a license in Area C of the West Bank. Israel's Civil Administration has not issued a single license to a Palestinian for a new quarry in Area C since 1994, according to the Palestinian Union of Stone and Marble. The equipment of quarries operating without a license is vulnerable to confiscation by Israeli authorities. © 2015 Private

Mousa Issa Ziada, who owns 10 *dunams* of quarries, told Human Rights Watch that he has been operating a quarry on his land from 1973, but the Civil Administration has refused to renew his license since 1998. The Civil Administration told him the reason for the refusal was the proximity of the land to a settlement. "I told them, give me a permit, and I'll build a fence around my land," he told Human Rights Watch. "But they still said no."[128] In most cases, however, the Civil Administration does not give a reason for rejecting a permit. Often it never formally rejects a request and keeps it pending indefinitely.[129]

Israeli authorities often confiscate the equipment of Palestinian businesses that operate quarries without a permit. In such cases the Civil Administration forces the businesses to pay stiff fines for the return of the equipment. Samer said Israeli authorities last confiscated his equipment in November 2014. At that time he said he paid the Civil

[128] Human Rights Watch interview with Mousa Issa Ziada, Beit Fajar, March 24, 2015.

[129] Human Rights Watch interview with Maher Hushaysh, Bethlehem, December 17, 2014

Administration 17,000 shekels ($4,250) in fines to get the equipment back, in addition to $2,000 in lawyers' fees.[130] He said he now sleeps six nights a week in his office to watch over his equipment. "If there weren't an Area C or an Israeli [occupation], I would be home every night" with my family, he said.

Naif said the authorities confiscated his equipment four times, most recently in 2012. Faced with a 110,000 shekels ($27,500) fine, he said he was forced to sell half his remaining equipment in order to raise the money he needed to retrieve the confiscated equipment.[131] Jamal said his family owns four unauthorized quarries in addition to the one that Israel had authorized until 2012. In 2013, Israeli authorities again confiscated their equipment from one of their unauthorized quarries, and since then they only operate on Saturdays.[132] This is a common practice among Palestinian quarry owners, he and others said, since the personnel charged with confiscating equipment do not work on the Jewish Sabbath.[133] Mousa told Human Rights Watch that in 2010, he began to operate only on Thursdays, Fridays, and Saturdays because he was afraid the authorities would confiscate his equipment. The reduced hours didn't save him:

> In 2011, on a Thursday afternoon, they came and took all my equipment. They stored it in [the settlement of] Kfar Etzion. I had to pay 51,000 shekels for 51 days in fines and storage fees. I kept working, but they came back again around a year later. They didn't take my equipment but they forced me to leave and shut me down.

Israel's refusal to grant permits to Palestinian businesses operating quarries and its practice of confiscating equipment from quarry businesses operating without a permit contributes to the discrimination against and impoverishment of Palestinians, and stands in contrast to Israel's treatment of Israeli-administered quarries. Samer said he moves some of his equipment back and forth between Areas B and C to avoid confiscation. "The gas, the wear on the equipment, the time, these are all costs," he said. "I would be able to

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[130] Human Rights Watch interview with Samer, Beit Fajar, April 30, 2015.

[131] Human Rights Watch interview with Naif, Beit Fajar, April 30, 2015.

[132] Human Rights Watch interview, Beit Fajar, March 24, 2015

[133] Human Rights Watch interviews with Mousa Issa Ziada and Jamal, Beit Fajar, March 24, 2015; Samer and Naif, Beit Fajar, April 30, 2015.

produce more efficiently if I didn't have to hide. I would be able to hire, at a minimum, 30 to 40 more people," he said. Naif said that he used to employ six people, but since Israel last confiscated his equipment, he works alone. There is also the lost productivity of quarries that operate only on weekends. "We go to trade shows abroad, and they want our material, but we can't produce enough" because of the limited time the quarries operate, Jamal said.

Human Rights Watch spoke to one Beit Fajar resident, Ibrahim, who says that a lack of employment opportunities have forced him to work in a nearby Israeli settlement. "If I would find work in Beit Fajar, I would leave the settlements in the morning," he told Human Rights Watch.[134]

Development of Israeli Policies on the Palestinian Economy

The discriminatory economic policies described should be seen in the context of a broader Israeli policy that for decades appeared to aim to make the Palestinian economy dependent on Israel's as a means of retaining control over the occupied territories. In the years following 1967, the dominant Israeli economic policy with respect to the West Bank was to integrate the Palestinian economy into its own. It imposed its currency on the Palestinian territories in 1967 and since then has, for the most part, worked to increase shared infrastructure, the export of Israeli goods to Palestine, and the import of Palestinian labor to Israel.[135] While the higher wages that Palestinians earned from working in Israel helped to improve Palestinians' standard of living, the evidence indicates that Israel's "integration" policy is part and parcel of its discriminatory policies that restrict potential Palestinian competition and foster Palestinian dependence on the Israeli economy – including, crucially, employment in Israel or its settlements.

The main proponent of the integration approach was Moshe Dayan, who stated in 1968 while serving as defense minister:

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[134] Human Rights Watch interview with Ibrahim, Beit Fajar, March 30, 2015.

[135] Arie Arnon, "Israeli Policy Towards the Occupied Palestinian Territories: The Economic Dimension, 1967-2007," *Middle East Journal*, vol. 61.4, Autumn 2007, http://www.bgu.ac.il/~arnona/Israeli_Policy_towards_the_Occupied_Palestinian_Territories_The_Economic_Dimension_1967-2007.pdf (accessed December 1, 2015). The years during and shortly after the Oslo negotiations in the early 1990s is in some ways an exception, see footnote 251.

> [W]e can create economic integration—link the electric grid, the water system, set up a joint transportation system ... It's possible to organize this economically within one framework. Moreover, we can allow Arabs from Hebron to work in Beer Sheva because in Hebron there is unemployment and in Beer Sheva there is a need for workers ... We should connect the two entities, if we, on our part and for ourselves, do not want to sever connections with these areas.[136]

This integration does not connote equality. Instead, the Palestinian economy has been described as a captive market for Israeli goods, which the Israeli government reinforces through restrictions on potential local competition.[137] In a Knesset meeting from 1987, then-Minister of Industry and Trade Ariel Sharon explained, in response to a question about the steps his ministry was taking to avoid the threat presented to the Israeli economy by potential Palestinian economic development, that his policy is to approve requests by Palestinian businessmen in the West Bank only when they align with Israeli economic interests:

> Requests to build factories from the [Palestinian] residents of Judea, Samaria [Israel's official name for the West Bank outside East Jerusalem] and the Gaza Strip are strictly examined, as Israeli requests are examined, to comprehensively take into account Israeli industries, the needs of the Israeli market, and the potential for export.[138]

Sharon added that the threat of Palestinian competition "mandates the establishment of [Israeli settlement] industry in Judea, Samaria, and the Gaza Strip."[139]

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[136] Ibid., p 580. See also HaMoked's analysis of the Israeli Supreme Court's decision in the Abu 'Aita case: Yossi Wolfson,"Economic Exploitation of Occupied Territories: HCJ 69/81 Abu 'Aita v. The Regional Commander of Judea and Samaria (judgment rendered April 5, 1983)," January 29, 2013, http://www.hamoked.org/Document.aspx?dID=Documents1051 (accessed December 1, 2015).

[137] Arie Arnon, "Israeli Policy Towards the Occupied Palestinian Territories: The Economic Dimension, 1967-2007," *Middle East Journal*, vol. 61.4, Autumn 2007, p. 581.

[138] "Industrial Development in the Territories," Meeting No. 308 of the Eleventh Knesset, 18 March 1987, http://knesset.gov.il/tql/knesset_new/knesset11/HTML_27_03_2012_05-59-19-PM/19870318@19870318022@022.html (accessed December 1, 2015).

[139] Ibid. "General (res) Shlomo Gazit, the first Coordinator of Activities in the Territories during Dayan's term as Defense Minister, writes in his book *The Carrot and the Stick*: 'The desire to protect Israeli-made products was so great that Israel even attempted to prevent the establishment or reactivation of Arab-owned factories if there was any danger that their

A committee investigating Israeli economic policy in the Gaza Strip appointed by Defense Minister Moshe Arens in 1991 and chaired by the economist Ezra Sadan concluded that Israeli policy limited economic growth in Gaza to wages earned from Israeli businesses:

> Regarding wage-earners, priority was given to increasing their income by employing them in the [Israeli] economy within the 'Green Line.' Only rarely did the policy opt for developing an infrastructure and encouraging the creation of factories and employment within the [Gaza Strip] itself (e.g. the creation of the Erez industrial zone). No priority was given to promoting local [Palestinian] entrepreneurship or the business sector in the Gaza Strip. Moreover, the authorities discouraged such initiatives whenever they threatened to compete with existing Israeli firms in the Israeli market.[140]

These integration-oriented policies changed significantly after 1994. During negotiations that culminated in the Protocol on Economic Relations ("Paris Protocols") in 1994, Israel used Palestinian dependence on employment in Israel to gain economic concessions from the Palestinian Authority.[141] At the same time, Israel began to pursue a policy of separating the occupied territories from Israel, restricting the number of Palestinian workers permitted to work in Israel and the settlements.[142] A new report by the Bank of Israel, however, finds that Israel has been again reversing this trend, and that between 2010 and 2014 the number of West Bank Palestinians working in Israel and the settlements has doubled to around 92,000.[143]

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products might compete with Israeli products.'" Arie Arnon, "Israeli Policy Towards the Occupied Palestinian Territories: The Economic Dimension, 1967-2007," *Middle East Journal*, vol. 61.4, Autumn 2007, p. 581.

[140] The Sadan Committee, Policies for Economic Development in the Gaza Strip, p. 11, translated ibid. p. 582.

[141] According to Arie Arnon, an Israeli professor of economics, Palestinians preferred a Free Trade Agreement, but Israel opposed any defined border and "made clear to the Palestinians that the continuation of work in Israel depended upon accepting the continuation of the customs union." Ibid., p. 585.

[142] Ibid., pp. 586-592.

[143] The statistic includes those working with and without a permit. "Excerpt from the 'Bank of Israel – Annual Report for 2014' to be published soon – Expansion of Palestinian employment in Israel and its Characteristics," March 3, 2015, http://www.boi.org.il/en/NewsAndPublications/PressReleases/Pages/03031 (accessed December 1, 2015).

Palestine remains economically dependent on Israel for employment as well as goods, and its export potential continues to languish.[144] In 2011, Palestine imported almost six times the amount it exported; 86 percent of Palestinian exports (around $600 million) went to Israel and 70 percent of its imports (around $3 billion) came from Israel.[145] A recent World Bank report documented that "the [Palestinian] manufacturing sector, one of the key drivers of export-led growth, has largely stagnated between 1994 and the present and its share of Gross Domestic Product (GDP) has declined substantially."[146]

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[144] United Nations Conference on Trade and Development, *The Palestinian Economy: Macroeconomic and Trade Policymaking under Occupation*, 2012, pp. 13-14.

[145] "Country Profile (about Palestine)," Paltrade, http://www.paltrade.org/en_US/page/country-profile (accessed July 1, 2015); for these statistics from Israel, see Central Bureau of Statistics, "Trade in Goods, 2009-11," http://cbs.gov.il/hodaot2012n/09_12_066t3.pdf and "Balance of Payments Summary, 2009-11," http://cbs.gov.il/hodaot2012n/09_12_066t1.pdf (accessed December 1, 2015).

[146] World Bank, *Fiscal Challenges and Long Term Economic Costs*, March 19, 2013, p. 12, http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AHLCMarchfinal.pdf (accessed January 6, 2016).

IV. How Businesses Contribute to and Benefit from Land Confiscations in the West Bank

Settlements necessarily violate two separate laws of occupation: the prohibition on an occupying power's transfer of its civilians into the territory it occupies and the prohibition on its confiscation of land and other natural resources in occupied territory for its own benefit. Based on the findings in the report, Human Rights Watch concludes that settlement businesses facilitate the growth of settlements, as discussed in the next section, but also depend on and contribute to Israel's unlawful confiscation of Palestinian land on a massive scale. In Human Rights Watch's view, all businesses located in settlements and settlement industrial zones depend on, contribute to, and benefit from Israel's confiscation of Palestinian land, which violates international humanitarian law regardless of whether the land is privately owned or so-called "state land."

This section examines businesses involved in the settlement housing market, such as developers, banks, and real estate agents, because they play a central role in making the land habitable for settlers, thereby, in Human Rights Watch's view, sustaining and expanding the physical footprint of settlements. Many banks and real estate agencies are active in settlements, but, using the settlement of Ariel as a case study, it highlights the case of an Israeli bank financing the construction of six buildings on the outskirts of the settlement, and RE/MAX, a real estate franchise that markets homes in Ariel. Both businesses are also active in other settlements.[147] The focus on these companies is not intended to single them out as particularly problematic, but rather to illustrate how companies involved in the settlement housing market contribute to abuses and violations of the laws of occupation.

The section also examines how Ariel's development is inseparable from Israel's land confiscation policies, including its ongoing confiscation of private Palestinian land. An annex to this report looks at related restrictions on Palestinian farmers' access to their land surrounding Ariel and the cost to their livelihoods.

[147] See "Case Study: Financing Settlement Construction" and "Case Study: Settlement Real Estate" below for details.

Ariel

Ariel sits at the tip of a cluster of settlements extending 12 miles east of the 1949 armistice line (also called the "Green Line"), in the heart of the West Bank. Established in 1978, Ariel is one of the largest Israeli settlements in the West Bank. Its constructed area is five kilometers long but only 700 meters wide, strategically built to wind its way along a mountain ridge surrounded by Palestinian towns and villages on all sides.[148] Its municipal area, at 13,346 *dunams* (1,335 hectares), is around four times larger than the built-up area.[149] To its south, Ariel blunts the spread of the Palestinian town of Salfit, the largest Palestinian town in the vicinity which serves as a commercial and administrative center for the neighboring Palestinian villages.[150] Ariel sits at the center of four of these villages: Haris to its west, Qira and Marda to its north, and Iskaka to its east.

Ariel and its related infrastructure divide some of these villages from Salfit and from each other. One person told Human Rights Watch that because of Ariel and related closures, he must travel 20 kilometers to get from Marda, where he lives, to a neighboring village located only one kilometer away.[151] Another person from Marda said that the military recently re-opened the road from the village to Salfit after a ten-year closure that turned a journey of less than six kilometers into a 27-kilometer one.[152]

The separation barrier, constructed by Israel in 2004, surrounds Ariel and other nearby settlements and separates Palestinians from 9,000 more *dunams* of their land. As a result, Israel effectively denies dozens of farmers the ability to cultivate lands practically engulfed by Ariel's winding borders. According to Peace Now, 31 percent of the land encompassed by the separation barrier surrounding Ariel is private Palestinian land.[153]

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[148] "About Ariel," Ariel municipal website, http://www.ariel.muni.il/?CategoryID=457 (accessed July 2, 2015). See also, B'Tselem, *Land Grab: Israel's Settlement Policy in the West Bank*, May 2002, p. 101 http://www.btselem.org/download/200205_land_grab_eng.pdf (accessed January 6, 2016) and "Ariel and Ariel Bloc," Peace Now, http://peacenow.org.il/eng/content/ariel-and-ariel-bloc (accessed January 6, 2016).

[149] State Comptroller, *Annual Report 50a* (1999), p. 42.

[150] For an analysis of the strategic significance of Ariel's location, see B'Tselem, *Land Grab*, 2002, pp. 118-19.

[151] Human Rights Watch interview with Yousef Mohamad Wanni, Marda, March 29, 2015.

[152] Human Rights Watch interview with Mohamad Khufash, Salfit, March 29, 2015.

[153] Peace Now, *One Violation Leads to Another*, November 2006, p. 4, http://peacenow.org.il/eng/sites/default/files/Breaking_The_Law_in_WB_nov06Eng.pdf (accessed January 6, 2016) and

Ariel cultivates the image of an Israeli city like any other: it is a "blossoming city" located "in the center of Israel," according to the municipal website.[154] Ariel's official history emphasizes that it was established "with the approval and support of the Israeli government" in 1978, when "40 families, led by Ron Nachman, took up residence on top of a rocky and barren hill that would become the City of Ariel."[155] Currently Ariel is home to nearly 20,000 permanent residents and an additional 10,000 students who attend its university.[156] However, it is located outside Israel's internationally recognized borders, and its development is inseparable from a history of continuous dispossession of Palestinians from their land and restrictions on their freedom of movement. Private companies continue to play a large part in implementing the government's plan and benefit from Ariel's history of land confiscation.

March 2007 update to the report, http://peacenow.org.il/eng/sites/default/files/Breaking_The_Law_formal data_March07Eng.pdf (accessed January 6, 2016).

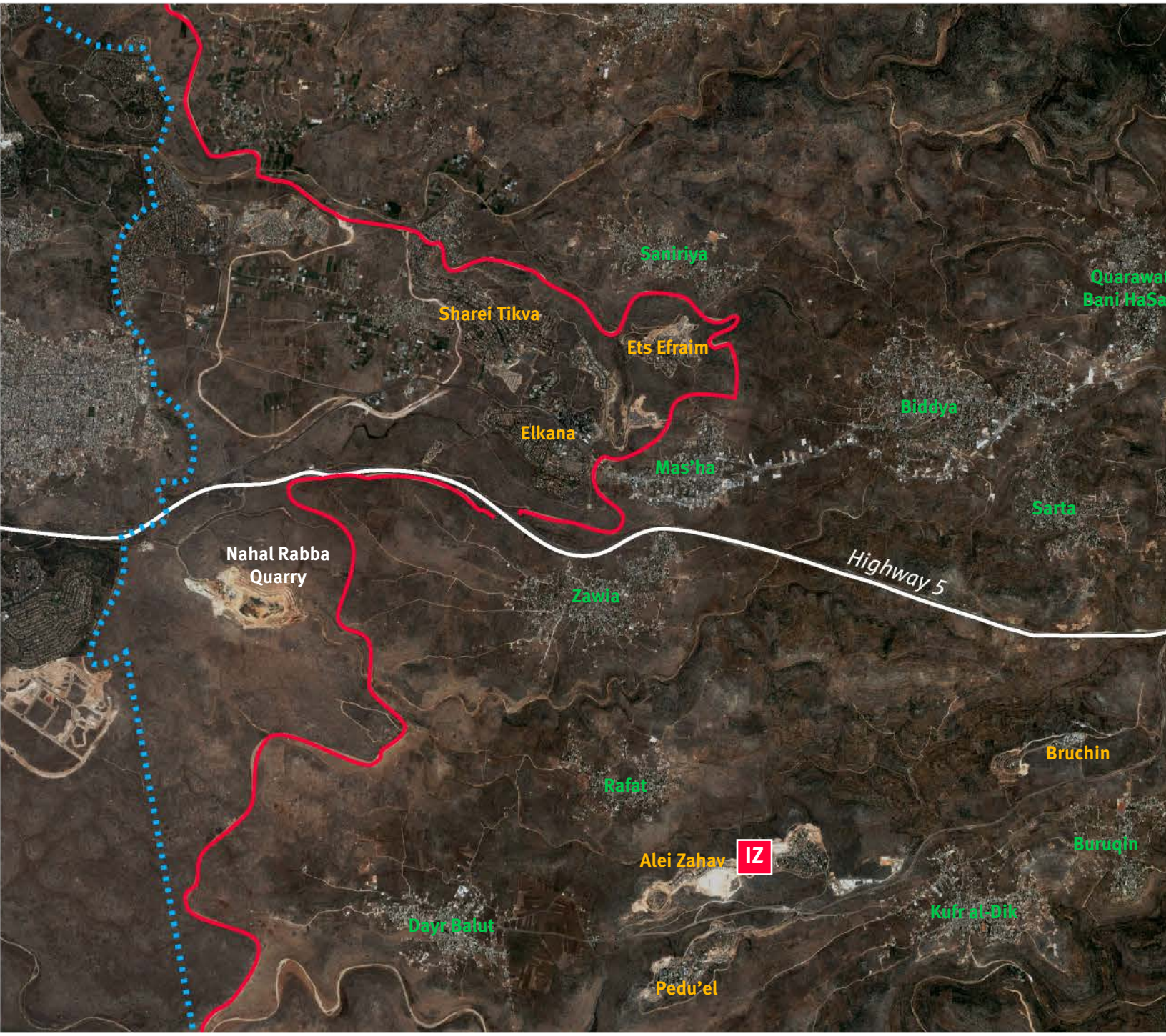
[154] "About Ariel," Ariel municipal website, http://www.ariel.muni.il/?CategoryID=457 (accessed July 2, 2015).

[155] "History," Ariel municipal website, http://www.ariel.muni.il/?CategoryID=459 (accessed July 2, 2015).

[156] "About Ariel," Ariel municipal website, http://www.ariel.muni.il/?CategoryID=457 (accessed July 2, 2015).

THE ARIEL "FINGER"

A chain of Israeli settlements and industrial zones straddle Highway 5 from Israel's border to Ariel. Israel built separation barriers around some of these settlements, cutting off Palestinian farmers from their land and disrupting the growth of Palestinian villages.



Source: Google Earth, December 2015;
separation barrier is based on a map by Btselem, February 2008.

Case Study: Financing Settlement Construction

A row of new construction runs along the southern perimeter of Ariel, filling in the last gap of open space abutting the road that rings the city. The construction was nearly completed on six buildings at the time when Human Rights Watch visited in September 2015. The buildings house 96 apartments in all, which the developer describes as a well located and environmentally conscious complex called Green Ariel (Ariel HaYeruka).[157]

According to an online brochure, an Israeli bank is financing Green Ariel through an "accompaniment agreement" with an Israeli developer.[158] Such agreements, which govern most construction projects in Israel, provide the loan for the construction and protect buyers during the construction phase.[159] The accompanying bank gives homebuyers a guarantee and deposits their payments in a dedicated bank account, while it monitors the financial status and development of the project. In some cases, the accompanying bank also holds the real estate property as collateral until the developer sells all the housing units in the project. Neither the bank nor the developer responded to separate letters from Human Rights Watch sharing our preliminary findings and requesting further information.

Yet the construction site, like all of Ariel, sits on land that Israel confiscated in violation of international humanitarian law. Its likely inhabitants are Israeli civilians whose transfer into occupied territory has been enabled by the Israeli state, in violation of the Fourth Geneva Convention.

Nitham Shtayye, a Salfit farmer, showed Human Rights Watch documentation he said he had compiled of 173 plots of land belonging to Palestinians from Salfit around Ariel based on his interviews with the landowners; Israel completely confiscated some of the plots, he said, while it restricted access to the remaining plots.[160] According to Nitham's map, the land for Green Ariel abuts land that belonged to a farmer from Salfit named Abdul-Ghani Afaneh, who passed away. Nitham's map does not extend to the built-up area of Ariel, but he told Human Rights Watch that Afaneh's land extended to the area of Green Ariel.

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[157] Hanan Mor Group, "Green Ariel: About the Project," (accessed August 13, 2015). See also "Green Ariel," Kan Bonim website (accessed November 9, 2015).

[158] Ibid. and "Green Ariel," Hanan Mor Group (accessed December 1, 2015).

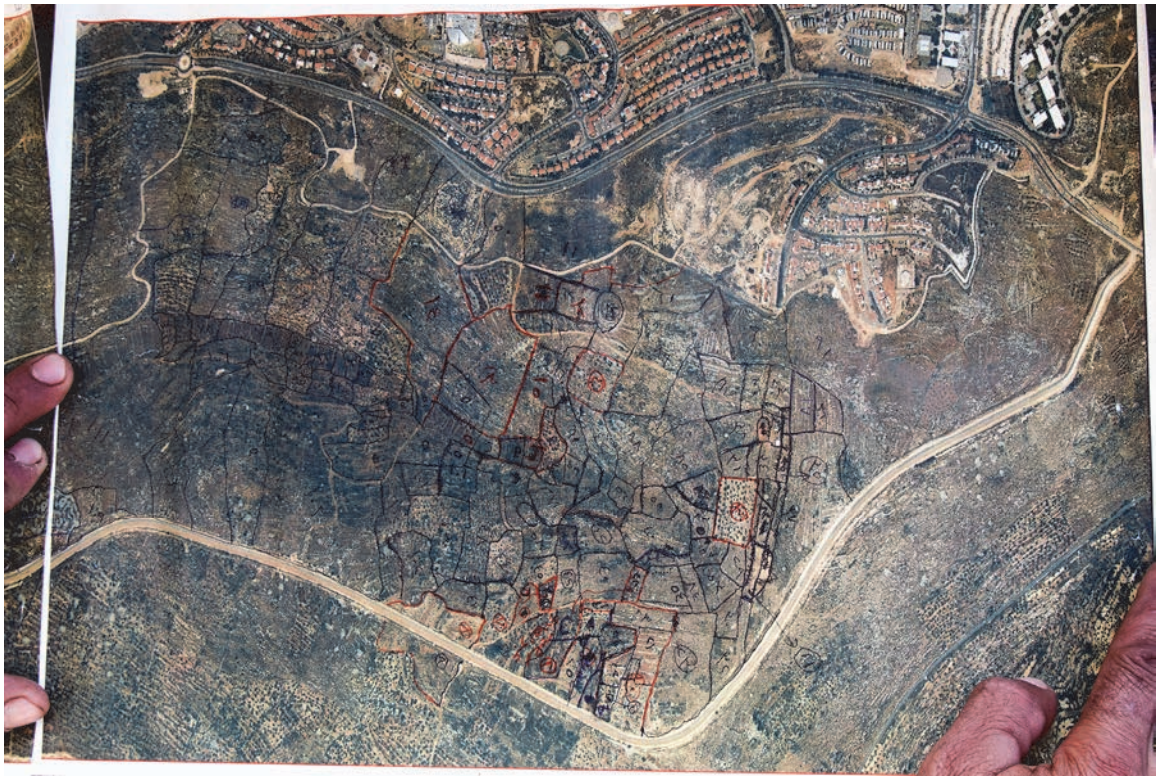
[159] These loans are governed by Sale Law (apartments) (securing apartment buyers' investments) 1974, Art. 3b.

[160] Human Rights Watch observation, Salfit, December 16, 2014.

According to Abdul-Ghani's brother, Ibrahim Afaneh, and Abdul-Ghani's son, Dirar Afaneh, Israel confiscated around 70 *dunams* of Abdul-Ghani's land in the late 1970s. "We used these lands to plant vegetables," Ibrahim Afaneh said. "We planted wheat, chickpeas, tomatoes, cucumbers. It provided income for the owners and others in the village. If someone had land that he wasn't cultivating, he would lease it to others who would cultivate it, benefitting both people." Dirar Afaneh still has 15 *dunams* of land, which provide nearly half his income, but Israel reduced his access to only two of these *dunams* when it constructed the separation barrier around Ariel in 2004. Ibrahim Afaneh's son works in a settlement factory in Barkan.

Businesses like this bank promote the fiction of Ariel as an Israeli city (rather than a settlement in occupied territory) and facilitate the settlement's seamless integration into the Israeli economy. "From my real-estate perspective, Ariel is not part of Judea and Samaria. Ariel today is an Israeli city in every way," the developer of Green Ariel explained in an interview with Haaretz.[161] In the same interview, he attributed his success in Ariel to getting ahead of other developers by being willing to operate, as he put it, "in an environment of uncertainty." From a business perspective, that uncertainty expresses itself as financial risk. In Human Rights Watch's view, at least one element of that uncertainty may reflect the consequence of building on land acquired in violation of Israel's obligations under international law.

[161] Hagai Amit, "Forget Tel Aviv, Israel's Housing Boom is Really in Ariel," *Haaretz*, July 25, 2014.



A farmer in the Palestinian town of Salfit, Nitham Shtayye, mapped the plots of land that the Israeli military confiscated or to which it restricts access around the settlement of Ariel.
© 2015 Private

As explained above, the expansion of settlements through the construction of housing violates international humanitarian law. Companies invested in Ariel real estate like the Israeli bank and developer involved in Green Ariel not only benefit from Israel's violations, they also, in Human Rights Watch's view, facilitate them. In the six years through 2013, home prices in Ariel more than doubled, placing the settlement among the top 10 Israeli towns for rising home prices over the period, according to Housing and Construction Ministry figures.[162] "Every developer who built in Ariel earned very good money there," the developer said in the interview with *Ha'aretz*:

> It's a good city for developers. The three components that determine the return – the pricing, the location and the timing – worked out in our favor. Three years ago, we bought the land in the city very cheaply, and its distance from Tel Aviv is identical to that of Hod Hasharon [a city within

[162] Ibid.

> Israel] from Tel Aviv. A four-room home in Ariel that two years ago cost no more than 800,000 to 900,000 shekels [US $200,000 to $225,000], today costs 1.05 million [$262,500].[163]

Israel designated Ariel as a National Priority Area A, further reducing developers' cost due to generous subsidies for the cost of construction.

The bank is financing a number of additional large-scale construction projects in settlements, according to publicly available documents. It is financing at least 247 apartments or private houses, a commercial center and a park in the settlement of Ma'aleh Adumim, as well as 38 apartments in Pisgat Ze'ev and 273 in Har Homa.[164] The media widely reported on the planned expansion of Givat Hamatos and Har Homa settlements, due to the sensitivity of the area for a viable two-state solution.[165] The bank's website offers apartments for "pre-sale" in the settlements of Har Homa, Givat HaMatos, Modi'in Illit, and Pisgat Ze'ev East, which likely indicates that it is financing their construction.[166] It also operates 18 ATMs and 23 service stations in settlements.[167]

Case Study: Settlement Real Estate

As in housing markets everywhere, real estate agencies play an active role marketing and selling properties in settlements. In the case of settlements, they are marketing properties located on land obtained in violation of the laws of occupation to potential buyers whom international humanitarian law prohibits from being transferred there. This report examines, as an illustrative example, the case of one such real estate company: RE/MAX, a Colorado-based international real estate brokerage franchise. RE/MAX operates in more than 95 countries and claims to have the largest real estate business volume in the world. It also has a franchise in Israel, the country's largest real estate brokerage network,

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[163] Ibid.

[164] Human Rights Watch compiled these figures using publicly available data. Ayalon Projects provided consulting services to all but one of the projects, which it advertises on its website. The source for a project to build 32 new units (as well as renovate an existing 80-unit building) in Har Homa is HaTomer 6, "About the Initiative" (accessed August 13, 2015).

[165] See e.g. Barak Ravid, "EU Seeks Talks with Israel Over 'Red Lines' in West Bank," *Haaretz*, October 22, 2014, http://www.haaretz.com/news/diplomacy-defense/1.622099 (accessed January 6, 2016).

[166] "New Construction Projects," bank site name withheld (accessed July 2, 2015).

[167] Bank name withheld, *Annual Corporate Social Responsibility Report*, 2012 -2103, p. 21.

according to its website; the franchise encompasses some 100 branches.[168] One of those branches is located in the settlement of Ma'aleh Adumim, and several other branches offer properties for sale or rent in settlements.[169] The number of homes that RE/MAX offers for sale or rent in settlements varies; in November 2015, for example, it listed 80 properties in 18 settlements on its Israeli website.[170] These listings included 12 properties in Ariel, at a total value of more than 13 million shekels ($3.25 million).[171]

RE/MAX Trend, a branch of a Colorado-based real estate franchise located in the Israeli town of Rosh Ha'Ayin, sells and rents homes in the settlement of Ariel. RE/MAX also has a branch in the settlement of Ma'aleh Adumim. © 2015 Private

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168 RE/MAX Israel, "Join Us," http://www.remax-israel.com/Real-Estate-Broker.aspx (accessed August 13, 2015).

169 RE/MAX ISrael, "RE/MAX Atid," http://www.remax-israel.com/OfficeProfile.aspx?OfficeID=83181 (accessed August 13, 2015).

170 The list was compiled by searching for properties in every city listed under "Advanced Settings," http://www.remax-israel.com/AdvancedListingSearch.aspx (accessed November 28, 2015). The website offered properties for sale or rent in the following settlements: Giv'at Zev; Nili; Geva Binyamin/Adam; Beitar Illit; Kokhav Ya'akov; Kfar Adumim; Ma'aleh Adumim; Alfei Menashe; Ariel; Har Homa; Har Gilo; Gilo; Pisgat Zev; Old City; Ramot; Ma'alot Dafna; French Hill; and Ramat Eshkol.

171 Calculations based on 12 properties listed for sale with price advertised, http://www.remax-israel.com/PublicListingList.aspx?SearchKey=3AB2587765DE4480AA49D61253ABD38E#mode=list&cr=2&r=149&p=1509&c=190338&cur=NIS&la=All&sb=MostRecent&page=1&sc=5&sid=5727c1a8-5d8e-4c0e-8728-f2619380cea9 (accessed November 28, 2015).

Ma'aleh Adumim and Ariel, like all settlements, are built on land that Israel confiscated and currently uses in violation of international humanitarian law. Like Ariel, which is discussed in detail above, the Israeli government established Ma'aleh Adumim on land that the military seized claiming it's for military use, although the land was immediately used for civilian purposes. Israel first established the settlement as a residence for employees of Mishor Adumim, an industrial zone established in 1974.[172] Israel took most of the land now occupied by Ma'aleh Adumim by military order in 1975 and 1979, but it extended the settlement's municipal boundaries in the 1980s and 1990s, in each case leading to the evacuation of Bedouins living around Ma'aleh Adumim.[173] Thousands of Bedouins living in the area, who relocated from southern Israel in the 1950s, remain at risk of expulsion, and Israel has demolished several of their homes and property.[174]

By advertising, selling and renting homes in settlements, both the Israeli franchise of RE/MAX and RE/MAX LLC, the owner of the global franchise network, facilitate and benefit from the transfer of Israeli civilians into occupied territory and the associated human rights abuses, contravening their rights responsibilities.

Israel also effectively bars Palestinians in the West Bank from buying or renting in settlements, even in cases where Israel confiscated their land to build a settlement. A military order prohibits non-Israelis from entering settlements without a permit, thereby requiring Palestinians in the West Bank to obtain a permit to work there.[175] Palestinians with Israeli citizenship or residency are legally allowed to live in settlements, but, according to the most recent census, only 400 live in West Bank settlements and slightly more live in settlements in East Jerusalem.[176] Until 2008, Palestinians living in East

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172 B'Tselem, *Acting the Landlord: Israel's Policy in Area C, the West Bank*, June 2013, p. 44. http://www.btselem.org/sites/default/files2/201306_area_c_report_eng.pdf (accessed December 1, 2015).

173 Ibid.

174 B'Tselem, "Area C: Thousands of Palestinians in Area C Face Threat of Expulsion from Their Homes," October 22, 2013, http://www.btselem.org/area_c/expulsions_of_communities (accessed July 2, 2015).

175 Military Order Concerning Security Directives (Judea and Samaria) (No.378) 1970. Due to land and water shortages, some Palestinians lease agricultural land from settlements, even though it violates this order. See Amira Hass, "West Bank Water Shortage Forcing Palestinians to Lease Land from Settlers," *Haaretz*, August 2, 2013.

176 Central Bureau of Statistics, "Localities and Population, By Population Group, District, Sub-District and Natural Region, *Statistical Abstract of Israel 2014.* http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_17&CYear=2014 (accessed December 1, 2015).Dan Williams, "Leave or Let Live? Arabs Move in to Jewish Settlements," *Haaretz*, December 7, 2014, http://www.haaretz.com/news/features/1.630419 (accessed December 1, 2015).

Jerusalem, who, after Israel unilaterally annexed the territory in 1967, became residents of Jerusalem, but not citizens of Israel, needed special approval to buy property in settlements; the regulation has since been amended.[177]

Given the character of settlements as almost exclusively Jewish and the rules that effectively bar Palestinian residents of the West Bank from living there, agents selling property there effectively contribute to discrimination against Palestinians. The World Zionist Organization's Settlement Division, a body funded entirely by the Israeli government and under the direct control of the Prime Minister's office, established and controls most settlements, with the stated purpose of "establishing and strengthening Jewish settlement in the country's periphery through strengthening the hold on state lands given to it by the government."[178]

The RE/MAX Israel website, which is entirely in English and Hebrew, does not list any Arabic-speaking agents in Jerusalem or Ma'aleh Adumim, the area where most of its settlement properties are concentrated. Human Rights Watch spoke with one RE/MAX agent who has two properties listed in a settlement in East Jerusalem. "I don't buy from or sell to Arabs. It's not racism, I just prefer not to deal with [them]," he said.[179] He said he doesn't know whether this violates any RE/MAX policies, and added: "I just share the profits with them; we're like partners. They can't make me sell to anyone."

Neither RE/MAX Israel nor RE/MAX LLC responded to a letter from Human Rights Watch sharing our preliminary findings and requesting further information. However, in a press release responding to a campaign by Code Pink, an anti-settlement advocacy group that criticized RE/MAX's sales in occupied territory, the company's headquarters clarified that it sold the franchise rights for Europe, which included Israel, in 1995.[180] RE/MAX Europe then

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[177] Israeli law prohibits the Israel Land Authority (ILA), which constitutes 93 percent of the land in Israel, from selling land; homebuyers lease the underlying land on long-term contracts from the state. Israeli citizens and residents, and non-citizen Jews automatically qualify for such leases, but non-Jewish foreigners need special approval. Prior to ILA Council Decision 1148, issued on March 8, 2008, Palestinian residents of Jerusalem also needed special approval, http://www.mmi.gov.il/TashtiotCom/MMIMismachim/GetMismach.asp?SubName=GetMismachByMezahe&Sivug=138&TziburiPrati=9&machoz=0&Mezahe=1148 (accessed January 6, 2016). This amendment was incorporated into law in March 2011.

[178] "About the Division," World Zionist Organization Settlement Division, http://www.hityashvut.org.il/PageCat.asp?id=16 (accessed July 2, 2015).

[179] Human Rights Watch phone interview with agent in RE/MAX Vision branch, March 27, 2015.

[180] "RE/MAX LLC Statement on Franchise Operations in the West Bank," November 14, 2014, on file with Human Rights Watch.

sold the rights to use the RE/MAX brand the same year to the current owner of RE/MAX Israel, Bernard Raskin.[181] As a result, RE/MAX headquarters claimed it "has no contractual agreement with RE/MAX Israel."

However, RE/MAX retains control over any franchisee operating under the RE/MAX brand. According to regulatory files submitted to the US Securities and Exchange Commission, RE/MAX Holdings, the publicly traded parent company of RE/MAX LLC, retains ultimate control over franchisees' license to use its brand, trademark, promotional and operating materials, and concepts.[182] RE/MAX Holdings has the right to reacquire a franchise and to resell or operate it if it fails to perform under the franchise agreement.[183] Given such influence, the UN Guiding Principles would oblige RE/MAX to use it to conduct human rights due diligence throughout its supply chain, including by examining the activities of its franchises regardless of whether it has a broader contractual relationship with them.

RE/MAX LLC's influence over and responsibility for RE/MAX Israel is also reflected in its response to Code Pink. In that letter, RE/MAX LLC said that it "understands the serious nature of the controversy surrounding real estate operations in the West Bank and has been working to find a resolution that is acceptable to all parties." It is not clear how the resolution it proposes in the letter, placing the West Bank within the master franchise for the country of Jordan, would address the problems identified in this report, but it nevertheless demonstrates its influence over its franchisees.

Moreover, RE/MAX LLC receives financial benefits from RE/MAX Israel's sale of properties in settlements. According to its SEC filings, RE/MAX LLC "generates revenue from continuing franchise fees, annual dues, broker fees, franchise sales and other franchise revenue and brokerage revenue."[184] Human Rights Watch calculated that the total value of the real estate offered for sale in settlements on their website on November 28, 2015 was around 145 million shekels ($36.25 million).[185] Presumably, RE/MAX will not sell all of

[181] Ibid.

[182] RE/MAX Holdings, Inc., 10-K filed with the Securities and Exchange Commission, December 13, 2014.

[183] Ibid.

[184] Ibid.

[185] Human Rights Watch calculated this figure based on the offerings advertised on RE/MAX's website on that day. See footnote 170.

these listings, but these listings capture only one moment in time and new settlement listings are regularly added to its website. It is unclear what amount of revenue from these sales and rentals, or from broker or other fees from the RE/MAX branch located in the settlement of Ma'aleh Adumim, are realized by RE/MAX LLC, and the company did not respond to Human Rights Watch's request for this information.[186]

The UN Special Rapporteur on the Situation of Human Rights in Palestinian Territories Occupied Since 1967 came to a similar conclusion in a report he presented to the United Nations General Assembly in 2013 assessing the responsibilities of businesses operating in the occupied territory under international law. The report concluded that RE/MAX International (which appears to refer to RE/MAX LLC) provides "international brand name affiliation and recognition, start-up training, ongoing training, technological resources, and advertising and marketing" to the Israeli franchise; profited from such sales; and generally, "has constant interaction [with] and influence over its franchises."[187] As such, he found that RE/MAX International and RE/MAX Israel are "directly contributing to" violations of international humanitarian law and adverse human rights impacts, and they should therefore cease selling or renting properties in the occupied territories. If RE/MAX LLC was not previously aware of their franchise's settlement activity, the report put it on notice, bolstering its responsibility to take action.

Land Confiscation

The history of Ariel's establishment and expansion demonstrates how Israel's settlement policies go hand-in-hand with its policies of confiscating Palestinian land and restricting Palestinians' freedom of movement, including farmers' ability to freely access their land. Since expansion would be difficult without companies that finance, construct, rent and sell the real estate, in Human Rights Watch's view, companies involved in building new homes

[186] According to RE/MAX LLC's website, franchise fees include an initial fee of between $20,000 and $35,000 in large markets, as well as 1 percent of revenue and a flat monthly fee per associate, although it is unclear if this applies to RE/MAX Israel given the arrangement indicated in the letter to Code Pink. "Frequently Asked Questions," RE/MAX, http://www.remax-franchise.com/fs/home/general_content/faqs (accessed July 2, 2015). Nevertheless, RE/MAX LLC is earning some amount of revenue, either directly or through RE/MAX Europe from RE/MAX Israel, making it a financial beneficiary of sales and rentals in unlawful settlements.

[187] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Doc. No. A/68/376 (September 10, 2013), paras. 50-51.

in settlements, or attracting new residents, contribute to or benefit from the inevitable violation of Palestinians' rights that settlement expansion entails.

Background: The Fiction of State Land

In September 1967, three months after the start of the Israeli Occupation, Theodore Meron, who served as legal counsel to Israel's Foreign Ministry at the time and later became president of the International Criminal Tribunal for the former Yugoslavia, submitted a legal opinion to the government stating that settlements violate the Fourth Geneva Convention, and recommended that any transfer of Israeli citizens to the occupied territories be "carried out by military and not civilian entities . . . in the framework of camps and is, on the face of it, of a temporary rather than permanent nature."[188]

Throughout the 1970s, the military confiscated large areas of land under its control, including private Palestinian land, citing security purposes and transferred it for the construction of Jewish settlements. A group of employees in the aircraft industry, calling themselves the Tel-Aviv Group, first sought to build a large urban settlement in the "heart of Samaria" in 1973, but the government approved it only after the Likud came to power in 1977.[189] In 1978 and 1979, the military issued three orders seizing a total of 4,613 *dunams* (461 hectares), which were then used for the establishment of Ariel.[190] Israel first defined the site of the settlement as a military base, even while the Ministry of Housing and Construction built houses for the civilian settlers there; the government declared Ariel a local municipal council in 1981.

Israel's method for taking control of Palestinian land for settlement expansion shifted following a Supreme Court decision in October 1979, known as the *Elon Moreh* ruling, which held that the government's practice of transferring private lands confiscated on

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[188] Highly classified memorandum from Theodore Meron, Legal Advisor to the Foreign Ministry, to Adi Yafeh, Political Secretary of the Prime Minister, "Re: Settlement in the Held Territories," September 18, 1967.

[189] B'Tselem, *Land Grab*, 2002, pp. 117-118

[190] Around 45 settlements were built on land seized by military order in this way. Three seizure orders confiscated land for Ariel: A June 4, 1978 order (no. 13/78) seized 320 *dunams* (32 hectares), an area slightly expanded by a second order, issued on September 12, 1978 (no. 17/78), which seized an additional 19 *dunams*. Israel appropriated most of the land that Ariel is built on through a third order, issued on July 11, 1979, seizing 4,274 *dunams*. Human Rights Watch interview with Dror Etkes, Jerusalem, March 31, 2015. The information is based on information obtained from the Civil Administration and Freedom of Information requests.

security grounds to settlements violates international law, since an occupying power is permitted to confiscate land only for security purposes or for the benefit of the occupied population. The Israeli government responded to this ruling with a unanimous decision nonetheless to continue settlement expansion in the occupied territories.[191]

Israel implemented a new set of rules to enable it to appropriate Palestinian lands for Jewish settlements. In the early 1980s, Israel revived an Ottoman-era law under which the government can declare land that was not considered "private" or had not been cultivated in three years as "state land."[192] In the decades since Israel implemented this policy, the Civil Administration designated huge tracts of the West Bank, amounting to some 1.3 million *dunams* (130,000 hectares), as state land and transferred around half of this land to settlements or Israeli business interests, and only a small amount to Palestinians.[193] In 2013, the Supreme Court compelled the Civil Administration to release documents revealing that since its establishment in 1981, it allocated a mere 0.7 percent of land designated as state land to Palestinians. In contrast, it allocated 400,000 *dunams* (30 percent) of the land to the World Zionist Organization's Settlement Division, which is responsible for establishing residential and agricultural settlements; 160,000 *dunams* (12 percent) to the government-owned Mekorot water company, Bezek communications company, and Israel Electric Corporation; and 103,000 *dunams* (8 percent) to mobile communications companies and local governments.

Some of the land Israel declared as belonging to the state overlapped with land it had already seized by military order in the 1970s. In Ariel, Israel appears to have made such a declaration in the mid-2000s, designating as state land an area that overlaps with land

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191 Gov't Dec. No. 145, Nov. 11, 1979. See "Update Regarding the Rejection of an Appeal Related to Preventing Access to Land," IDF MAG Corps, February 26, 2014, http://www.law.idf.il/163-6569-he/Patzar.aspx. For the protocols of the cabinet meeting following the decision, see Israel State Archives, "Elon More," http://www.archives.gov.il/NR/rdonlyres/D029F93A-7AF5-47F8-9BF9-7939F06B35C2/0/ElonMore2.pdf. For an English summary, see: Israel State Archives, "The "Elon Moreh" Supreme Court Decision of 22 October 1979 and the Israeli Government's Reaction," http://www.archives.gov.il/NR/exeres/2256A595-10F5-458E-ACB8-7CDDBDF86634,frameless.htm?NRMODE=Published.

192 Under Ottoman law, to register land as private, the owner must cultivate it for at least ten years. The state may consider unregistered land as private if the owner cultivates it and pays taxes on it, but it reverts to 'state land' if not cultivated for three years. In 1968, Israel indefinitely suspended the registration process for unregistered lands, making huge tracts of land vulnerable to confiscation. Injunction No. 291, 1968, see Peace Now, *One Violation Leads to Another*, November 2006, p. 8 http://peacenow.org.il/eng/sites/default/files/Breaking_The_Law_in_WB_nov06Eng.pdf (accessed January 6, 2016).

193 Chaim Levinson, "Just 0.7% of land in the West Bank has been allocated to Palestinians, Israel admits," *Haaretz*, March 28, 2013, http://www.haaretz.com/news/diplomacy-defense/just-0-7-of-state-land-in-the-west-bank-has-been-allocated-to-palestinians-israel-admits.premium-1.512126 (accessed January 6, 2016).

seized in the 1970s.[194] This declaration, however, did not include a large area of land previously seized and developed; photographs from the 1970s show that Palestinian farmers cultivated at least some of this area.[195]

Israel's confiscation of Palestinian land for settlements violates international law regardless of whether it is privately owned. Yet Israel's Supreme Court has refrained from ruling on the legality of Israel's policy of building settlements on land it designates as belonging to the state on the basis that it is a political question beyond its jurisdiction, effectively allowing it to continue unhindered.[196]

The head of the village council of Marda, Osama Khafush, told Human Rights Watch that the cumulative loss of the village's land to Ariel has been devastating. The village, which according to villagers dates back to Roman times, is located on the northeast border of Ariel; village legend is that the name Marda, which comes from the word "rebellion" in Arabic, is a reference to the villagers' support of Saladin's conquest of Palestine in the twelfth century.[197] The center of the village, which has a population of 3,000, is in Area B, and therefore under Palestinian administrative control, but all the surrounding land is in Area C, much of which Israel confiscated for the expansion of Ariel or divided from the village by the separation barrier built around Ariel in 2004. Traditionally, residents of Marda have earned a living almost exclusively from farming and herding, so the loss of land has forced villagers to find alternative employment, Khafush said.[198] "We used to have 10,000 animals, now you can barely find 100, because there is nowhere for them to graze. So the economy collapsed and unemployment increased."

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[194] Human Rights Watch interview with Dror Etkes, Jerusalem, March 31, 2015. The information is based on information obtained from the Civil Administration and Freedom of Information requests.

[195] Human Rights Watch observation of photos from the 1970s showing cultivation, Jerusalem, March 31, 2015.

[196] See B'Tselem and Bimkom, *Under the Guise of Legality: Israel's Declarations of State Land in the West Bank*, February 2012, pp. 57-58. The Supreme Court only ruled on two cases: one upheld the government's policy of considering property public unless it is proven private if a dispute arises; the other upheld its policy of requiring owners to prove they cultivated at least 50 percent of a parcel in order to prove ownership.

[197] Human Rights Watch interview with Younis Mohamad Wanni, Marda, March 29, 2015; confirmed with local lawyer Abd al-Kadr Afaneh, Salfit, March 29, 2015.

[198] Human Rights Watch interview with head of Marda village council, Osama Khufash, Marda, March 29, 2015.

Confiscation of Private Palestinian Land

Despite the 1979 Supreme Court decision, the Israeli government, frequently working in close collaboration with settlers, continues to transfer private Palestinian land to settlements. The Israeli NGO Peace Now, using data provided by the Civil Administration, calculates that the percentage of settlements built on private Palestinian land remained virtually unchanged after the *Elon Moreh* decision.[199] Israel's ongoing confiscation of privately held land violates additional international humanitarian and human rights laws and contributes to the impoverishment of Palestinians. The Hague Regulations categorically prohibit the confiscation of private property and the Fourth Geneva Convention prohibits the destruction of private property unless "absolutely necessary" for military purposes. Relatedly, Israel severely restricts thousands of Palestinian farmers from accessing their land located near settlements, causing the land to lose most of its productive value and costing farmers their livelihood.

Israel uses a number of methods to continue its confiscation of private Palestinian land for the expansion of settlements. Most Palestinian landowners in the area around Ariel have tax documents proving ownership, but do not have a formal deed, called a "tabou," to the land, since under Jordanian rule these tax documents were recognized as sufficient.[200] However, according to Israeli judicial and military practice and policy, all land not formally registered can be declared state land. The onus is then on the private landowner to prove ownership through a lengthy and expensive process that typically includes producing tax documents, gathering testimonies from neighbors and local officials, and paying for a court-approved survey of the land.[201] Israeli courts frequently decide against the landowner.[202] Even if ownership can be proved, the landowners must have cultivated at

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[199] Whereas prior to the decision 33 percent of land confiscated for settlement was private, 32 percent of the land confiscated for subsequent settlements was privately owned. Peace Now, Update to *One Offense Leads to Another*, November 2007, p. 8, http://peacenow.org.il/eng/sites/default/files/Breaking_The_Law_formal data_March07Eng.pdf (accessed December 1, 2015).

[200] Human Rights Watch interview with Younis Mohamad Wanni, Marda, March 29, 2015; confirmed with local lawyer Abd al-Kadr Afaneh, Salfit, March 29, 2015.

[201] Human Rights Watch interviews with Qusai Awwad, lawyer representing Palestinians in land cases, Ramallah, March 28, 2015; Hagit Ofran, Settlement Watch Director of Peace Now, Jerusalem, December 9, 2014.

[202] See B'Tselem and Bimkom, "Under the Guise of Legality: Israel's Declarations of State Land in the West Bank," February 2012, p. 34.

least 50 percent of the parcel within the prior three years or the land reverts to the state without compensation to the owners.[203]

Yousef Mohamad Wanni, a farmer from the village of Marda, told Human Rights Watch that his father owned more than 1,000 *dunams* (100 hectare), but he lost almost all of it over the years to Ariel.[204] "They took it little by little," Wanni said.

> In the beginning [in 1978 and 1979], they took 100 dunams and put caravans there. In the 1980s, they put a barbed wire fence around more land; they didn't confiscate the land, but declared it a closed military zone. Then they started building on it. Each time they would move the fence [to encompass more land], they would say it's for security reasons.

According to Wanni, each time Israel confiscated more land from his father, he would file a complaint at the local Israeli military court, producing all of the required evidence of ownership, yet he lost each of the cases. Only 60 *dunams* remain, 30 of which are behind the separation barrier built in 2004, and which he may access only twice a year, he said.

Human Rights Watch spoke to Suleiman Shamlawi, from the nearby village of Haris, who said his family owned 215 *dunams* (22 hectares) of land on which large parts of Barkan industrial zone, which is adjacent to Ariel, were established.[205] According to Suleiman, there were several houses on his family's land as well as a stone quarry that his family operated before the Israeli military confiscated the land in 1981. Israel declared the land state land on February 2, 1981, claiming it had conducted an investigation and determined the land was not privately owned.[206] Suleiman, like most Palestinian landowners in that area, had not formally registered his title before 1967, although he has tax records that were recognized as proof of ownership by Jordanian authorities at that time. After a protracted court battle, during which Israel approved and subsidized the construction of factories on the land, Israel's Supreme Court held that Suleiman had sufficiently proved

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[203] Ibid., p. 37.

[204] Human Rights Watch interview with Younis Mohamad Wanni, Marda, March 29, 2015

[205] Human Rights Watch interviews with Suleiman Shamlawi, Haris, December 20, 2014.

[206] Suleiman Shamlawi v. Appeals Committee, Israel Supreme Court of Justice, Case No. 484/85, November 21, 1985.

his ownership and could register the land with the Israeli authorities.[207] However, in 2006 a settler organization claimed that they had bought the land, and produced a sales contract from 1963 purporting to show that Suleiman's father sold the land to a Palestinian.[208] In 2007, the Committee for Initial Land Registration, the Israeli military body charged with registering Palestinian land, rejected the settlers' request to register the land, finding its claim of ownership lacked credibility.[209] Suleiman insists that the sale contract is a forgery, and points out that the contract appeared years into litigation, and the purported buyer was only 10 years old at the time of the sale.[210]

According to Suleiman's lawyer, following the rejection of the settlers' request, the Israeli army issued a military order confiscating the part of Suleiman's land already housing factories in Barkan, some 170 *dunams*.[211] Suleiman was thus permitted to register only 42 *dunams* of undeveloped land in his name, although the settler organization continued to object to Suleiman's claim and sought to develop the land.[212] According to Suleiman and his lawyer, in 2009, settlers came to his house with a bulldozer, threatening to demolish it if he did not drop his case.[213] In October 2014, after pursuing the case for more than three decades, Suleiman won a partial victory: the land registration committee cast strong suspicions on the settlers' claims and agreed to register in Suleiman's name 42 *dunams* that had not yet been developed and allocated to businesses in Barkan.[214]

The case has cost Suleiman significant time and money. The fees for filing for registration and surveying the land alone cost him 6,300 shekels ($1,575), he said. The expense of court costs and lawyers, pressure from the military and from settlers, and low expectations that Israeli courts will do justice to their claims discourages Palestinians from filing

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[207] Human Rights Watch interview with Suleiman Shamlawi's lawyer, Qusai Awwad, Ramallah, March 28, 2015.

[208] *Shamlawi v. HaKeren LiYad Midreshet, Inc.*, The Committee for Initial Registration, September 10, 2014.

[209] A later decision on the Committee also raised doubts as to the veracity of the contract for a number of reasons, including the settlers' inability to produce original documentation.

[210] Human Rights Watch interviews with Suleiman Shamlawi, Haris, December 20, 2014.

[211] Human Rights Watch interview with Shamlawi's lawyer, Qusai Awwad, Ramallah, March 28, 2015.

[212] Shamlawi v. HaKeren LiYad Midreshet, Inc., The Committee for Initial Registration, September 10, 2014.

[213] Human Rights Watch interviews with Suleiman Shamlawi, Haris, December 20, 2014; Qusai Awwad, Ramallah, March 28, 2015.

[214] Shamlawi v. HaKeren LiYad Midreshet, Inc., The Committee for Initial Registration, September 10, 2014.

lawsuits like his, Suleiman said, even though "a lot of the land on which Barkan was built was previously cultivated by Palestinians."

Another way in which settlers continue to establish and expand settlements, including Ariel, on private Palestinian land is by purchasing, or claiming to purchase, the land from its owners. Even in cases in which the sale is legitimate, it does not alter the legal status of the land as occupied territory, and the relevant international humanitarian laws continue to apply. Moreover, there have been a number of cases in which settlers' claims rely on dubious documents or sellers who are not legally entitled to sell the land in question.[215] Palestinian landowners are forced to invest considerable time and money defending themselves against such challenges, and victory is far from guaranteed given the difficulty of proving the absence of a sale.

In March 2013, a settlement development company applied to register as the owner of at least 120 *dunams* (12 hectares) abutting the Ariel side of the separation barrier.[216] The land has belonged to the Afaneh family, a large family from Salfit, for at least 100 years, according to Mamdouh Afaneh.[217] Mamdouh and his seven siblings inherited the land after his father, Abdul Ra'uf Afaneh, died in 1963.[218] The settler development company claims it bought the land, and produced a copy of a company check, dated February 28, 2002, in the amount of 100,000 shekels ($25,000).[219] Mamdouh says he does not know the purported seller, a Palestinian who is not from the Afaneh family and who was previously a West Bank resident but has apparently since received Israeli citizenship.[220] He further contends that because all eight siblings are co-owners of the property, they cannot sell it without the agreement of all of them.

The settlement company claims that it purchased the land from the original owner, although it has not produced the sales contract. The Afaneh siblings must now prove

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[215] The case of Suleiman Shamlawi is one example. See also Meron Rappaport, *Shady Dealings in Silwan*, Ir Amim, May 2009.

[216] Announcement in newspaper on file with Human Rights Watch.

[217] Human Rights Watch interview with Mamdouh Afaneh, Nablus, March 29, 2015.

[218] Ibid.

[219] Human Rights Watch observation, Ramallah, March 28, 2015.

[220] On the document of sale, on file with Human Rights Watch, the seller has an Israeli identification number, followed by "previously a carrier of Judea and Samaria identification" and a second number. Obtained from Qusai Awwad, the lawyer representing the Afaneh family in the case, Ramallah, March 28, 2015.

ownership of the land in court, a difficult and expensive process that includes paying for a court-approved surveyor. The family appealed to the Salfit governorate to help with the cost, which it finally agreed to do, despite being so cash strapped that, at the time of Human Rights Watch's visit, it did not have enough money to pay for gasoline for its staff.[221] The investment in the case is difficult to justify, Mamdouh said, since he has little confidence he can win the case. "It's my word against the settlement company, and it is more powerful so it will win," he told Human Rights Watch.[222]

Finally, the Israeli government has repeatedly facilitated the establishment of settlements without permits, and therefore without an official investigation into the status of the lands, and then retroactively approved them. An investigation commissioned in 2005 by then-Prime Minister Ariel Sharon and headed by Talia Sasson, a Justice Ministry official, found that the Israeli government frequently violated its own legal distinction between state and private lands and diverted millions of shekels of state funds to the World Zionist Organization to support unauthorized settlement "outposts," many of which were built on land that Israel itself had designated as private Palestinian property.[223] Israel subsequently approved many of these unauthorized outposts. In a more recent case, Israel's defense minister approved the government's request to legalize the outpost Netiv Ha'Avot in April 2014 despite a government survey indicating that 60 percent of the outpost was built on privately owned Palestinian farmland, according to Israeli media reports.[224] Though rare, Israel has removed unauthorized outposts, usually following court decisions ordering the government to do so.[225]

Businesses involved in the expansion of settlements contribute to the violation of Palestinian rights in addition to the rights of landowners from whom Israel appropriated

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[221] Human Rights Watch interview with Jamal Ahmad, Salfit, March 24, 2015.

[222] Human Rights Watch interview with Mamdouh Afaneh, Nablus, March 29, 2015.

[223] Talia Sasson, *Report: Opinion Concerning Unauthorized Outposts*. An English summary of the Sasson Report is available at http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Summary+of+Opinion+Concerning+Unauthorized+Outposts+-+Talya+Sason+Adv.htm (accessed on July 2, 2015).

[224] Chaim Levinson, "Israel Set to Legalize West Bank Outpost, Taking Over Private Palestinian Land," Haaretz, April 13, 2014. http://www.haaretz.com/news (December 19, 2015)

[225] In 2012, for example, Israel removed Migron, an outpost of 300 people following a court order. Israel provided new housing to the evacuated settlers several hundred meters from their previous homes. See Chaim Levinson, "A Short Primer on the Migron Outpost," *Haaretz*, August 30, 2012.

land. Palestinians are virtually cut off from vast areas of land, much of which Israel recognizes to be private Palestinian land, by a network of fences that surround settlements. For example, since Ariel's establishment, Israel built three security fences around it, most recently the separation barrier in 2004, in each case expanding the area enclosed. As documented in an annex to this report, these restrictions have cost thousands of Palestinian farmers their livelihoods, further demonstrating, in Human Rights Watch's view, private interests' involvement in settlement expansion harms Palestinians.

V. How Business Contribute to and Benefit from Supporting Settlements

The harmful impact of Israeli settlements and their residents extends beyond the land on which their houses are located. Settlements require roads, transportation systems, telecommunication services, and other goods and services. Private actors provide many of these needs, thereby contributing to the unlawful confiscation of Palestinian land and resources. These companies also facilitate the presence of settlements by making them sustainable. In Human Rights Watch's view, businesses servicing settlements often benefit from Israel's discriminatory policies and practices that harm Palestinians while privileging Jewish Israelis.

Storks rest on mounds of garbage in a landfill in the Jordan Valley. Located in the occupied West Bank, the landfill exclusively services Israel and settlements. © 2015 Private

For example, like all settlement businesses, these companies operate in territory subject to military rule, and they require the approval of the Civil Administration to operate. Israel distributes these permits on a discriminatory basis, readily issuing permits for providing services to Israeli settlements while granting them rarely, if at all, for providing similar services to Palestinians. Businesses located in settlements also help make settlements financially viable by paying taxes to their municipalities and providing jobs to settlers, regardless of whether their activities directly service settlements.

Case Study: Waste Management

The rapid growth of settlements gives rise to increasing amounts of settlement waste. The management of settlement waste demonstrates how companies not only help sustain settlements, but also benefit from Israeli policies that privilege settlements and contribute to additional confiscation of Palestinian land. For example, there is a landfill located in the Jordan Valley, on land registered by Israeli military authorities as absentee (Palestinian) property, according to the mayor of the adjacent Palestinian town of Il-Jiftlik.[226] The landfill exclusively services settlements, including Ariel and Barkan, and cities inside Israel.[227] The site was first established in the 1990s without an approved plan or proper environmental procedures, according to the Israeli human rights organization B'tselem.[228] In 2004, the government upgraded the status of the site and invested in building a proper facility there that can process 1,000 tons of garbage a day.[229]

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[226] Human Rights Watch interview with Othman al-Anouz, head of Il-Jiftlik local council, December 15, 2014.

[227] Since its establishment, the landfill has only processed waste from one Palestinian locale: In 2000, Nablus signed a contract to dump its waste there, but redirected its waste in 2007 to a newly opened World Bank-funded dump in Jenin. B'Tselem, *Dispossession and Exploitation: Israel's Policy in the Jordan Valley and Northern Dead Sea*, May 2011, pp. 42-43. The Menashe District in Israel sends organic waste to the Jordan Valley landfill. Menashe Regional Council, "Pilot of Organic Waste Separation at the Source," June 17, 2012. The head of the local council in Il-Jiftlik, the largest Palestinian village in the Jordan Valley, told Human Rights Watch that no Palestinian-origin waste is sent to the landfill. Human Rights Watch interview with Othman al-Anouz, Il-Jiftlik, December 15, 2014. It appears that in 2007 Israel contemplated the problem that if no Palestinians use the site, there would be no grounds to claim it serves the protected population as required by international law, but this apparently wasn't a sufficient deterrent. Zafrir Rinat, "Palestinians Have Difficulty Paying Israeli Landfill Fees," *Haaretz*, August 17, 2007.

[228] B'Tselem, *Dispossession and Exploitation*, 2011, p. 42.

[229] Ibid.

The waste management company provides no services to Palestinian areas, but only to Israeli cities, towns and settlements.[230] In Human Rights Watch's view, the company benefits from and contributes to discriminatory Israeli planning policies and practices in the West Bank that have created a severe shortage of landfills needed to meet the needs of the Palestinians. Salfit, the Palestinian town directly south of Ariel, and the surrounding Palestinian villages are forced to dispose of their waste in unauthorized sites due to a lack of alternative options. According to the director for local affairs in the Salfit governorate, Jamal Ahmad, the Civil Administration impounded two garbage trucks as they were leaving the villages of Iskaka and Bidya, in January and February 2015, as a penalty for dumping garbage in unauthorized sites in Area C, and fined the governorate 4,000 shekels (US$1,000) in each case.[231] Jamal told Human Rights Watch: "We asked: 'where are we expected to throw our garbage?' They said, 'That's your problem.'"

The most suitable sites for waste disposal for Palestinian communities are located in Area C, and therefore require Israeli permits to establish and operate.[232] These permits have proven elusive. There are currently three landfills for Palestinian waste operating with a permit in Area C: one near Jenin, another near Bethlehem that the World Bank Group funded, and a third near Jericho.[233] A plan for a fourth site near Ramallah, to be funded by the German Bank for Development (KfW), is currently frozen, apparently due to a dispute with the Civil Administration over settler use of the site.[234]

In the case of the landfill near Bethlehem, called al-Minya, the Civil Administration refused to approve the site unless it agreed to process waste from the Israeli settlements, a demand that if granted would involve the World Bank in subsidizing waste removal for settlements established in violation of international law.[235] After a two-month delay, Israel

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[230] See footnote 227 above.

[231] Human Rights Watch interview with Jamal A. Ahmed, Director of Local Affairs for Salfit Governorate, Salfit, March 24, 2015.

[232] Palestinian National Authority, National Strategy for Solid Waste Management in the Palestinian Territory 2010 – 2014 (May 2010), http://www.molg.pna.ps/studies/TheSolidWasteManagementStrategy2010-2014.pdf (accessed January 6, 2015).

[233] The Global Partnership on Output-Based Aid, "Concept Note: Pilot Solid Waste Management Project, West Bank."

[234] Chaim Levinson, "German bank vows to bar settlers from West Bank landfill it's planning," *Haaretz,* September 1, 2013 and Ben Hattem, "West Bank Landfills Acting as Money Pits for Foreign Aid," *Middle East Eye*, July 23, 2014.

[235] Zafrir Rinat, "Israel Defies World Bank, Refuses to Let Palestinians Use Landfill," *Haaretz*, January 9, 2014. The Civil Administration also uses this tactic of making permits for Palestinian needs contingent on de facto recognition and support of settlements with respect to sewage treatment facilities. See B'Tselem, *Foul Play: Neglect of Wastewater Treatment in the West Bank*, June 2009, pp. 23-24.

ultimately agreed to issue a permit for the landfill without reference to settlers' waste, and al-Minya began operating in March 2014. However, according to the World Bank, "settlers' waste in limited quantities is transferred to the site with military escort, despite absence of agreement with the Palestinians."[236]

In another case, the Civil Administration ordered the closure of al-Bireh landfill site near Ramallah and around 25 kilometers north of Jerusalem. It operated for decades without a permit, serving both al-Bireh and nearby Israeli settlements. In 2010, al-Bireh dumped 13,380 tons of waste there, while the settlements dumped 29,478 tons.[237] The site also lacked the proper infrastructure, and Israeli authorities ordered it to close down due to its adverse environmental and health impact.[238] Al-Bireh municipal officials contend that the Civil Administration first threatened to shut the site in 2011, after the municipality opposed the Civil Administration's plan to extend the landfill in close proximity to homes in al-Bireh.[239] The Civil Administration has refused to approve the proposed KfW-funded site, which was intended to replace the closed site. The settlement association for environmental quality supported the Palestinian municipality in opposing the site's closure without an appropriate alternative, since the health and environmental consequences of haphazard, small-scale dumping in diverse locations – which would inevitably result from the dump's closure – would be worse than the impact of continued operation of the current site.[240] In contrast, the Jerusalem municipality approved a new landfill in a politically sensitive area in occupied East Jerusalem to serve Jerusalem and nearby Israeli areas.[241] The facility will be constructed on 520 *dunams* (52 hectares) of

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[236] Email from Steen Lau Jorgensen, Country Director, World Bank Jerusalem office, to Human Rights Watch, March 16, 2015.

[237] Amira Hass, "Palestinian Town Left Reeking Due to Bureaucratic Gap," *Haaretz*, August 31, 2013.

[238] Ibid.

[239] Ibid.

[240] The Civil Administration proposed alternative dumping sites, which would have redirected al-Bireh's waste away from settlement areas. However, they were either economically unfeasible or posed hazards of their own, according to the al-Bireh municipality. The Civil Administration suggested, for instance, that al-Bireh, in the geographical middle of the West Bank, transport its waste to Jenin, at the territory's northern tip, but the price of such transport was prohibitive and both the municipality and the settler environmental association argued that the energy cost of transportation and dispersal of pollutants made the option not environmentally friendly. The Civil Administration also proposed for al-Bireh to use an existing landfill in Abu Dis, near Jerusalem – but that site, which is run by the settlement regional council of Ma'aleh Adumim, also lacks a permit, and is in the process of being shut down due to its serious environmental and health impact. Ibid.

[241] Nir Hasson, "Palestinian Land in East Jerusalem to Be Used for Israeli Landfill Site," *Haaretz,* February 15, 2015.

mostly private Palestinian land and will lead to the eviction of 120 Bedouin who live there, according to media reports.[242]

In this context, in Human Rights Watch's view, the company operating the settlement landfill site facilitates and benefits from multiple human rights violations: it is a civilian site, not required for reasons of military necessity, established by an occupying power on confiscated Palestinian land, and its operation facilitates the presence of Israeli civilians in occupied territory by servicing settlements. Moreover, the company contributes to Israel's disposal of its waste in occupied territory, by processing waste from areas inside Israel.

Providing Employment and Taxes

Settlement businesses provide an important source of employment and taxes essential to drawing new settlers and sustaining settlements. The distance of some settlements from economic centers in Israel, as well as the political-social divide that keeps settlers from seeking employment in Palestinian areas in the West Bank, makes local employment opportunities, such as in settlement businesses, an important factor for drawing and maintaining settlers.[243] According to official data, in 2013, there were 126,600 employed persons living in Israeli settlements, of which 42 percent—some 53,300 people—worked in settlements.[244] It cannot be determined exactly how many jobs are provided by private commercial activity in the settlements, as opposed to the public sector. But, particularly for the settlements located farther away from Israel proper, settlement businesses provide employment opportunities that help to sustain and expand settlements.

Creating employment opportunities in settlements has long been a key concern of government officials eager to maintain and attract settlers, and it has justified its support

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[242] Ibid.

[243] The average distance between home and work in West Bank settlements is greater than in any region in Israel. Israel Central Bureau of Statistics, "Average Distance from Location of Residence to Location of Work, by Population Group, District and Sub-District, and By Sex and Highest Degree" (2008).

[244] These numbers are based on Human Rights Watch's calculations of official data. Israel Central Bureau of Statistics, "Employed Persons, By District of Residence, District of Work and Sex, 2013." http://www.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st12_16&CYear=2014 (accessed April 9, 2015). This percentage of local employment has remained relatively steady since Israel began tracking this data in 2001. However, in that time the number of employed settlers nearly doubled from 69,600 to 126,600, putting pressure on the settler economy to maintain this level of local employment.

for settlement businesses on this basis. In a Knesset meeting in 1984, the Minister of Industry and Trade Gideon Patt explained:

> The Ministry's policy regarding the industrial development in Judea, Samaria and the Gaza Strip is intended to facilitate the economic development of Israeli settlements, by creating productive employment opportunities to meet the needs of the existing population as well as plans for expansion […] which are suited to the types of occupation, the number of residence, and their potential for growth. Industrial development is done in a controlled and balanced way, taking into account the workforce located in the settlements, with a view to maximize the number of residents who find employment near their homes. This approach is aimed to correct the current situation, in which a significant portion of the population still continue to earn their living far away from their homes.[245]

Despite the government's efforts, "Judea and Samaria" remains the district with the highest percentage of Israeli residents employed outside their hometown and home district, partly because many settlements function as suburbs of Israeli cities and settlers commute to jobs there.[246] However, in part due to government policies encouraging investment in settlements, today settlement businesses employ tens of thousands of settlers.

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[245] "Review of Trade Office Operations," Meeting No. 307 of the Tenth Knesset, May 15, 1984, http://knesset.gov.il/tql/knesset_new/knesset10/HTML_27_03_2012_05-50-30-PM/19840515@19840515001@001.html (accessed January 6, 2016). Minister Patt made almost identical remarks the previous year: "Industrialization in the West Bank also gained momentum last year. The Ministry's industrial development policy in the West Bank and the Gaza Strip is intended to assist the economic development of Israeli settlements, by creating productive sources of industry that meet the needs of the existing population and expansion plans at various stages of implementation. Industrial development is done in a controlled and balanced way, taking into account the workforce located in different localities and with a view to maximizing the number of people who find their livelihood as close as possible to the area where they live." "Review of Trade Office Operations," Meeting No. 2012 of the Tenth Knesset, June 13, 1983, http://knesset.gov.il/tql/knesset_new/knesset10/HTML_27_03_2012_05-50-30-PM/19830613@19830613018@018.html (accessed January 6, 2016).

[246] Central Bureau of Statistics, "Employed Persons Who Work in Locality of Residence and Outside Locality of Residence, By Sub-District of Residence, 2013," Statistical Abstract of Israel 2014, http://www.cbs.gov.il/shnaton65/map/12_03.pdf (accessed December 1, 2015). In 2013, unemployment for Israelis living in the West Bank was 6.5 percent, compared to an overall rate of 6.2 percent. Central Bureau of Statistics, "Population Age 15 and Over By Labour Force Characteristics, District and Sub-District of Residence, Localities Numbering 100,000+ Residents and Sex, 2013" Statistical Abstract of Israel 2014, http://www.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st12_04&CYear=2014 (accessed December 1, 2015). Note that this a change from earlier years, when the rate of unemployment was lower for settlements.

Settlement businesses provide not only jobs but also tax revenues for settlement municipalities. Companies pay annual property taxes, called *arnona*, to local governments. The amount varies by their type and location. In Ariel, for example, business offices pay annual taxes of 119 shekels ($29.75) per square meter in some areas of the settlement and 160 shekels ($40) in other areas.[247] Industrial buildings pay less—between 52 and 75 shekels ($13 and $18.75) per square meter—while banks, financial institutions and insurance companies pay between 512 and 846 shekels ($128 and $211.50) per square meter, depending on the area.[248] In 2014, the projected budget of the settlement of Barkan, which is associated with a large industrial zone of the same name, anticipated that around 6 percent of its budget–350,000 shekels of a six million shekels ($87,500 of $1,500,000) budget–would come from business' taxes.[249] The settlement is expected to take in another nearly million shekels ($250,000) in taxes on water consumption, a large portion of which factories in the industrial zone would presumably pay.[250]

[247] Ariel Municipality, "Arnona Order of 2015,"
http://www.ariel.muni.il/_Uploads/dbsAttachedFiles/arnona2015%282%29.pdf (accessed December 1, 2015).

[248] Ibid.

[249] Barkan, "Updated 2014 Budget: Income and Spending,"
http://www.barkanet.org.il/objDoc.asp?PID=51875&OID=268911&DivID=1&oAcl=0 (accessed January 6, 2016).

[250] Ibid.

VI. How Business Contribute to and Benefit from Abuse of Palestinian Labor Rights in Settlements

While, in Human Rights Watch's view, the evidence documented in this report describes how all settlement-related business activity runs afoul of businesses' human rights responsibilities regardless of labor conditions, settlement businesses often exploit the legal ambiguity of settlements under Israeli law to employ Palestinian workers under worse conditions than they would be able to employ Israelis.[251] Israeli officials have frequently dismissed the Green Line as irrelevant when it comes to settlement construction, yet when it comes to labor protections, Israel maintains the Green Line as a pretext not to apply labor law provisions that would protect Palestinian workers.[252] This policy has the additional effect of keeping labor costs down.

According to the Israeli workers' rights NGO Kav LaOved, at least half of settlement employers pay Palestinians less than Israel's minimum wage and deny them the social benefits such as medical insurance and sick time that they offer to Israeli employees. One reason for the persistence of labor abuses is that government regulators conduct virtually

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[251] There is some indication that settlement industrial zones were in part designed to take advantage of cheap Palestinian labor. Shortly after the start of the occupation, Israeli businesses began to recruit Palestinian workers from the West Bank and Gaza, and throughout the 1980s around 100,000 Palestinians worked in Israel – comprising 6 to 7 percent of the Israeli workforce. In the early 1990s, with the beginning of the Oslo Process, Israel began to pursue a policy of separating the occupied territories from Israel, preventing many Palestinian workers from coming into Israel. As a result, the country faced a severe shortage of low-wage workers, and began to recruit guest workers from abroad (mainly Thailand), but this strategy posed a different problem: the risk that these workers would make a permanent home in Israel presents a demographic threat to Israel's Jewish character. See David Bartam, "Foreign Workers in Israel: History and Theory," *International Migration Review* (1998), pp. 303-325. Settlement industrial zones were, in part, a way to address this issue, by moving the factories to the workers rather than the workers to the factories. In one news article from 1995, the director for the occupied territories ("Autonomy") in the Ministry of Industry, Trade, and Labor is quoted as promoting settlement industrialized zones, saying: "These [international] companies' owners would be able to find incredible efficiency. The Jewish mind will develop patents for them, and they will be able to take advantage of the opportunity to get cheap labor from workers in the [Palestinian] territories." Gad Lior, "Soon the Gaza Strip will be Competing with Singapore," *Yediot Ahronot*, February 19, 1995.

[252] In 2012, Minister of Knesset Naftali Bennett, currently serving as Education Minister and formerly the Minister of Economy, said: "I am blind to the Green Line. As far as I'm concerned there is no Green Line. [The Israeli cities] Ra'anana, Be'er Sheva, and [the settlement] Ofra are part of the Land of Israel." Yaakov Ayalon, "Bennett: 'Netanyahu Overtook Me from the Left, He's For a Palestinian State and that's A Terrible Mistake,'" *Mako* News, December 31, 2012, http://www.mako.co.il/news-elections-2013/jacob-eilon/Article-125f5448e1ceb31006.htm (accessed December 20, 2015). Minister of Knesset Danny Dannon, currently serving as the Minister of Science, Technology, and Space, wrote on social media: "There is no difference between Tel Aviv and Ariel! I have urged an end to the discrimination against residents of Judea and Samaria," meaning settlers. Facebook post, November 23, 2011.

no inspections to enforce labor laws in settlements as a result of the ambiguous legal status of Palestinian workers in settlements. A 2007 Supreme Court decision held that Israeli labor law should apply to Palestinians working in settlements, making it possible for Palestinian workers to file complaints for violations of Israeli labor law. But if they complain, they are vulnerable to retaliation due to their dependence on employers for Israeli-issued work-permits.

In Human Rights Watch's view, settlement businesses contribute to Israel's international law violations regardless of how they treat their employees, for the reasons detailed in this report. Yet the discriminatory environment and regulatory vacuum in which they operate tempers considerably the settlement employers' and supporters' claims that these businesses benefit Palestinians by providing them with jobs. Such claims also ignore how settlement businesses entrench and benefit from a discriminatory and unlawful system that harms the Palestinian economy and livelihoods, as detailed in Chapter III.

Case Study: Textile Manufacturer

Until October 2015, an Israeli company produced home textiles such as bed linens for an American retailer in a factory in Barkan Industrial Zone between the settlement of Ariel and the Israeli border. The company is not identified by name because it has since relocated from Barkan to Israel. It nevertheless remains a useful illustrative example of how factories can take advantage of an absence of legal clarity and government oversight to discriminate against Palestinian employees and export goods as though they were made in Israel.

Although its sole factory was located in a settlement industrial zone, the company promoted itself on its website as an exporter with a "home-base in Israel," allowing it "to offer our customers duty and quota-free imports, thus significantly reducing overall costs."[253] Human Rights Watch obtained a set of linens from the factory in Barkan in packaging that included a "Made in Israel" designation, although the seller told Human Rights Watch that the linens were produced in the Barkan factory. For purposes of export, the company is registered under an address in a city inside Israel, rather than in Barkan.[254]

[253] "About Us," company site name withheld (accessed July 4, 2015).

[254] Company bills of lading.

In June 2015, the company employed around 30 Palestinians, many of whom were women, according to a co-owner.[255] In 2008, 43 employees sued the company for hundreds of thousands of shekels after years of working for a fraction of Israel's minimum wage.

According to the lawsuit, women workers earned 6 to 8 shekels per hour (US$2), and men earned 9 to 10 shekels ($2.50). They did not receive sick days, vacation, overtime, or pay slips, they alleged. In response to an article posted on the Business and Human Rights Resource Centre website concerning the lawsuit, the company did not deny that it paid less than minimum wage but wrote that "the worker's payment is higher than the one in the West Bank or in the whole region."[256] In an interview with Human Rights Watch, the co-owner said the company paid the minimum wage required under Israeli law to a "contractor," a Palestinian from Haris, who then pocketed a part of the wages. The company argued in court that the contractor was the plaintiffs' employer although the contractor's only role was as middleman between the workers and the company.[257] The Supreme Court rejected the argument that the contractor is an employer in its 2007 ruling that applied parts of Israeli labor law to the settlements, but many settlement companies continue to employ workers through contractors, and in one recent case a lower court accepted the company's claim that the contractor was an employer.[258]

The workers contend that the contractor pressured them to drop the lawsuit by threatening to fire them, and 12 of them ultimately dropped their cases.[259] All of the cases that went forward settled for amounts ranging from 5,000 to 32,000 shekels ($1,250 to $8,000), less than a third of what they claimed in most cases. Three sisters, for example, who earned 6 shekels per hour sued for a total of 287,000 shekels ($71,750) in lost earnings, but settled for a total of 45,000 shekels ($11,250) collectively, according to the lawyer who

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[255] Human Rights Watch interview (name withheld), Hod HaSharon, June 10, 2015. A representative of the American retailer informed Human Rights Watch that the manufacturer "retained all of its Palestinian workers when it moved to the new location." Email from name withheld, December 10, 2015.

[256] Letter from company, name withheld, to Business & Human Rights Resource Centre, September 16, 2008.

[257] Kav LaOved, *Employment of Palestinians in Israel and the Settlements: Restrictive Policies and Abuse of Rights*, August 2012, pp. 42-43.

[258] Human Rights Watch phone interview with Oron Meiri, an Israeli lawyer who represents Palestinians in labor disputes, February 5, 2015.

[259] Human Rights Watch phone interview with the primary lawyer in the case, Hashem Massarwa, February 11, 2015; Kav LaOved, *Employment of Palestinians in Israel and the Settlements*, pp. 42-43.

represented the plaintiffs.[260] In addition, he told Human Rights Watch that workers claim that the company began to outsource some of the work to nearby Palestinian villages. The company vigorously denied these allegations in a letter to Human Rights Watch, and stated that "Palestinian workers receive wages and social benefits according to Israeli labor law."[261]

Human Rights Watch wrote letters to both the factory and the American retailer that regularly sourced linens from them. During the conversations that followed, the factory agreed to close its operations in Barkan and locate to new facilities inside Israel "We are not looking for problems. It seems it really bothers people that we're there, so we'll leave," the co-owner said. He also told Human Rights Watch that he moved the factory there, rather than India or Egypt, because "I was sincerely convinced it was a way towards peace." He said that what attracted him were the modern facilities of Barkan, close to home, yet with access to Palestinian workers who are otherwise difficult to get. For access to such workers inside Israel "you have to go to the periphery, which is far from ports," he said.

Exploiting Legal Ambiguity

While Israel's human rights obligations extend to the territories it occupies, the Fourth Geneva Convention requires an occupier to apply existing law, except where there is a threat to its security or amendments are necessary to comply with international law. So under international law, Jordanian law, as it existed in 1967, governs the occupied West Bank, except as amended by military order.[262] Israeli military orders applied three Israeli labor laws to Palestinian workers in settlements: the first, in 1976, requires insurance for workplace injuries; the second, in 1982, requires employers to pay the minimum wage to those working in settlements, although this did not apply to Palestinian workers in industrial zones until 2007.[263] The military commander issued a third law in October 2013 extending Israel's Women Workers Act to settlements, including industrial zones.[264]

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[260] Human Rights Watch phone interview with their lawyer, Oron Meiri, February 5, 2015.

[261] Letter from company co-owners, names withheld, to Human Rights Watch, May 21, 2015.

[262] Proclamation Concerning Law and Administration Arrangements (Territory of the West Bank) Declaration (no. 2), 5727-1967.

[263] State Comptroller, *Annual Report 62*, 2012, pp. 1673-74.

[264] See Meeting of Committee for Advancing the Status of Women, Protocol No. 40, October 28, 2013.

However, while Jordanian laws apply to Palestinians, except as amended by military order, Israeli courts apply Israeli law to settlers, even though the Supreme Court recognized that the military law formally applies to them. This creates a two-track legal system that offers significantly fewer labor protections to Palestinians than those offered to Israelis.[265] In 2007, the Israeli Supreme Court held that this two-track system, as applied in settlement workplaces, is unlawful discrimination, and Israeli labor law should apply to Palestinian workers in settlements.[266] In making this decision, the court states explicitly that it is deviating from the general rule, which it accepts in principle, that "the law is different for Israeli inhabitants of the occupied territories" than it is for Palestinians.[267]

The government has not yet implemented this decision, creating a gap between the law on the books and the law that Israeli courts apply. The resulting legal ambiguity has led government authorities to completely halt what little enforcement they had previously conducted to ensure settlement employers at least complied with the military orders that Israel applies to Palestinians, as further discussed below.

The 2007 Supreme Court decision, however, gave Palestinian workers the ability to sue employers in Israeli courts if they fail to respect Israeli labor laws. Human Rights Watch's research suggests that this change has led to an increased number of settlement businesses complying with Israeli labor law. However, settlement employers continue to discriminate against Palestinian employees by paying them lower wages than Israelis for the same work.

A 2014 Bank of Israel report shows that Palestinians receive less than half of the wages received by Israelis working in the same company for the same tenure of employment.[268] In

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[265] HCJ 5666/03, *Kav LaOved v. National Labour Court* (October 10, 2007).

[266] "Applying two different sets of laws to workers who work together for the same employer will necessarily result in prohibited discrimination." HCJ 5666/03, *Kav LaOved v. National Labour Court* (October 10, 2007), section 11. All quotes from the case are from an English translation available on Versa, Cardozo Law School, "Versa – Opinions of the Supreme Court of Israel", http://versa.cardozo.yu.edu/opinions/kav-laoved-v-national-labour-court (accessed November 5, 2015).

[267] The court quotes the Israeli scholar A. Rubinstein to support this position: A resident of Maaleh Adumim, for example, is prima facie subject to the military administration and local Jordanian law, but in practice he lives subject to Israeli law both from the viewpoint of his personal law and from the viewpoint of the local authority in which he resides. The military administration is merely a remote control, through which the Israel law and government operate."

[268] "Excerpt from the 'Bank of Israel – Annual Report for 2014' to be published soon – Expansion of Palestinian employment in Israel and its Characteristics," March 3, 2015. Note that these statistics are based on data from the Israel Tax Authority, which include Israel and only partially include settlements.

2010, in response to the Palestinian Authority's proposed ban on Palestinians working in settlements, the settlement Manufacturers Association calculated that it would cost 2,000 shekels ($500) more a month per worker to hire Israeli workers in place of Palestinians, and requested that the Ministry of Industry reimburse them for the difference if the ban went into effect.[269] Wages of Palestinians in settlements are so much lower than for Israelis that in 2013, the state comptroller warned that unless the Israeli government enforced the minimum wage, settlement companies would have an unfair competitive advantage over Israeli companies in Israel.[270] That same year, an economist from the Bank of Israel made a similar argument at a Knesset hearing on working conditions of Palestinians in Israel and the settlements.[271]

One reason for the persistence of labor abuses in the current system is that unless Palestinian workers complain there is no possibility of enforcement. But these workers are more vulnerable to employer retaliation for complaining. To work in settlements, Palestinians need an Israeli employer to request a work permit from Israel on their behalf.[272] According to military protocol, if an employer reports a Palestinian worker to the police for some offense, the worker is automatically suspended until the outcome of the police investigation.[273] As described below, Human Rights Watch documented two cases in which employees alleged that their employers initiated a complaint with police about them after they made complaints about working conditions. As a result, they not only lost their jobs but also were unable to work elsewhere in settlements. A number of Palestinian workers whose settler employers did not pay them in accordance with Israeli law told Human Rights Watch that they did not sue out of fear they would lose their work permits.[274]

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269 Ora Koren, "Manufacturers Association to Ministry of Industry: Subsidize Israeli Workers for Us in the Event of a Palestinian Boycott in the Territories," *The Marker*, August 9, 2010, http://www.themarker.com/career/1.583201 (November 5, 2015).

270 State Comptroller, *Annual Report 62*, 2012, p. 1677.

271 Meeting of the Committee for Public Inquiry, Protocol No. 28, December 3, 2013, p. 42.

272 Kav LaOved, *Employment of Palestinians in Israel and the Settlements: Restrictive Policies and Abuse of Rights*, August 2012, pp. 14-15.

273 Human Rights Watch interview with Michal Pomeranz, Israeli lawyer who represents Palestinian workers in Israeli courts, Tel Aviv, December 8, 2014.

274 Human Rights Watch interviews with Hani A. (pseudonym), Salfit, December 20, 2014 and Ibrahim, Beit Fajar, March 30, 2015.

Lack of Oversight

According to several government officials, regulation and oversight of workplace safety also remains virtually non-existent for Palestinian workers in settlements. In 2013, the Ministry of Economy, which is responsible for labor law enforcement, told a Knesset committee that it carries out no activities in settlements because it does not know which law to apply.[275] The same year, Israel's state comptroller stated in an annual report that there was a severe lack of law enforcement in settlements that has led to an environment where "each [Israeli] person can do as he pleases."[276] According to Kav LaOved, in 2013, the Ministry of Economy also stopped responding to minimum wage complaints, and in response to a Freedom of Information request, the ministry stated it would not do so until a new military order is issued.[277]

The lack of oversight, however, pre-dates the legal ambiguity created by the Supreme Court decision applying Israeli labor law to Palestinians. In a July 2007 meeting, the head of the Worker Health and Safety division of the Ministry of Industry said her division "does not go" to settlements "due to a lack of resources and indecisiveness in the matter."[278]

[275] Meeting of the Committee for Public Inquiry, Protocol No. 28, December 3, 2013, p. 17.

[276] State Comptroller, *Annual Report 63b*, July 17, 2013, p. 137. The lack of oversight also applies to Jewish employees of settlement businesses, but the risk of abuse is significantly lower in light of settlers' legal, socioeconomic, and political privileges relative to Palestinians.

[277] Kav LaOved, *Non-Enforcement of the Law on Israeli Employers in the Occupied Territories: A Selective List of Israeli Companies Violating Palestinian Workers' Rights*, October 2013, p. 2, http://www.kavlaoved.org.il/en/wp-content/uploads/2013/11/Palestinian-Non-Enforcement-Report-Nov-2013.pdf (accessed November 6, 2015). Hanna Zohar, Coordinator for Israeli and Palestinian Workers at Kav Loved, told Human Rights Watch in an interview on December 8, 2014 that there appears to be no change since the report was published in October 2013.

[278] Meeting of the Committee for Examining Problems of Foreign Workers, Protocol No. 27, July 3, 2007, p. 19.

Hani, 20, lives with his parents and siblings in Salfit. On weekends, Hani takes courses in history and geography at Al Quds Open University.[279] During the week, he said, he works the night shift at a plastics and wax factory in Barkan industrial zone.[280] (Throughout November 2014, for example, he said, he operated an electric heater used in forming the wax for Hanukah candles). He arrives at work at 6:00 p.m. and leaves at 6:00 a.m., with one half-hour break. For his 12-hour shift, Hani is paid 100 shekels ($25)–an average of 8.5 shekels ($2.13) per hour, about one-third of Israel's hourly minimum wage at the time of 23 shekels.[281] He gets no vacation time, no sick days, no social benefits, and no pay stub, he told Human Rights Watch.

Hani said he had tried to get a job at one of the factories in Barkan known to pay the minimum wage, but the factories he approached told him they hire workers only through Palestinian middlemen. He is trying to get a job through a middleman, he said, but noted that even if he were to succeed, the middlemen he knew demanded a percentage of up to half the worker's monthly salary. Other workers told Human Rights Watch they had heard of middlemen who demanded a percentage of the worker's pay but that they had not themselves had such arrangements.[282]

Hani said he knew that his pay violated Israeli minimum wage laws, but he had to work to help support his family. His father, Ibrahim, a farmer, told Human Rights Watch that he lost part of his land when the military confiscated and transferred it to Ariel, and he has only restricted access to another parcel.[283] The scarcity of jobs in the West Bank and low wages make workers more inclined to accept abusive conditions even if they know they violate Israeli law, Hani said: "There are no complaints, because there are 10 people to take [each] job." He also worries that complaining would cost him his work permit, he said.

The following year, Member of Knesset Ran Cohen wrote a letter to the Attorney General and the Coordination of Government Activities in the Territories informing them that the "situation [of workplace health and safety] is quite terrible" and "borders on total lawlessness."[284] In September 2008, the Legal Advisor of Judea and Samaria circulated a draft of necessary legislative amendments to the Legal Advisor of the Ministry of Industry,

[279] Human Rights Watch interview with Hani A., Salfit, December 20, 2014.

[280] Ibid.

[281] The minimum wage was 23.12 when the research for this report was conducted; it was raised in April 2015 to 25 shekels per hour. "Update Minimum Wage Table," Ministry of Economy, http://knesset.gov.il/Laws/Data/BillGoverment/914/914.pdf (November 6, 2015).

[282] Human Rights Watch interview with Hossam Shamlawi, Haris, December 17, 2015.

[283] Human Rights Watch interview with Ibrahim, Salfit, December 20, 2014.

[284] State Comptroller, *Annual Report 62*, 2012, p. 1679.

but with no result.[285] In January 2009, the legal advisor for Judea and Samaria requested a response to the proposed amendments from the legal advisor of the Ministry of Industry, citing "non-existence of the appropriate statutory infrastructure for enforcing workplace safety laws in Israeli settlements."[286] As of June 2011, there was no response from the Ministry of Industry. Malkiel Blass, the deputy attorney general, in a letter to the state comptroller, faulted the Ministry of Industry for refusing to respond; the Ministry of Industry wrote to the comptroller that it was aware of the problem, but lacked the resources to "expand its actions beyond the Green Line."

Despite governmental inaction, the 2007 Supreme Court ruling led to improved work conditions in some factories. In the wake of the ruling, dozens of Palestinians sued their employers for back wages, pressuring an increasing number of factories to comply with Israeli labor laws.[287] However, in the absence of government enforcement, the threat of a lawsuit is frequently not a sufficient incentive to bring companies into compliance with the law. According to workers, trade union officials, and workers' rights group active in the settlements, many companies simply maintain the same practices as before the 2007 ruling, while others use underhanded tactics to flout the law. For example, some employers underreport working hours or compel workers to sign fraudulent pay slips.[288] In 2013, Kav LaOved told a Knesset Committee that at least 50 percent of companies in settlements do not comply with Israeli labor laws.[289] Two labor lawyers who frequently represent Palestinians employed in settlements believed that the percentage of noncompliance companies was even higher.[290] Even in cases where workers sue, it is frequently less costly for an employer to pay compensation than to pay the minimum wage and full benefits, since most plaintiffs settle for much less than the business owes them.[291]

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[285] Ibid.

[286] Ibid.

[287] See, e.g., Kav LaOved, Salwa Alenat, "Palestinian Workers in the West Bank," March 13, 2010, http://www.kavlaoved.org.il/en/palestinian-workers-in-the-west-bank-settlements/ (accessed April 15, 2015).

[288] Human Rights Watch phone interview with Oron Meiri, labor lawyer who frequently represents Palestinians working in settlements, February 5, 2015.

[289] Meeting of the Committee for Public Inquiry, Protocol No. 28, December 3, 2013, p. 3.

[290] Ibid. and Human Rights Watch phone interview with Mohammad Swalha, labor lawyer who frequently represents Palestinians working in settlements, April 8, 2015.

[291] Human Rights Watch phone interview with Hashem Massarwa, February 11, 2015. See e.g. the case of a textile manufacturer, name withheld, below.

Salah S. told Human Rights Watch that he worked for three years in a wood workshop in Barkan, where his pay slip wrongly stated that he was being paid minimum wage, when in practice he was getting much less. His manager kept promising he would pay the difference, until finally Salah sued.[292] He said the company owed him 30,000 shekels ($7,500), but he settled for 11,807 shekels ($2,951).

Palestinian Dependence on Israeli-Issued Permits

The system currently in place assigns all the responsibility of enforcement to Palestinian workers, but they are often hesitant to sue because they depend on Israeli-issued work-permits, according to several labor lawyers who represent Palestinians employed in settlements.[293] Even if the court rules in their favor, their future livelihood is threatened by the risk of being fired and losing their permit, they said.[294] In the Jordan Valley, agricultural employers circulate a "blacklist" of Palestinians who have complained about conditions.[295] For this reason, most lawsuits are filed by employees after they've already left or been fired from their jobs, two lawyers told Human Rights Watch.[296]

The military commander of the West Bank designated all settlements, including industrial zones, closed military zones. Palestinians in the occupied territories require a permit issued by the Civil Administration to enter them. Israelis are exempted from this requirement.[297] An employer may request a six-month permit for any Palestinian living legally in the West Bank who is at least 18 years old, a much laxer standard than for a work permit in Israel.

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[292] Human Rights Watch interview, with Salah S., Haris, December 20, 2014; Human Rights Watch observed a check paid from the company to interviewee in the amount noted.

[293] Human Rights Watch phone interviews with Oron Meiri, February 5, 2015; Hashem Massarwa, February 11, 2015, and Mohammad Swalha, April 8, 2015.

[294] Ibid.

[295] Ibid.

[296] Ibid.

[297] On June 2002, the military commander signed the Order Concerning the Closure of Territory which declared all settlements, including industrial zones under Israeli administration, closed military areas, established a requirement for a permit to enter or remain in those areas; Israelis were exempted from this requirements. See State Comptroller, "Chapter 7: Industrial Zones in Judea and Samaria and the Rural Sector," *Annual Report 62*, May 1, 2012, p. 1684.

Settlement employers must sponsor work-permit requests, giving them added leverage over Palestinian workers. Unemployment for Palestinian men in the West Bank is around 18 percent, and the average daily wage for wage employees is 90 shekels ($22.50), making access to settlement jobs essential for the livelihood of many Palestinians.[298] Palestinian workers' reliance on their employers for permits leaves some workers afraid to demand their rights.[299] One worker whom Human Rights Watch interviewed, Ibrahim, earned 16.5 shekels per hour ($4.13), and did not know that he was entitled to a minimum wage. When Human Rights Watch informed him of his rights, he replied that he would not want to sue: "I'm afraid they'd take my permit. They are Israelis between each other, and I'm the outsider."[300] Ibrahim also believed that if he sues, his name would become known to the military and intelligence, and they would deny him a permit in the future. "I would never be able to get any sort of work in a settlement," he said. "There needs to be an outside party that forces the company to pay minimum wage. For workers, it's too risky," he added.

Labor rights groups have documented incidents of employers abusing the permit system to retaliate against workers who complain about work conditions or to fire them without severance pay. In a number of cases, settler-employers reported a fabricated "security incident" to Israeli police in retaliation for workers' complaints over working conditions in the factory, triggering the immediate revocation of their permits once summoned for police questioning, according to Hanna Zohar, who heads Kav LaOved's division for Palestinian workers.[301] Still other Palestinian workers suspected that their employers made false "security" reports to fire them without having to pay the severance fees required under Israeli labor law, since employees who can no longer work due to a revoked permit are not considered "fired."[302]

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298 Palestinian Central Bureau of Statistics, "Press Release on the Results of the Labour Force Survey, January – March 2014," June 5, 2014, http://www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=en&ItemID=1108&mid=3172&wversion=Staging (accessed November 6, 2015).

299 Human Rights Watch interview with Hani, Salfit, December 20, 2014, and Ibrahim, Beit Fajar, March 30, 2015. For a detailed explanation of how work-permits affect Palestinian workers' relations with their employers, see Kav LaOved, *Employment of Palestinians in Israel and the Settlements*.

300 Human Rights Watch interview with Ibrahim, Beit Fajar, March 30, 2015. Note that Ibrahim works in a settlement in Kfar Etzion, not in Barkan.

301 Human Rights Watch interview with Hanna Zohar, Tel Aviv, December 8, 2014.

302 Human Rights Watch interview with Narhal S., Haris, December 17, 2014, and phone interview with Hashem Massarwa regarding the legal context, February 11, 2015.

A military regulation in force since May 2011 requires settler-employers to formally request that the relevant authorities withdraw a security objection before the Civil Administration can restore a worker's revoked permit, which gives employers extraordinary leverage over the livelihood of Palestinian workers.[303] Kav LaOved, the Israeli non-profit that works on labor rights, represented workers from a factory in the settlement of Ma'aleh Adumim, after the company tried to compel them to sign a document agreeing to release the company from any previous claims in exchange for receiving their full rights from that point forward. Several workers refused to sign. In apparent response, the company lodged a complaint with the police claiming that they damaged company property.[304] Applicable regulations require the police to revoke the permit of a Palestinian summoned for questioning following a complaint of an Israeli citizen. In other words, following the complaint of their employer, the workers not only lost their job at the company, but also were not able to work in any other settlements.[305] Kav LaOved successfully appealed the revocation of their permit, but the workers' claim and counter-claim is still pending in court.[306]

In a different case, an Israeli non-profit organization that advocates for unionization of workers, WAC-Ma'an, documented the case of a settler employer who allegedly filed a false police complaint claiming that a Palestinian union leader, Hatem Abu Ziada, had purposefully damaged military equipment. An Israeli lawyer appealed the security preclusion in the Supreme Court on behalf of Abu Ziada, and the GSS removed the preclusion without explanation four months after it had revoked the permit. Hashem Massawra, a lawyer who works with Kav LaOved, told Human Rights Watch that these cases are not uncommon. "Factory owners and managers are closely connected to the security establishment. It is difficult to prove, but there are many cases where an employer is behind the security objection," he said.[307]

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[303] "Procedure for Removal of Security Preclusion," COGAT, www.cogat.idf.il/Sip_Storage/FILES/6/2626.pdf (accessed November 6, 2015) (Hebrew). See Kav LaOved, *Non-Enforcement of the Law on Israeli Employers in the Occupied Territories*, October 2013, report for detailed discussion on procedures for appealing security preclusions.

[304] Ibid., pp. 7-8.

[305] Ibid.

[306] Ibid.

[307] Human Rights Watch phone interview with Hashem Massarwa, February 11, 2015.

A Flimsy Excuse for Labor Abuses

Factory owners and managers in Barkan industrial zone say the employment of thousands of Palestinians in the industrial zone embodies the hope for Israeli-Palestinian co-existence. The founder of Barkan and mayor of Ariel, Ron Nahman, said in an interview in 2000 discussing Palestinian employees in Barkan: "I have a better shared development plan with the Arabs in the area than any of the leftist administrations, and I pursue peace exactly like all the leftists."[308] One Barkan factory manager told an Israeli newspaper:

> Here, workers start from minimum wage and salaries can get as high as 9,000 shekels [$2,250] a month – three times the average in the Palestinian Authority. Palestinians work shoulder to shoulder with Israelis, and it's a chance to work together, to talk together, to trust each other. We produce goods of peace.[309]

Naftali Bennett, the former Minister of Economy who has publicly disavowed the two-state solution, similarly called for building more settlement industrial zones as "economic bridges of peace between Israelis and Palestinians."[310] Rueven Rivlin, Israel's current president, similarly described Barkan as "a hub of co-existence and bridges to peace."[311]

Yet these rosy sentiments ignore the deeply discriminatory environment in which settlement businesses operate, and Palestinian workers' vulnerability to abuse. It also ignores the fact that settlement businesses entrench, contribute to, and benefit from Israeli policies that dispossess Palestinians from their land and resources, facilitate unlawful settlements, and restrict Palestinian construction, trade, and freedom of

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[308] Yitzhak Latz, "The State of the Lettuce in the Territories," *Globes*, October 25, 2000, http://www.globes.co.il/news/article.aspx?did=447016 (accessed November 6, 2015).

[309] Asher Shechter, "'A Dispute About the Settlements? Europe Should Give Us a Bonus – Not a Fine,'" *The Marker*, August 8, 2013, http://www.themarker.com/markerweek/1.2092600 (accessed November 6, 2015). There are many additional examples. The CEO of Soda Stream similarly defended the company's factory in the settlement industrial zone Mishor Adumim: "We build bridges, not walls. It's a fantastic sanctuary of coexistence and an example of peace in a region that is so troubled and so needs hope," https://www.youtube.com/watch?v=KDdH_7GjW40 (accessed November 6, 2015).

[310] Naftali Bennett, "For Israel, Two-State is No Solution," *New York Times*, November 5, 2014.

[311] Pinhas Wolf, "Rivlin: Product Boycott Will Harm the Chances of Peace," Walla! News, May 27, 2010, http://news.walla.co.il/item/1679652 (accessed November 6, 2015).

movement. These policies deprive Palestinians of their livelihoods and make it difficult for them to find adequate alternative employment in Palestinian businesses.

Annex I: Settlement Industry

Settlement industrial zones and farms constitute a significant portion of the Israeli civilian presence in the West Bank. This annex describes the nature and scale of these commercial activities as well as their harmful human rights impact. As noted in the report, many settlement manufacturers and agricultural businesses constitute a somewhat distinct subcategory of settlement businesses that do not engage in activities that directly service settlements, yet they nonetheless, in Human Rights Watch's view, contribute to and benefit from Israel's rights abuses. Because many of these businesses export their goods outside of Israel, businesses around the world are at risk of becoming implicated in these abuses through their supply chain. Third-party states also contravene their international law obligation not to recognize Israeli sovereignty over settlements by allowing the import of settlement goods into their territory when such goods are labeled "Made in Israel" or benefit from tariff agreements between the state and Israel.

"Made in Israel"

Settlement industrial zones house around 1,000 factories and settlement farms cultivate 9,300 hectares of land. These manufacturers and agricultural producers export much of their goods abroad. For example, according to its website, 80 percent of goods manufactured in Barkan are sent abroad, largely to Europe and the United States.[312] Settlement farmers in the Jordan Valley export some 66 percent of the produce they grow outside of Israel – the highest percentage of agricultural export compared to regions inside Israel, according to Israel's Vegetable Growers Association.[313]

It is difficult to determine the exact value of goods exported from settlements, since Israel does not provide export data disaggregated by locality of origin. In 2012, Israel told the World Bank that the value of exports from settlements to Europe, Israel's largest trade partner, was US$300 million per year, but the World Bank notes that other analyses, which

[312] "General Information," Barkan Industrial Zone, http://www.shomron.org.il/?CategoryID=308&ArticleID=1253 (accessed November 6, 2015).

[313] "Vegetables in the Jordan Valley," Association of Vegetable Producers, http://www.yerakot.org.il/content/3195 (accessed November 6, 2015).

take into account goods partially produced in settlements, estimated the value of European imports of such goods to be significantly higher.[314]

These settlement goods and agricultural produce are frequently labeled "Made in Israel" and benefit from preferential customs treatment many countries give to Israeli products. In November 2015, the European Union released an interpretative notice prohibiting the import of settlement goods labeled "Made in Israel," citing its duty not to recognize Israeli sovereignty over the occupied Palestinian territories and EU consumer protection laws.[315] For similar the reasons, since 2005, European Union regulations mandate that goods produced in settlements may not benefit from the EU free trade agreement with Israel, so manufacturers must pay 7 percent customs fees.[316] According to media reports, the EU also bans all animal products and organic food produced in settlements from entering the EU.[317]

Since 1995, United States customs regulations have required goods originating in the West Bank and Gaza to be labeled as such – and specifically prohibit them from being labeled as made in Israel.[318]

Nonetheless, settlement businesses continue to label settlement products as "Made in Israel," a practice defended by Israeli officials.[319] In response to an EU call for labeling, Yair Lapid, who served as Minister of Finance in 2013 and 2014, called the initiative "a de-facto

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[314] World Bank, "Fiscal Crisis, Economic Prospects," September 23, 2012, p. 13, https://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AHLCReportFinal.pdf (accessed November 6, 2015).

[315] European Commission, "Interpretive Notice on Indication of Origin of Goods from the Territories Occupied by Israel Since June 1967," November 11, 2015, http://eeas.europa.eu/delegations/israel/documents/news/20151111_interpretative_notice_indication_of_origin_of_goods_en.pdf (accessed December 2, 2015).

[316] European Commission, "EU-Israel Technical Arrangement" http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/israel_ta_en.htm (accessed November 6, 2015).

[317] Ora Coren, "Israeli Food Makers Seek Solution to EU Settlement Sanctions," *Haaretz*, August 18, 2014.

[318] "Country of Origin Marking of Products from the West Bank and Gaza," 60 Fed. Reg. 66, 17607, April 6, 1995. Updated in 62 Fed. Reg. 50, 12267, March 14, 1997.

[319] Human Rights Watch observed two cases where products made in settlements were labeled "Made in Israel," but this is common practice according workers Human Rights Watch interviewed. In 2004, following the EU's decision not to give settlement goods the benefit of customs agreement with Israel, an industrial zone manager said "big companies that operate in this IZ have a number of factories, some of which are inside the Green Line. . . . . so when exporting goods to Europe they write on the forms that the origin is [names of cities in Israel]" to circumvent Europe's policy. Tani Goldstein, "Disengagement? Barkan Industrial Zone is Expanding," Ynet News, December 24, 2004, http://www.ynet.co.il/articles/1,7340,L-3021591,00.html (accessed November 6, 2015).

boycott of Israel," since, in his words, "there is no difference between products which are produced over the Green Line and those that are produced within the Green Line."[320] The Israeli government also compensates settlement producers when importing countries levy customs duties on their products.[321]

Industrial Zones

Israel operates anywhere between 16 and 20 industrial zones in the West Bank, housing around 1,000 factories that produce a range of goods, including metal, plastics, textiles, and food.[322] There is no definitive number of industrial zones because, unlike for industrial zones inside Israel, the law enumerating special conditions for industrial zones in settlements – called "industrial zones under Israeli administration" – does not specifically include names or geographic indicators and no official list exists.[323] The major settlement industrial zones are in Mishor Adumim, Atarot, Barkan, Shahak, Ariel, and Gush Etzion. Some other industrial zones are officially approved but not actually operational, or only minimally so, while others are operating but without any approved plan or building permits.[324]

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[320] Tovah Lazaroff, "Lapid to Mogherini: EU Foreign Ministers are Calling for a De-facto Boycott of Israel," *The Jerusalem Post*, April 16, 2015.

[321] "Compensation of Exporters," Directive Order No. 320408, http://religinfoserv.gov.il/magic94scripts/mgrqispi94.dll?APPNAME=budget&PRGNAME=takzivreq (accessed November 6, 2015). According to Peace Now, the government budgeted 10.83 million shekels ($2,707,500) in 2011-12 to compensate settlement exporters for customs paid to the EU. "Price of Maintaining the Territories – Figures from the 2011-2012 Budget," December 26, 2010, http://peacenow.org.il/content/%D7%9E%D7%97%D7%99%D7%A8-%D7%90%D7%97%D7%96%D7%A7%D7%AA-%D7%94%D7%A9%D7%98%D7%97%D7%99%D7%9D-%E2%80%93-%D7%A0%D7%AA%D7%95%D7%A0%D7%99%D7%9D-%D7%9E%D7%AA%D7%A7%D7%A6%D7%99%D7%91-2011-2012 (accessed November 6, 2015).

[322] Israel's state comptroller stated that there are around 20. State Comptroller, "Chapter 7: Industrial Zones in Judea and Samaria and the Rural Sector," *Annual Report 62*, May 1, 2012, p. 1669. In contrast, a *New York Times* article from 2014 cites 16, Jodi Rudoren, "In West Bank Settlements, Israeli Jobs Are Double-Edged Sword," February 10 2014, http://www.nytimes.com/2014/02/11/world/middleeast/palestinians-work-in-west-bank-for-israeli-industry-they-oppose.html?_r=0 (accessed June 30, 2015).

[323] State Comptroller, *Annual Report 62*, 2012, pp. 1670-71.

[324] Ma'aleh Efraim is practically abandoned with only four companies still operating there. See Asher Shechter, "'Farmers in the Jordan Valley Are Like a Boxer with a Hand Tied,'" The Marker, February 7, 2014, http://www.themarker.com/markerweek/1.2237549 (accessed June 30, 2015). On the other hand, Mesila/Nitzanei Shalom and Alei Zahav operate without official approval. State Comptroller, *Annual Report 62*, 2012, pp. 1690, 1696.

Industrial Zones and Land Confiscation

Settlement industrial zones are established on 13,650 *dunams* (1,365 hectares), thus significantly contributing to Israel's unlawful confiscation of Palestinian land for the benefit of expanding Israeli civilian presence in the West Bank. Under international law all civilian settlement construction in occupied territory is unlawful. However, Israeli laws and military orders allow settlement construction on "absentee" land, "state" land, or on land where Palestinians cannot prove private ownership. Most industrial zones were built in the 1980s and 1990s on land held by the state under Israel's Absentee Property Law, which puts the state in control of most of the land owned by Palestinians who were internally displaced or who became refugees during the 1948 war.[325] In practice, it is extremely difficult for most Palestinians whom Israel classified as "absentees" to reclaim their property.[326] In addition, some industrial zones are fully or partially built on private lands whose Palestinian owners are not "absentees," in violation even of Israeli laws.

A 2005 report by the Israeli state comptroller, an independent auditor elected by the Knesset with a mandate to examine the executive branch, recounts how Israel established one industrial zone in the West Bank without any process to determine the status of the land. After millions of shekels of government and private investment, Israeli authorities discovered that Palestinians privately owned the land.[327] The comptroller does not identify the industrial zone in question, nor does he include information on how, if at all, Israeli authorities responded to the discovery. However, quoting the assistant legal advisor to the Civil Administration, he notes that, "this case, despite its severity, is not exceptional."[328] According to a leaked government database, the industrial areas in Alfei Menashe, Shilo

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[325] State Comptroller, *Annual Report 62*, 2012, p. 1669. See also Ilene Prusher, "Israel's Absentee Property Law Exposes an Absence of Morality in Jerusalem." *Haaretz*, June 7, 2013, http://www.haaretz.com/blogs/jerusalem-vivendi/.premium-1.528427 (accessed June 30, 2015).

[326] See Human Rights Watch, *Forget About Him, He's Not Here* (February 2012). In one instance, the military blacklisted more than 2,000 Palestinians from being able to return precisely because it suspected they could claim ownership of land in the Jordan Valley. See Akiva Eldar, "Military Admits 'Blacklist' of Palestinians Who Left West Bank During Six-Day War," *Haaretz*, July 5, 2006, http://www.haaretz.com/print-edition/news/ministry-admits-blacklist-of-palestinians-who-left-west-bank-during-six-day-war-1.192233 (accessed June 30, 2015).

[327] State Comptroller, Annual Report 56a, August 31, 2005, p. 221, http://old.mevaker.gov.il/serve/contentTree.asp?bookid=433&id=2&contentid=&parentcid=undefined&sw=1280&hw=730 (accessed November 6, 2015).

[328] Ibid.

and Beit El are in part or entirely built on private Palestinian land, as are individual industrial buildings in a number of other settlements.[329]

A later comptroller's report highlights the case of Nitzanei Shalom industrial zone, where none of the factories have required permits to operate and many are built without approval, including on 25 *dunams* of private Palestinian land.[330] Yet Ben Zion Geshuri, the CEO of Geshuri Industries, a petrochemical company there, explained in a Knesset hearing in 1999 that his company, whose previous operations inside Israel had been the subject of criticism and investigation by the Ministry of Environment, moved to the settlement with the "encouragement of the government," which told him it was an approved industrial zone. "This is how they led us there, and this is what they promised us," he said.[331] Despite its illegality under Israeli law, the Ministry of Defense transferred 300,000 shekels ($75,000) of public funds to the private association managing the industrial zone to repair a road.[332] Barkan Industrial Zone, among the largest in the settlements, is at least partially built on privately owned Palestinian land, but Israel refuses to recognize the owners' claim to the land.[333]

Economic Impact of Industrial Zones

The ostensible purpose of settlement industrial zones is to develop the local economy in "Judea and Samaria" and provide employment for settlers.[334] The websites of several settlement industrial zones highlight this goal. Barkan Industrial Zone, for example, emphasizes that the "direct link between the factories [in the industrial zone] and local residents assists greatly in providing employment and absorbing new families in Samaria"

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[329] For example, in Eshkolot and Giva'at Ze'ev. Spiegel database, available in full in Hebrew on Peace Now's website: http://www.peacenow.org.il/content/%D7%93%D7%95%D7%97-%D7%A9%D7%A4%D7%99%D7%92%D7%9C. The database has been partly translated to English, available at http://www.fmep.org/analysis/reference/SpiegelDatabaseEng.pdf (accessed November 6, 2015).

[330] State Comptroller, *Annual Report 62*, 2012, p. 1668. See Tali Haruti-Sever, "In West Bank Industrial Zone, Everything is Israeli – Except Harsh Labor Laws," *Haaretz*, June 5, 2015, for an overview of labor conditions in Nitzanei Shalom.

[331] Meeting of Knesset Committee of Interior and Environmental Protection, Protocol No. 2, November 29, 1999.

[332] State Comptroller, *Annual Report 62*, 2012, p. 1692.

[333] See case of Suleiman Shamlawi in Chapter IV.

[334] See Chapter 3, "Development of Israeli Policies on the Palestinian Economy."

and goes on to note that "60 percent of workers are Jewish and most are from Samaria."[335] The Gush Etzion Industrial Zone website similarly states that it was founded "to assist [with] demographic and settlement development in the area of Gush Etzion and serve as a source of jobs for settlements in and around Gush Etzion."[336] Identical language is used on the website of a third settlement industrial zone, Shahak.[337]

While Israelis own and manage the vast majority of factories in settlement industrial zones, the workforce is overwhelmingly Palestinian. In 2013, only 6.8 percent of settlers worked in manufacturing, mining and quarrying and a paltry 0.6 percent in agriculture, forestry and fishing.[338] In 2009, of the 17,000 people formally employed in settlements, 11,000 were Palestinian.[339] The actual number is probably much higher, according to the Israeli state comptroller, since many Palestinians working in settlement industrial zones do not have permits and are therefore not included in official Israeli statistics.[340] Two Palestinian trade union officials interviewed by Human Rights Watch estimated a much lower percentage of Israeli workers than the 60 percent Barkan claims on its website.[341]

In fact, business owners and managers point to the availability of low-cost Palestinian workers for labor-intensive factory work as a major factor drawing them to settlement industrial zones.[342] According to official Israeli data, 75 percent of manufacturing jobs in

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335 "General Information," Barkan Industrial Zone, http://www.shomron.org.il/?CategoryID=308&ArticleID=1253 (accessed July 5, 2015). The website also emphasizes that "the employment of Palestinian workers helps greatly to create a relatively good neighborly feeling, evident in the fact that throughout all the years of the intifada, the industrial zones operated completely as usual."

336 "Industry," The Gush Etzion Development Company, http://www.gush-etzion.co.il/departments/indestry/ (accessed November 6, 2015).

337 "General Information: Shahak Industrial Zone," Samaria Regional Council, http://www.shomron.org.il/?CategoryID=309&ArticleID=2787 (December 21, 2015).

338 Central Bureau of Statistics. "Employed Persons, By Industry, District, and Sub-District of Residence, 2013," *Statistical Abstract of Israel 2014*, http://www.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st12_14x&CYear=2014 (accessed January 6, 2016).

339 "Number of Palestinians Employed in Industrial Zones in Judea and Samaria," Knesset Research and Information Center, November 23, 2009, http://www.knesset.gov.il/mmm/data/pdf/m02501.pdf (accessed November 6, 2015).

340 State Comptroller, *Annual Report 62*, 2012, p. 1684. Kav LaOved estimates 10,000 Palestinians work in settlements without permits, mostly in agriculture in the Jordan Valley. Kav LaOved, *Employment of Palestinians in Israel and the Settlements: Restrictive Policies and Abuse of Rights*, August 2012, p. 37.

341 Human Rights Watch interviews with Mahmoud Ali Shari, Director, Palestinian General Federation of Trade Unions (PGFTU) – Qalqilya, December 13, 2014; Alaa Mohamad Younis, Director, PGFTU – Salfit, December 14, 2014.

342 A co-owner of textile manufacturer, in a settlement industrial zone that is a case study in the report, told Human Rights Watch that access to Palestinian labor was his primary motivation for locating in settlements, Hod HaSharon, Israel, June 10,

settlements are "low and medium-low technology" jobs, higher than in any region in Israel.[343] All industrial zones are considered closed military zones, and Palestinian workers therefore must obtain a permit to enter; however, these permits are more easily obtained than permits to enter Israel.[344]

Companies in industrial zones also benefit from rents and tax rates that are generally lower than in Israel. In Barkan, for example, in 2012 the cost of rent was between 24 and 27 shekels per square meter, compared to 43 shekels per square meter in industrial zones in Caesarea and Rosh Ha'Ayin, the two closest industrial zones inside Israel; annual taxes in Barkan were 47 shekels per square meter, compared to 100 shekels in Rosh Ha'Ayin.[345]

Atarot, an industrial zone in East Jerusalem is even cheaper: rent was 23 shekels and taxes were 74 to 85 shekels per square meter, compared to taxes of 92 to 140 shekels in other areas in Jerusalem.[346] While the market determines the lower rates in settlements, market prices are influenced by Israel's minimal initial investment in obtaining the land, a savings that it passes on to businesses. The Israeli government offers a package of benefits further reducing the cost of settlement industrial zones, awarded on the basis that the government has designated almost all such industrial zones as "National Priority Area A," as explained in more detail in the section on government financial incentives in Chapter III.

Many settlement companies further cut costs by taking advantage of the complex legal environment and regulatory vacuum that exists in settlements, as described in the section of this report on labor abuses.

2015. This view is consistent with media accounts. See, e.g., Asher Shechter, "'A Dispute About the Settlements? Europe Should Give Us a Bonus – Not a Fine,'" *The Marker*, August 8, 2013, http://www.themarker.com/markerweek/1.2092600 (accessed November 6, 2015); Tani Goldstein, "Disengagement? Barkan Industrial Zone is Expanding," *Ynet News*, December 24, 2004, http://www.ynet.co.il/articles/1,7340,L-3021591,00.html (accessed November 6, 2015).

343 Central Bureau of Statistics. "Jobs in Manufacturing, by Technology Intensity and Sub-District, 2011" *Statstical Abstract of Israel 2014*, http://www1.cbs.gov.il/shnaton65/map/20_01e.pdf (accessed November 6, 2015).

344 State Comptroller, *Annual Report 62*, 2012, p. 1684.

345 The rental amounts for Caesaria and Rosh Ha'Ayin include management fees that are not collected in Barkan. Michal Margalit, "In Settlement Industrial Zones, No Anxiety About Labeling Goods," *Globes*, May 21, 2012, http://www.globes.co.il/news/article.aspx?did=1000750150 (accessed November 6, 2015).

346 Ibid. Atarot's website states that "Land costs, expenditures and development costs, as well as rental prices, are significantly lower than those in the rest of the industrial zones" and the IZ "has recently been graded to pay the lowest property tax rates in the city." "The Atarot Industrial Area," Atarot, http://www.biojerusalem.org.il/database_tpi.asp?ID=5 (accessed November 6, 2015).

The lack of legal clarity and government oversight in settlements have also created a "pollution haven" for high-polluting industries, such as petrochemical companies in Nitzanei Shalom ("Buds of Peace").[347] A 2014 United Nations report highlights how "Ariel dumps liquid waste sewage and industrial waste into a stream and on agricultural land, rendering it contaminated and unworkable."[348] The environmental impact of settlement industry has increasingly been taken up by settlers, since they, too, suffer from the degraded air and water quality.[349] However, as is explained in detail in the section on labor abuses, the problem of regulation and oversight is somewhat distinct from the other violations described in this report: while settlement businesses can and should avoid discriminating against Palestinian employees, they remain, in Human Rights Watch's view, out of compliance with their business responsibilities because they cannot avoid the other violations the report identifies.

Settlement Agriculture

Most settlement agriculture is in the Jordan Valley and Dead Sea area, a region that stretches 120 kilometers along the West Bank of the Jordan River, which forms the natural border with Jordan.[350] This area, which comprises 30 percent of the West Bank, has rich soil and sits atop a water aquifer. Israel began to settle this area in 1968, in the immediate aftermath of the June 1967 war, as part of a plan drawn up by then-deputy Prime Minister

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[347] Israel's state comptroller cites a Civil Administration report published in 2010 that found there were virtually no environmental enforcement in Nitzanei Shalom: "the treatment of industrial waste is lacking in all of the industrial zone; sanitation waste is collected in cesspits; in a number of factories there exists odor hazards . . . the possession of dangerous materials in open and unmarked areas and not within a structure; leachates flowing from waste stored in the open . . . and recycling tanks without appropriate treatment of the remaining dangerous materials in them." State Comptroller, *Annual Report 62*, 2012, pp. 1691-92.

[348] Report of the United Nations Secretary-General, "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan," UN Doc. A/HRC/25/38, February 12, 2014, pp. 13-14. See also Friends of the Earth International, "Environmental Nakba: Environmental injustice and violations of the Israeli occupation of Palestine," September 2013, http://www.foei.org/resources/publications/publications-by-subject/human-rights-defenders-publications/environmental-nakba (accessed November 6, 2015).

[349] Tovah Lazaroff, "Settlers: Extend Israel Environment Laws to W. Bank," *Jerusalem Post*, June 17, 2013, http://www.jpost.com/Diplomacy-and-Politics/Settler-heads-Extend-Israeli-environmental-law-to-W-Bank-316786 (accessed November 6, 2015).

[350] For a more detailed discussion of agricultural settlements in the Jordan Valley, see Human Rights Watch, *Israel/Palestine – Ripe for Abuse*, April 2015, https://www.hrw.org/report/2015/04/13/ripe-abuse/palestinian-child-labor-israeli-agricultural-settlements-west-bank.

Yigal Allon. The plan proposed settling the entire length of the valley with agricultural communities to ensure Israeli presence along what Allon called "defensible borders."[351]

The state took control over the land for agricultural settlements in a number of ways, including appropriating 5,000 *dunams* (500 hectares) of private Palestinian property.[352] In 2013, Israel's state comptroller reported that the head of the Civil Administration wrote in a letter to government officials that most settlement agriculture is on land not designated for agriculture or on private Palestinian land:

> The majority of [Israeli] agriculture in Judea and Samaria is based on contracts with the World Zionist Organization without any direct contract with the Commissioner [for state land and absentee property] and a sizable number of these contracts are not designated for agriculture or were given for private [Palestinian] land.[353]

Agricultural settlements benefit from Israel's discriminatory allocation of land and water to settlers and an absence of government oversight over labor conditions. Only 9,500 Israeli settlers live in the Jordan Valley and Dead Sea area—dispersed among around 40 settlements (including settlement "outposts").[354] By contrast, between 60,000 and 80,000

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[351] The Allon Plan opposed settlements in most other parts of the West Bank, except Gush Etzion and Hebron Hills. It formed the basis of Israel's settlement strategy until Menahem Begin came to power in 1977. See footnote 4. In recent decades, there has been a heated debate within Israel's security establishment about the importance of the Jordan Valley for security purposes given advances in weapons technology. See, e.g., David Newman, "Borderline Views: The Implications of Annexing the Jordan Valley," *Jerusalem Post*, January 6, 2014, http://www.jpost.com/Opinion/Columnists/Borderline-Views-The-implications-of-annexing-the-Jordan-Valley-337289 (accessed June 30, 2015). For example, a report by the Council for Peace and Security, an Israeli organization of veterans of the security establishment, concluded in a 2001 report that "The Jordan Valley and the West Bank are irrelevant in the context of the current threats" to Israeli security. "Defensible Borders and Strategic Depth," September 2011, http://www.shaularieli.com/image/users/77951/ftp/my_files/articles_in_english/brochure_eng.pdf?id=9345485 (accessed June 30, 2015).

[352] In October 2013, the heirs of the Palestinian owners of this land sued for return of the land. On April 20, 2015, the Supreme Court ordered the state to show cause why it had not returned the land, which it admits was privately owned. Chaim Levinso, "Israel's High Court Blasts State for Giving Palestinian-Owned Land to Settlers," *Haaretz*, April 21, 2015 http://www.haaretz.com/news/diplomacy-defense/.premium-1.652778 (accessed June 30, 2015).

[353] State Comptroller, *Annual Report 63b*, "Aspects of the Activities of the Unit for the Commissioner of State Land and Abandoned Property in Judea and Samaria," p. 169.

[354] It is difficult to establish the exact number since at least seven of the settlements were established without official Israeli authorization and are considered illegal "outposts" under Israeli law, but Israel provides them with water, electricity, and road access, as well as security. See B'Tselem, "Dispossession and Exploitation," May 2011, p. 8, https://www.btselem.org/download/201105_dispossession_and_exploitation_eng.pdf (accessed November 6, 2015).

Palestinians live in the area, constituting around 90 percent of the population. Yet Israel denies them the ability to build, cultivate or herd on around 87 percent of the land in the area, which Israel has restricted for settlements or military use only.[355]

The water-intensive settlement agriculture industry also heavily relies on water drawn from an aquifer entirely within the West Bank, with the cost of water extraction and provision subsidized by Israel. The Eastern Aquifer lying beneath the Jordan Valley contains one third of the West Bank's underground water resources. According to B'Tselem, the 9,500 settlers in the Jordan Valley use around 44.8 million cubic meters of water a year, an amount equal to one-third the total amount used by the West Bank's 2.6 million Palestinians.[356] B'Tselem also found that in 2011, Israel allotted the average household in Jordan Valley settlements 7.5 times more water than the average Palestinian household in the same region (450 versus 60 liters per day).[357] Palestinian farmers' limited access to water and the higher price they pay for water have crippled their farms and livelihoods.[358]

Labor conditions appear to be even more dismal for Palestinians who work on settlement farms than they are in industrial zones. At least 6,000 Palestinians work in settlement agriculture in the Jordan Valley, and double that number during harvest season, according to Jordan Valley settlers.[359] Human Rights Watch's recent report*, Ripe for Abuse: Palestinian Child Labor in Israeli Agricultural Settlements in the West Bank*, found that most Palestinian workers in the settlement agricultural sector earned 60 to 70 shekels per day ($17.50), around one-third of the minimum wage in Israel, and had no medical

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355 United Nations Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "Humanitarian Fact Sheet on the Jordan Valley and Dead Sea Area", February 2012, https://www.ochaopt.org/documents/ocha_opt_jordan_valley_factsheet_february_2012_english.pdf (accessed on November 6, 2015), p.1. B'Tselem, "Background on the Jordan Valley," May 18, 2011, http://www.btselem.org/jordan_valley (accessed November 6, 2015).

356 B'Tselem, "Dispossession and Exploitation," May 2011, pp. 24-25, citing Palestinian Central Bureau of Statistics, "Annual Available Water Quantity by Region and Source, 2008," in Statistical Yearbook No. 10 (2009), 516. The original source of these numbers is the 2008 Palestinian Central Bureau of Statistics, but an official from Israel's Water and Sewage Authority told B'Tselem there hadn't been any "significant changes" in settlement water consumption in 2008 from previous years.

357 B'Tselem, *Acting the Landlord: Israel's Policy in Area C*, June 2103, p. 63. The data is based on an annual compendium of the Israel Water Authority and a Palestinian Authority report on the Jordan Valley.

358 See Human Rights Watch, *Separate and Unequal*, pp. 17-19, and *Ripe for Abuse*, pp. 21-26.

359 "Jordan Valley Settlements Hurt by Boycott Campaign," *Ynet News*, January 11, 2014, http://www.ynetnews.com/articles/0,7340,L-4475446,00.html (accessed July 1, 2015).

insurance or other benefits.[360] The report also highlights how the regulatory vacuum creates an enabling environment for child labor.[361] A recent investigative article in *The Marker*, an Israeli newspaper focused on the economy, similarly found that many Palestinians working in agricultural settlements work 16-hour days, seven days a week, for eight shekels ($2) an hour – one-third the Israeli minimum wage.[362] The revelations prompted a Knesset debate on labor conditions in the settlement agricultural sector, which several Knesset members described as "modern slavery."[363] In July 2015, the right-wing Jewish Home party dropped its effort to apply Israeli labor laws in the West Bank, reportedly because farmers argued that paying Palestinians under the terms required by Israeli laws would bankrupt them.[364]

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[360] Human Rights Watch, *Ripe for Abuse*, p. 3.

[361] Ibid.

[362] Tali Haruti-Sover, "8 Shekels per Hour, 16 Hours per Day, 7 Days per Week – and Without Social Benefits," *The Marker*, May 11, 2014 http://www.themarker.com/career/1.2317621 (accessed July 1, 2015).

[363] Meeting of the Committee of Labor, Welfare, and Health, Protocol No. 233, May 27, 2014. See also Tali Haruti-Sover, "'Employment of Palestinians in the Jordan Valley is Reminiscent of *12 Years a Slave*,'" *The Marker*, May 28, 2014, http://www.themarker.com/career/1.2333461 (accessed July 1, 2015).

[364] Chaim Levinson, "Israeli Right-wing Party Drops Bid to Have Israeli Labor Law Apply in West Bank," *Haaretz*, July 21. 2015, http://www.haaretz.com/israel-news/.premium-1.666995 (accessed December 20, 2015).

Annex II: Freedom of Movement and Restricting Access to Lands

Businesses involved in the expansion of settlements contribute to the violation of Palestinian rights in addition to the rights of landowners from whom Israel confiscated land. Palestinians are virtually cut off from vast areas of land, much of which Israel recognizes to be private Palestinian land, by a network of fences that surround settlements. These restrictions have harmed thousands of Palestinian farmers' livelihoods, further demonstrating how private interests' involvement in settlement expansion harms Palestinians.

Since Ariel's establishment, Israel built three security fences around it, in each case expanding the areas enclosed: the first in the 1980s, a second fence in 1993, and most recently the separation barrier in 2004.[365] Israel confiscated some private land for the route of the fences, and, although it never formally confiscated them, it has effectively fenced-off thousands more *dunams* from their owners, who are now subject to a complex set of administrative restrictions in order to access their land.[366] In 2004, the separation barrier around Ariel divided Palestinians from 9,000 *dunams* (900 hectares) of their land – 3,500 *dunams* (350 hectares) belong to more than 200 farmers from Salfit, with the remainder belonging to the nearby villages of Haris, Kifl Haris, Iskaka, Marda, and Qira.[367]

Officially justified on security grounds, the route of the fences and walls surrounding settlements frequently encompass land reserves to enable the expansion of the land surrounding settlement businesses and residential areas. The barriers are located hundreds, even thousands, of meters from the edge of settlements' built-up areas, creating what the Israeli military calls a "buffer zone" or "seam zone" necessary to prevent

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[365] Some interviewees have said that Israel never actually constructed the second fence, but Human Rights Watch has been unable to confirm this claim. Human Rights Watch interview with Nitham Shtayye, Salfit, December 16, 2014.

[366] Order 45/04 to appropriated land to the south and east of Ariel for the route of the separation, order 32/05 appropriated lands to the north, and order 178/05 to the northwest. Information obtained from the Civil Administration by Dror Etkes.

[367] B'Tselem and Bimkom, "Under the Guise of Security: Routing the Separation Barrier to Enable the Expansion of Israeli Settlements in the West Bank" December 2005, p. 72, http://www.btselem.org/publications/summaries/200512_under_the_guise_of_security (accessed December 5, 2015). Human Rights Watch interviews with Dirar Afaneh and Ibrahim Afaneh, Salfit, December 17, 2014.

terrorists from infiltrating settlements.[368] Officials claim that any obstacle to Palestinian farmers reaching their land is temporary and that the "fence does not give one centimeter to the settlements."[369]

However, B'Tselem analyzed the route of the separation barrier around 12 settlements, including Ariel, and found in each case that the barrier's route corresponds precisely to the outline of the settlement's plan for expansion. The Afaneh case, discussed above, illustrates one way in which settlers can seek to expand onto the land between the barrier and the existing settlement, undermining the argument that the large "buffer zone" was necessary for security. In a few cases, Israel's Supreme Court agreed that the military planned the route of the separation barrier, and thus the extent of Palestinian land it encompassed, not to address security concerns but to accommodate future settlement growth.[370] In one case, the court noted that the enlarged area of land encompassed by the separation barrier contradicted the military's own topographical rationale for the route of the barrier in other cases, making its location less safe than if it had constructed the route only with the existing settlements in mind.[371] The founder of Fence for Life, a group established to pressure the Israeli government to build a separation barrier between Israelis and Palestinians in the West Bank, stated in 2012: "Of course the fence would also have political implications," he said. "The more land you keep between the fence and the Green Line – the more you can negotiate later."[372]

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[368] One example is the case of Beit Surik, a Palestinian village located northwest of Jerusalem. Israel confiscated almost 5,000 dunams (500 hectares) of the village's land for the route of the separation barrier, which will separate the villagers from an additional 37,000 dunams, 26,500 of which are agricultural lands that have been cultivated for many generations. Justice Aharon Barak ruled that the injury to the local inhabitants is disproportionate and stated that there was a need for a "renewed examination of the route of the fence, according to the standards of proportionality that we have set out." *Beit Sourik Village Council v. The Government of Israel*, HCJ 2056/04 (June 30, 2004), para. 85, http://elyon1.court.gov.il/Files_ENG/04/560/020/A28/04020560.A28.pdf (accessed November 6, 2015).

[369] B'Tselem and Bimkom, "Under the Guise of Security," 2005, p. 12.

[370] In one case, the State attorney admitted to the court that "in planning the route in the area, consideration was given to the existence of a plan that is under preparation, but has not yet gained official approval." Ibid., p. 16, referring to HCJ 2732/05, Head of the 'Azzun Local Council et al. v. Government of Israel et al., section 5.

[371] HCJ 8414/05, Bil'in Village Council Chairman v. Government of Israel, para. 38.

[372] Haggai Matar, "The Wall, 10 Year On: The Great Israeli Project," *972mag*, April 9, 2012, http://972mag.com/the-wall-10-years-on-the-great-israeli-project/40683/ (accessed November 6, 2015).

In Ariel, the construction of each successive fence has encroached on Palestinian land as the settlement continues to expand.[373] In July 2005, the year following the construction of the separation barrier, then-Prime Minister Ariel Sharon, while visiting Ariel, said: "Again, I make clear that this is one of the most important [settlement] blocs, and it will always be a part of the state of Israel. . . . I've come to see how to expand the city and strengthen the bloc, as I am doing with other blocs."[374]

Impact of Restrictions on Farmers' Access to their Land

Human Rights Watch interviewed fourteen farmers from the town of Salfit and village of Marda who own land to which Ariel's fence has cut off their access; in addition, Israeli authorities confiscated some of these farmers' land. In each case, the farmers described how Israeli restrictions on access to Palestinian land drastically reduce the productivity of their harvests, to the extent that two farmers Human Rights Watch spoke with had stopped cultivating all or part of their land altogether, despite their fears that Israel may designate it as state land on the basis that Palestinians have not continuously cultivated it. [375] The farmers may access their lands two or three times a year for a limited number of days, with the prior permission of the Israeli military, known as "coordination." In 2014, the military allotted less than eight days for Palestinians to harvest their lands cut off by the separation barrier, from October 15 to 25, except for Friday afternoon and Saturday.[376] If it is raining during the annual periods when the military permits access, farmers cannot work, but the military does not extend the access period as a result. All farmers interviewed explained that the amount of time the Israeli military allotted was woefully inadequate. They said that the harvest season should last at least two months and that it would take them one month to properly harvest their land.

Farmers also complained that on days when the military permits access, the military opens the gates only twice a day for around half hour.[377] The gates are supposed to open at 8:00 am and close at around 4:00 p.m., but sometimes the farmers are made to wait four or five

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[373] Human Rights Watch interviews with Palestinian farmers from neighboring town of Salfit, December 16, 2014.

[374] Prime Minister's Office, "The Prime Minister Toured the City of Ariel," July 21, 2005, http://www.pmo.gov.il/MediaCenter/Events/Pages/event210705.aspx (accessed December 2, 2015).

[375] Human Rights Watch interviews with Abd al-Rahman D. and Nitham Shtayye, Salfit, December 16, 2014.

[376] Human Rights Watch interview with Abd Z., Salfit, December 16, 2014.

[377] Human Rights Watch interview with head of Marda village council, Osama Khufash, Marda, March 29, 2015.

hours before they open, and then they cannot leave until they re-open in the afternoon.[378] They do not allow cars to enter, even though some farmers' land is located several kilometers from the gate.[379]

Some farmers also expressed fear that the physical barrier between them and their lands might turn into a total refusal of their right to access or eventual annexation. The military normally prohibits farmers from bringing tractors, with the exception of one tractor during the harvest season. Since the area is considered a "buffer zone," farmers require a military permit to plant new trees.[380]

Abd al-Rahman D. lost 50 *dunams* (five hectares) of land, planted with root vegetables, which Israel allocated to Ariel and its surrounding infrastructure, he told Human Rights Watch.[381] The military confiscated 15 *dunams* of his land in 1978 for the original settlement of Ariel, and confiscated the remaining 35 in the 1980s for the first security fence. He successfully sued for the return of the 35 *dunams* – only to then have the military restrict his access to them in 1993, when it built the second fence around the settlement. He has since stopped cultivating these 35 *dunams* entirely. "There are many obstacles," he said. "The army doesn't allow enough time [to cultivate the land], I can't bring in tractors, and they don't allow us to plant new olive trees." He's afraid Israel will declare the land as belonging to the state if it's not cultivated, but he cannot afford the investment. In 2012, he said, the International Committee of the Red Cross arranged a relief project to help farmers plant new trees on their land.[382] Some farmers were able to overcome the administrative obstacles and plant the trees, but all of their trees died because of insufficient irrigation, Abd al-Rahman said.

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[378] Human Rights Watch interview with Nitham Hakamat, Marda, March 29, 2015.

[379] Human Rights Watch interview with Osama Khufash, head of Marda village council, Marda, March 29, 2015. Khufash's property, for example, is five kilometers from the gate.

[380] Human Rights Watch phone interview with Saed Nazzal, International Committee of the Red Cross fieldworker in the Salfit region, March 27, 2015.

[381] Human Rights Watch interview with Abd al-Rahman D., Salfit, December 16, 2014.

[382] Human Rights Watch interview with Abd al-Rahman D., March 22, 2015. In 2012, the International Committee of the Red Cross had a program providing technical assistance and seedlings to farmers located in "problematic areas in order to improve access of farmers" facing Israeli restrictions, according to Saed Nazzal, an ICRC fieldworker in the region of Salfit.

Abd al-Rahman has six children, three of whom attend university. In order to pay their tuition, he sold five *dunams* (0.5 hectares) of his land. "It used to be that the land would make money, but it's no longer a source of income," he said. According to several farmers from Salfit, each *dunam* of land can be planted with 20 olive trees; each tree can produce around 15 liters of olive oil a year, at a value of US$70, making the output of one *dunam* of olive trees worth $1,400 annually. A *dunam* of wheat can be sold for $400. "If, since 1980, I had been able to cultivate my land, I would not have had to sell the five *dunams* to pay for my children's education," Abd al-Rahman said.

Nitham Shtayye, another farmer from Salfit, inherited 80 *dunams* of land from his father and grandfather, 30 planted with olive trees and 50 with field crops such as wheat and barley.[383] He said the military restricted his access to the land since the separation barrier was erected in 2004. He stopped cultivating the 50 *dunams* because of the nearly insurmountable access restrictions, he said. In 2011, he learned that Israeli officials had declared these 50 *dunams* as "absentee property." He continues to do the best he can with the olive trees, he said. He later smuggled in and planted 50 new olive tree seedlings on the land, but they all died because of a lack of irrigation, he said. "Before, my 30 *dunams* of olive trees usually produced 9,000 liters of oil," worth approximately $42,000, Nitham said. "This year, I only made 450 liters," worth about $2,100. Nitham, like other farmers, worries that Israel will eventually fully confiscate his land. Human Rights Watch observed photographs Nitham had taken of Israeli survey marks on his property as well as on other Palestinians' lands. He said he had asked the Israeli authorities the purpose for these marks, without receiving a response as of December 2014. He and several other farmers in Salfit said they worry that the marks may portend confiscation.

Another farmer, Mahmoud R., has 30 *dunams* planted with 350 olive trees, but the separation barrier built in 2004 divides the plot in two: 22 *dunams* lie on the "Ariel side" of the barrier.[384] "Even when I go to work on my 8 *dunams* on this side of the wall, the soldiers kick me out. They threatened me that if I come back they'll shoot me in my legs," most recently in February or March of 2013, Mahmoud said. Ahmad A., a farmer who has 15 *dunams* of land that the separation barrier splits in half, described receiving similar

[383] Human Rights Watch interview with Nitham Shtayye, Salfit, December 16, 2014.

[384] Human Rights Watch interview with Mahmoud R., Salfit, December 16, 2014.

threats: “A soldier threatened to shoot my leg if I didn’t get out. They watch you from the tower. If they see you cultivate, they tell you to go away.”[385]

Mahmoud continues to try to cultivate his land, but only obtains a fraction of its previous output due to Israeli restrictions. “Tractors are forbidden. I can only use hand tools. Only in harvest season, I can use one tractor to carry the olives picked,” he said. Mahmoud said soldiers had urged him to sell his land to Israeli settlers.

> Soldiers came to me more than five times to ask if I want to sell the land. They said, “You are working and getting tired for nothing. If you are afraid of the Palestinian Authority, we’ll send you to Jordan or America and give you money.” I refused. An old man who was beside me picked up soil in his hand and said, “this is more valuable to me than all the money in Israel.”

Like the case of Abd al-Rahman, Abd Z., an elderly farmer who has 50 *dunams* of land “behind” the wall around Ariel planted with olive trees, told Human Rights Watch he was forced to sell his land due to economic hardship. Abd said he sold one *dunam* to marry off his son. “My father and grandfather depended on the land for food. The bread [we made] came from the wheat. They planted sesame, beans.”[386] He added: “I am one of hundreds of farmers in the same situation.”

[385] Human Rights Watch interview with Ahmad A., Salfit, December 16, 2014.

[386] Human Rights Watch interview with Abd Z., Salfit, December 16, 2014.

Annex III: Letter from Human Rights Watch to [redacted]

April 20, 2015

[redacted]
Chairman and Founder
[redacted]
[redacted]
[redacted]

Dear Mr. [redacted],

We write to request information in connection with research that Human Rights Watch has carried out with regard to businesses engaged in activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in 90 countries around the world.
Our research indicates that [redacted] is currently constructing an apartment complex in the settlement of Ariel in the West Bank.

Consequently, I am writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views and comments in our forthcoming report.

According to your website, [redacted] is currently constructing Green Ariel, a six-building, 96-apartment complex in Ariel.[387] Green Ariel, like all construction in Israeli settlements, is built on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying power to appropriate property it

[387] [redacted]

occupies for military purposes or for the benefit of the occupied people.[388] By constructing homes in an Israeli settlement, [redacted] would appear to be facilitating another Israeli violation of international law, the prohibition against the transfer by an occupying power "its own civilian population into the territory it occupies."[389]

Companies have a responsibility to protect and respect human rights. The United Nations Guiding Principles on Business and Human Rights articulate this as a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." The Guiding Principles also direct companies to undertake adequate due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts."[390]

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. Does [redacted] conduct due diligence to determine the legal status of land it acquires and/or develops?
2. Does [redacted] receive subsidies or other preferential terms from the Israeli government or from the accompanying bank financing the project for development in Ariel due to its status as a National Priority Area? Do purchasers of Green Ariel apartments receive such preferential treatment indirectly benefitting [redacted]?
3. Does [redacted] pay land or other taxes to Ariel municipality? Please provide relevant details.
4. Does [redacted] have a human rights due diligence policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

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[388] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid., article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[389] Fourth Geneva Convention, article 49, para. 6.

[390] United Nations, Guiding Principles on Business and Human Rights (A/HRC/17/31), para. 17, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed April 20, 2015).

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex IV: Letter from Human Rights Watch to [redacted]

April 20, 2015

Eliezer Priel
Chief Executive Officer
Hanson Israel
[redacted]
[redacted]

Dear Mr. Priel,

We write to request information in connection with research that Human Rights Watch has carried out with regard to businesses engaged in activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in 90 countries around the world.

Our research indicates that Hanson Israel, a subsidiary of Heidelberg Cement, owns and operates a quarry in the occupied Palestinian territories. Consequently, I am writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views and comments in our forthcoming report.

According to Human Rights Watch's information, Hanson Israel, which Heidelberg Cement acquired in 2007, owns and operates Nahal Rabba quarry. The quarry, which extracts and crushes dolomite to produce about 4,000 tons of gravel a day, is located on land appropriated by Israel in apparent violation of international humanitarian law, which only

permits an occupying power to appropriate property it occupies for military purposes or for the benefit of the occupied people.[391]

Furthermore, international humanitarian law only permits an occupying power to extract resources territory it occupies for the benefit of the local population. Yet our research shows that Hanson pays Israel royalties for the resources it extracts in Nahal Rabba quarry and it appears that almost all of the concrete and asphalt it produces is sold on the Israeli market or exported abroad, not used for the benefit of the local population.

Companies have a responsibility to protect and respect human rights. The United Nations Guiding Principles on Business and Human Rights articulate this as a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." The Guiding Principles also direct companies to undertake adequate due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts."[392]

Reflecting these responsibilities, Heidelberg Cement's Corporate Citizenship Policy commits the company and its subsidiaries to act with "openness and dialogue, fairness towards economic partners, responsibility to employees and locations."[393] The policy also notes: "As a good corporate citizen, Heidelberg Cement maintains a lively exchange with local communities and provides an impetus for an active, vital society."

Based on those considerations, we would appreciate receiving your responses to the following questions:

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[391] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid., article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[392] United Nations, Guiding Principles on Business and Human Rights (A/HRC/17/31), para. 17, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed April 20, 2015).

[393] Heidelberg Cement, Corporate Citizenship Policy, http://www.heidelbergcement.com/en/corporate-social-responsibility (accessed April 9, 2015).

1. What amount of taxes, royalties, and other fees does Hanson Israel pay annually to Israel for the extraction of resources and associated facilities in the occupied Palestinian territories?
2. Does Hanson Israel pay taxes, royalties, or other fees to the Palestinian Authority?
3. How many Palestinians does Hanson's facility in Nahal Rabba employ full-time? Does Hanson provide comparable social benefits, including health insurance, for Israeli and Palestinian employees?
4. Does Hanson Israel have a human rights or corporate social responsibility due diligence policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex V: Letter from Human Rights Watch to [redacted]

April 20, 2015

[redacted] and [redacted]
Co-owners
[redacted]
[redacted]
[redacted]

Dear [redacted] and [redacted],

We write to request information in connection with research that Human Rights Watch has carried out with regard to business activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, non-governmental organization that monitors and reports on human rights in 90 countries around the world.
Our research indicates that your company operates a textile factory in an Israeli settlement in the West Bank. We are writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views in our forthcoming report.

[redacted] operates a factory in the Barkan industrial zone, an Israeli settlement in the West Bank, according to a list of factories published on Barkan's website.[394] As such, the factory operates on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying power to appropriate property it

[394] Samaria Regional Council website, List of Factories in Barkan Industrial Zones as of January 15, 2015, http://www.shomron.org.il/?CategoryID=308 (accessed April 8, 2015) [Hebrew].

occupies for military purposes or for the benefit of the occupied people.[395] Our research also found that [redacted] pays taxes to Barkan, which is also a residential settlement, thereby facilitating another Israeli violation of international law, the prohibition against the transfer by an occupying power "of its own civilian population into the territory it occupies."[396]

Our research also indicates that [redacted] has taken advantage of the two-tiered system that Israel operates in the West Bank, whereby Palestinians working in Israeli settlements are afforded significantly weaker labor rights protections than their Israeli colleagues, despite an Israeli High Court ruling in 2007 holding that Israeli labor laws apply to all employment relationships in settlements. Dozens of Palestinian employees filed lawsuits from 2008 to 2012 alleging that [redacted] paid them significantly less than the minimum wage stipulated in Israeli law, and refused to provide social benefits such as sick days, vacations days, and overtime. Women workers reported being paid on average 2 shekels ($0.50) less per hour than men, also in alleged violation of Israeli law. All cases settled out of court.[397]

The United Nations Guiding Principles on Business and Human Rights Companies articulate companies' responsibility to protect and respect human rights. Under the Guiding Principles, companies have a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." Companies are expected to undertake adequate due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts."[398]

Based on those considerations, we would appreciate receiving your responses to the following questions:

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[395] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property aif "absolutely necessary" for military operations. See ibid, article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[396] See Fourth Geneva Convention, article 49.

[397] Letter from [redacted] to Business & Human Rights Resource Centre, September 18, 2008.

[398] United Nations Guiding Principles on Business and Human Rights, para. 17.

1. Please provide the locations of [redacted] business operations, including production facilities, in Israel and in the West Bank.
2. Does [redacted] market and/or export goods produced in its Barkan facility as "Made in Israel"?
3. How many people does [redacted] employ in its Barkan facility? How many of those employees are Palestinian residents of the West Bank? How many are Israeli residents of the West Bank?
4. Are contracts with Israeli and Palestinian employees of [redacted] governed by the same labor protections?
5. Do all Palestinian employees receive at least Israel's minimum wage and other benefits to which Israelis are entitled under Israeli law? How many Palestinian employees receive more than the specified minimum wage?
6. Do all Palestinian employees receive pay slips recording hours worked and wages earned? Are men and women paid equally for comparable work?
7. With regard to the lawsuits filed against [redacted] by Palestinian employees between 2008 and 2012, according to the workers' rights group Kav LaOved, workers involved have alleged that [redacted] engaged in tactics to discourage employees from filing such suits, pressured them to withdraw their complaints, and retaliated against them for continuing to pursue their claims. We would appreciate your response to these claims.
8. Please provide information as to the amount of taxes, fees, or other payments made by [redacted] for the operation of its facility in the Barkan industrial zone. Please also indicate which Israeli authorities, including municipal authorities, they are paid to.
9. Please provide information regarding the value of any governmental incentives or subsidies received by [redacted] operations in the Barkan industrial zone, including preferential tax treatment, subsidies, or other financial benefits, due to its location in Barkan.
10. Does [redacted] have a human rights or other corporate social responsibility policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org). Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex VI: Letter from [redacted] to Human Rights Watch

[redacted]

May 21st 2015

To:
Human Rights Watch
350 fifth Avenue, 34th floor
NY, NY 10118-3299
Tel: 212-290-4700

Dear Ms. Sarah Leah Whitson and Mr. Chris Albin-Lackey.

We have received your letter dated May 7th, yesterday on Wednesday May 20th.

All stated in your letter regarding human and workers rights is inaccurate, incorrect and does not reflect the reality and the facts as it is.

We are ready to meet with your representative office in Israel and present the real picture.

We find it necessary to indicate that our Palestinian workers receive wages and social benefits according to the Israeli labor law and that they work in a modern facility with appropriate environmental conditions.

Our workers are treated fairly and respectfully and we are willing to do everything possible for their benefit and welfare. We will be glad to cooperate with you to achieve this goal.

To coordinate a meeting, please send an e mail to Ms. [redacted] at: [redacted]@[redacted].co.il or call: [redacted].

Sincerely,

[redacted] [redacted]

Annex VII: Letter from Human Rights Watch to Heidelberg Cement

April 20, 2015

Stefanie Kaufmann
Sustainability Communications Manager
Heidelberg Cement
[redacted]

Dear Ms. Kaufmann,

We write to request information in connection with research that Human Rights Watch has carried out with regard to businesses engaged in activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in 90 countries around the world.
Our research indicates that Heidelberg Cement owns and operates, through its subsidiary Hanson Israel, a quarry in the occupied Palestinian territories. Consequently, I am writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views and comments in our forthcoming report.

According to Human Rights Watch's information, Heidelberg Cement acquired Hanson in 2007, including its Israeli subsidiary, which owns and operates Nahal Rabba quarry. The quarry is located on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying power to appropriate property it occupies for military purposes or for the benefit of the occupied people.[399] Furthermore,

[399] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid., article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

international humanitarian law only permits an occupying power to extract resources from territory it occupies for the benefit of the local population.

Yet our research shows that Hanson pays Israel royalties for the resources it extracts from Nahal Rabba quarry and it appears that almost all of the concrete and asphalt it produces is sold on the Israeli market or exported abroad, not used for the benefit of the local population.

Companies have a responsibility to protect and respect human rights. The United Nations Guiding Principles on Business and Human Rights articulate this as a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." The Guiding Principles also direct companies to undertake adequate due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts."[400]

Reflecting these responsibilities, Heidelberg Cement's Corporate Citizenship Policy commits the company and its subsidiaries to act with "openness and dialogue, fairness towards economic partners, responsibility to employees and locations."[401] The policy also notes: "As a good corporate citizen, Heidelberg Cement maintains a lively exchange with local communities and provides an impetus for an active, vital society."

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. What amount of taxes, royalties, and other fees does Heidelberg Cement, through its subsidiary Hanson Israel, pay annually to Israel for the extraction of resources and associated facilities in the occupied Palestinian territories?
2. Does Heidelberg Cement, through its subsidiary Hanson Israel, pay taxes, royalties, or other fees to the Palestinian Authority?

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[400] United Nations, Guiding Principles on Business and Human Rights (A/HRC/17/31), para. 17, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed April 20, 2015).
[401] Heidelberg Cement, Corporate Citizenship Policy, http://www.heidelbergcement.com/en/corporate-social-responsibility (accessed April 9, 2015).

3. How many Palestinians does Hanson's facility in Nahal Rabba employ full-time? Does Hanson provide comparable social benefits, including health insurance, for Israeli and Palestinian employees?
4. Does Heidelberg Cement have a human rights or corporate social responsibility due diligence policy in addition to its Corporate Citizenship Policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex VIII: Letter from Heidelberg Cement to Human Rights Watch

HeidelbergCement AG · P.O. Box [redacted]
[redacted] Heidelberg
Human Rights Watch
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

HeidelbergCement AG

[redacted]
[redacted] Heidelberg
Germany
Phone +[redacted]
Fax +[redacted]
Andreas Schaller
[redacted]@heidelbergcement.com

19th May 2015

Your request for information dated 22nd April 2015

Dear Ms. Whitson,
Dear Mr. Albin-Lackey,

Thank you for contacting us directly with respect to your research. Below, please find the requested information concerning the activities of our subsidiary Hanson Israel:

> 1. What amount of taxes, royalties, and other fees does Heidelberg Cement, through its subsidiary Hanson Israel, pay annually to Israel for the extraction of resources and associated facilities in the occupied Palestinian territories?
>
> The Civil Administration in Judea and Samaria collects fees for the activity of the Israeli quarries located in Area C, mainly consisting of royalties. The Civil Administration is the Israeli governing body that operates in the West Bank and administers Area C of the West Bank. The mission of the Civil Administration has been defined in Military Order No. 947, by the 1981 military government of the West Bank and Gaza as follows: "*A Civilian Administration is hereby established in the*

region. The Civilian Administration will administer the civilian affairs in the region, in accordance with the directives of this order, for the well-being and good of the population and in order to supply and implement the public services, and taking into consideration the need to maintain an orderly administration and public order in the region."

The royalties relating to the quarry operation are calculated by the quantity of produce extracted from the quarry, and the rate of the royalties is determined regardless of its origin. The rate is the same as quarries in Israel – approx. 1.10 Euro/ton. It includes also a compulsory component for the quarry's rehabilitation to a Rehabilitation Fund. In 2014, our subsidiary Hanson Israel paid royalties of approx. 3,250,000 € and an additional 430,000 € of municipal taxes for the operation of the Nahal Raba quarry to the Shomron Regional Council, the governing municipal authority.

It needs to be emphasised that these revenues for quarrying activities in Area C are being designated as funding for the Civil Administration for the benefit of the residents of Area C.

2. Does Heidelberg Cement, through its subsidiary Hanson Israel, pay taxes, royalties, or other fees to the Palestinian Authority?

The Civil Administration is part of the Coordinator of Government Activities in the Territories (COGAT) disposition and constitutes the body responsible for implementation of government policy in Judea and Samaria and bettering these areas in civil matters in accordance with the guidelines set by the government and in coordination with ministries, the IDF and the security forces. In line with international provisions applicable to Area C and reflecting the Oslo Accords, which also define ownership and operation of quarries in Area C, Israel has total tax and royalty sovereignty over the quarries. As royalties and taxes for quarrying activities in Area C are being designated as funding for the Civil Administration for the benefit of the residents of Area C, we refer to our response to question 1 for further information on that matter.

3. How many Palestinians does Hanson's facility in Nahal Raba employ full-time? Does Hanson provide comparable social benefits, including health insurance, for Israeli and Palestinian employees?

In 2014, there were 36 Hanson employees with PA citizenship working at Nahal Raba quarry. These workers have exactly the same benefits and salaries as their Israeli counterparts (in fact their net salary is higher because the PA income tax rate is lower than the Israeli income tax rate). In addition, there are 25 additional employees with PA citizenship who work through sub-contractors at the quarry on a daily basis. In total, more than 60% of the workforce at Nahal Raba quarry is comprised by employees with PA citizenship. Hanson Israel provides therefore direct income and support to 61 Palestinian families. We would like to emphasise that at Hanson Israel, all employees (both Israeli and Palestinian citizens), whatever their ethnic origins and religious beliefs, are equally respected and have the same rights and working conditions; including occupational training and medical support.

4. Does Heidelberg Cement have a human rights or corporate social responsibility due diligence policy in addition to its Corporate Citizenship Policy? If so, please provide us with relevant details.

Our group-wide Code of Business Conduct and our Leadership Principles define the requirements for the ethical behaviour of our employees. As a global company, we are committed to global values and standards: the ILO core labour standards, OECD guidelines for multinational enterprises and the Universal Declaration of Human Rights of the United Nations. In line with this commitment we conduct case-specific impact assessments concerning our activities. On top of this, we are currently developing a group-wide tool to further improve our internal due diligence processes in the area of corporate social responsibility. This tool will inform and broaden our existing internal due diligence processes by providing a structured approach and assessment methodology.

In the specific case of Nahal Raba quarry, Hanson Israel conducted an intensive legal assessment regarding the compatibility with International Humanitarian Law provisions in conjunction with a court case brought forward by Yesh Din in 2009. In

> December 2011 the Israeli High Court of Justice confirmed in its ruling HCJ 2164/09 of 26th December 2011, based on numerous convincing arguments, that the operation of Nahal Raba is in full legal compliance with national and international laws. In addition, we have set up stakeholder with interested parties in order to make the quality and impact of the local operations transparent.

In this context and in addition, to the responses to your questions, we would like to clarify that the permitting of Nahal Raba quarry was fully in line with the provisions set out in article 55 of Hague Regulations of 1907 as Nahal Raba quarry was established on public land, which had been allocated for that purpose by the Civil Administration based on outline plans. The procedures for establishing a quarry in Judea and Samaria include checking land ownership, full statutory planning procedures and quarrying license procedures that permit the submission of objections. Based on the information we received no appropriation of private property has taken place, as no valid claims have been brought forward by local Palestinians during the permitting process of Nahal Raba quarry. The Palestinian Authority has also not brought forward any claims against Hanson Israel and HeidelbergCement that the establishment and operation of the Nahal Raba quarry violates international law.

Furthermore, we would like to emphasise that Hanson Israel does not discriminate Palestinian customers. The reason that a majority of resources quarried in Area C by Israeli- and also by Palestinian-owned quarries is sold to the Israeli market, is based on the mere fact that the Israeli market has the higher demand and that the Palestinian Authority prevents deliveries to Area A and B by means of a boycott policy. We would also like to clarify that Hanson Israel does not sell construction materials for the construction of Israeli settlements in the West Bank or the security barrier.

Based on the above mentioned facts, we are convinced that the operation of Nahal Raba is in line with the provisions of International Humanitarian Law and does not infringe the human rights and livelihoods of the Palestinian people. Quite to the contrary, we are convinced that the Palestinian population benefits from our operations due to the payment of royalties and provision of well-paid long-term employment opportunities and that a full cessation of our operations in the West Bank would have severe negative economic impacts for our Palestinian employees and their families, who compose the majority of our manpower in the West Bank.

Please do not hesitate to contact us in case of any questions or need for clarification.

Kind regards,

HeidelbergCement AG

Andreas Schaller
Director
Group Communication & Investor Relations

Annex IX: Letter from Human Rights Watch to RE/MAX Israel

April 21, 2015

Bernard Raskin
Chief Executive Officer
RE/MAX Israel

[redacted]

Dear Mr. Raskin,

We write to request information in connection with research that Human Rights Watch has carried out with regard to businesses engaged in activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, non-governmental organization that monitors and reports on human rights in 90 countries around the world.

Our research indicates that RE/MAX Israel operates a franchise in an Israeli settlement in the West Bank, that this and other franchises offer properties for sale or rent in Israeli settlements, and that RE/MAX international receives fees from the sales of settlement properties.

We are writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views in our forthcoming report.

According to RE/MAX Israel's website, there is a RE/MAX franchise in the Israeli settlement of Ma'aleh Adumim, in the West Bank, an area that has been under Israeli military occupation since 1967. In addition, several RE/MAX franchises located inside Israel offer

properties for sale or rent in Israeli settlements in the West bank. These properties, and the RE/MAX office in Ma'aleh Adumim, are located on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying power to appropriate property it occupies for military purposes or for the benefit of the occupied people.[402]

Palestinian residents of the West Bank are also effectively barred from purchasing properties offered by RE/MAX in Israeli settlements.[403] RE/MAX Israel, which lists these properties on its website in Hebrew, but not in Arabic, clearly markets them to Israeli civilians. By assisting Israelis to relocate to Israeli settlements, RE/MAX may be facilitating the transfer by an occupying power of "its own civilian population into the territory it occupies" in violation of international law.[404]

We understand too that RE/MAX Israel directly benefits from sales and rentals in Israeli settlements by collecting royalties and other fees on those sales and rentals.
On September 10, 2013, the UN Special Rapporteur on the situation of human rights in Palestinian territories occupied since 1967 presented findings in which he concluded that the activities of RE/MAX International and its Israeli franchise in settlements contravened their responsibility to respect international humanitarian and human rights law.

The United Nations Guiding Principles on Business and Human Rights Companies articulate companies' responsibility to protect and respect human rights. Under the Guiding Principles, companies have a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." Companies are expected to undertake adequate due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights

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[402] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid, article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[403] Virtually all East Jerusalem settlements are on land belonging to the Israel Land Authority, which requires special approval for homebuyers who are not residents or citizens of Israel or Jewish. Military Order Concerning Security Directives (Judea and Samaria) (No.378) 1970 prohibits non-Israelis from entering settlements without a permit, effectively requiring Palestinian residents of the West Bank to obtain a permit permitting them to live there.

[404] Fourth Geneva Convention, Article 49.6.

impacts."[405] RE/MAX Israel, as an affiliate of RE/MAX Europe, is also expected to adhere to that region's Code of Ethics, which states that "its affiliates shall undertake to eliminate any practice by real estate professionals in their community which could be damaging to the public."[406]

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. How many properties in Israeli settlements in the West Bank, including in East Jerusalem, have RE/MAX agents contracted for sale or rent in the past 12 months (up to the end of March 2015)?
2. How much revenue did RE/MAX Israel collect from such sales or rentals during that time period?
3. Has RE/MAX Israel taken any steps following the publication of UN Special Rapporteur's report on September 10, 2013, or at any other time, to prohibit its franchises from operating or offering properties in Israeli settlements? If so, please give details of these.
4. Does RE/MAX International have a company-wide policy prohibiting its franchise operators or agents from engaging in discrimination against potential clients on the basis of religion, ethnicity, or national origin?
    a. If so, what policies are in place, if any, for ensuring agents comply with corporate rules prohibiting discrimination?
    b. If so, does the policy address sales and rentals in communities with discriminatory restrictions on potential residents?
    c. Has RE/MAX sold or rented any properties in settlements in the West Bank or East Jerusalem to Arabs? How many in the last 12 months?
5. Does RE/MAX International have a human rights or corporate social responsibility policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

[405] Ibid., para. 17.

[406] See RE/MAX Europe website, Code of Ethics, http://www.remax.eu/Newsroom/ethics.aspx (accessed April 8, 2015).

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex X: Letter from Human Rights Watch to RE/MAX Holdings, Inc.

April 21, 2015

David Liniger
Chief Executive Officer, Chairman of the Board and Co-Founder
RE/MAX Holdings, Inc.
[redacted]

Dear Mr. Liniger,

We write to request information in connection with research that Human Rights Watch has carried out with regard to businesses engaged in activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, non-governmental organization that monitors and reports on human rights in 90 countries around the world.

Our research indicates that RE/MAX Israel operates a franchise in an Israeli settlement in the West Bank, that this and other franchises offer properties for sale or rent in Israeli settlements, and that RE/MAX international receives fees from the sales of settlement properties. We are writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views in our forthcoming report.

According to RE/MAX Israel's website, there is a RE/MAX franchise in the Israeli settlement of Ma'aleh Adumim, in the West Bank, an area that has been under Israeli military occupation since 1967. In addition, several RE/MAX franchises located inside Israel offer properties for sale or rent in Israeli settlements in the West bank. These properties, and the RE/MAX office in Ma'aleh Adumim, are located on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying

power to appropriate property it occupies for military purposes or for the benefit of the occupied people.[407]

Palestinian residents of the West Bank are also effectively barred from purchasing properties offered by RE/MAX in Israeli settlements.[408] RE/MAX Israel, which lists these properties on its website in Hebrew, but not in Arabic, clearly markets them to Israeli civilians. By assisting Israelis to relocate to Israeli settlements, RE/MAX may be facilitating the transfer by an occupying power of "its own civilian population into the territory it occupies" in violation of international law.[409]

We understand too that RE/MAX International directly benefits from sales and rentals in Israeli settlements by collecting royalties and other fees on those sales and rentals.

On September 10, 2013, the UN Special Rapporteur on the situation of human rights in Palestinian territories occupied since 1967 presented findings in which he concluded that the activities of RE/MAX International and its Israeli franchise in settlements contravened RE/MAX International's responsibility to respect international humanitarian and human rights law.

The United Nations Guiding Principles on Business and Human Rights Companies articulate companies' responsibility to protect and respect human rights. Under the Guiding Principles, companies have a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." Companies are expected to undertake adequate due diligence "in order to

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[407] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid, article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[408] Virtually all East Jerusalem settlements are on land belonging to the Israel Land Authority, which requires special approval for homebuyers who are not residents or citizens of Israel or Jewish. Military Order Concerning Security Directives (Judea and Samaria) (No.378) 1970 prohibits non-Israelis from entering settlements without a permit, effectively requiring Palestinian residents of the West Bank to obtain a permit permitting them to live there.

[409] Fourth Geneva Convention, Article 49.6.

identify, prevent, mitigate and account for how they address their adverse human rights impacts."[410]

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. How many properties in Israeli settlements in the West Bank, including in East Jerusalem, have RE/MAX agents contracted for sale or rent in the past 12 months (up to the end of March 2015)?
2. How much revenue did RE/MAX Israel and RE/MAX International, respectively, collect from such sales or rentals during that time period?
3. Has RE/MAX International taken any steps following the publication of UN Special Rapporteur's report on September 10, 2013, or at any other time, to prohibit its franchises from operating or offering properties in Israeli settlements? If so, please give details of these.
4. Does RE/MAX International have a company-wide policy prohibiting its franchise operators or agents from engaging in discrimination against potential clients on the basis of religion, ethnicity, or national origin?
    a. If so, what policies are in place, if any, for ensuring agents comply with corporate rules prohibiting discrimination?
    b. If so, does the policy address sales and rentals in communities with discriminatory restrictions on potential residents?
    c. Has RE/MAX sold or rented any properties in settlements in the West Bank or East Jerusalem to Arabs? How many in the past 12 months?
5. Does RE/MAX International have a human rights or corporate social responsibility policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

[410] Ibid., para. 17.

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex XI: Letter from Human Rights Watch to [redacted]

April 20, 2015

[redacted]
Bank President
[redacted]

Dear Mr. [redacted],

We write to request information in connection with research that Human Rights Watch has carried out with regard to businesses engaged in activities related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in 90 countries around the world.

Our research indicates that [redacted] finances construction and provides mortgages for real estate in Israeli settlements. Consequently, I am writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views and comments in our forthcoming report.

According to Human Rights Watch's information, [redacted] has an accompanying agreement with [redacted] for the development of Green Ariel, a construction project in Ariel. [redacted] also provides mortgages to Israeli buyers in Green Ariel and elsewhere in Israeli settlements. The bank's website advertises the pre-sale of apartments in several buildings under construction in settlements.

Green Ariel, like all Israeli settlements, is built on land Israel appropriated in apparent violation of international humanitarian law, which only permits an occupying power to appropriate property it occupies for military purposes or for the benefit of the occupied

people.[411] By financing construction and providing mortgages in Israeli settlements, [redacted] would appear to be facilitating another Israeli violation of international law, the prohibition against the transfer by an occupying power "of its own civilian population into the territory it occupies."[412]

The United Nations Guiding Principles on Business and Human Rights require business enterprises to carry out human rights due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts." Human rights due diligence should include impacts that a company "may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships."[413] Reflecting these responsibilities, [redacted] 2013 corporate social responsibility report noted that the "Bank ensures human rights in all its operations."[414]

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. Does [redacted] conduct due diligence to determine the legal status of the underlying land before providing financing or mortgages in Israeli settlements?
2. Does [redacted] offer its clients preferential terms for mortgages in Israeli settlements? Do the bank's clients receive subsidies or other preferential terms from the Israeli government, and from which the bank indirectly benefits, for the development or purchase of properties in Israeli settlements?
3. Is [redacted] the accompanying bank for apartments it lists for pre-sale on its website?
4. Does [redacted] have a human rights or corporate social responsibility due diligence policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

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[411] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid., article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[412] See Fourth Geneva Convention, article 49, para. 6.

[413] United Nations, Guiding Principles on Business and Human Rights (A/HRC/17/31), para. 17, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed April 20, 2015).

[414] Mizrahi Tefahot, Corporate Social Responsibility Report 2012-2013, page 106, available at https://www.mizrahi-tefahot.co.il/Lists/BankMizrahiSiteAssets/PDF-English/mizrahi_corporate_in_Separated_eng.pdf (accessed April 9, 2015).

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex XII: Letter from Human Rights Watch to [redacted]

April 21, 2015

[redacted]
Chief Executive Officer
[redacted]

Dear Mr. [redacted],

We write to request information in connection with research that Human Rights Watch has carried out with regard to business activity related to Israeli settlements in the West Bank, which we plan to publish in the coming months.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in 90 countries around the world.

Our research indicates that [redacted] acquired [redacted] assets in Israel on April 1, 2015. It appears that some of these operations include settlement-related activities. Consequently, I am writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views and comments in our forthcoming report.

According to information provided by Israel's Civil Administration on January 17, 2013, [redacted] owns and operates [redacted], located in the Jordan Valley. [redacted] also owns a permit to transport waste from Israel and Israeli settlements to the site. Our research indicates that [redacted] owned [redacted]. until your company acquired its assets in Israel, which we assume include [redacted].

As you may be aware, [redacted] is located on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying power to

appropriate property it occupies for military purposes or for the benefit of the occupied people.[415] By servicing Israeli settlements, [redacted] asset would appear to be facilitating another Israeli violation of international law, the prohibition against the transfer by an occupying power of "its own civilian population into the territory it occupies."[416]

In 2012, [redacted] told a journalist that the company sold the [redacted] facilities the previous summer to the nearby settlement of Masua and that it was only involved in an advisory role for a "short tail off period."[417] This information appears to contradict the information provided by the Civil Administration regarding [redacted] continued ownership of [redacted].

Companies have a responsibility to protect and respect human rights. The United Nations Guiding Principles on Business and Human Rights articulate this as a responsibility to "avoid causing or contributing to adverse human rights impacts through their own activities," as well as "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." The Guiding Principles also direct companies to undertake adequate due diligence "in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts."[418]

We understand that [redacted] has only recently acquired [redacted] Israel assets, but due diligence should have revealed the concerns outlined above given the media attention surrounding [redacted] role in [redacted].

Based on those considerations, we would appreciate receiving your responses to the following questions:

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[415] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid., article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[416] Fourth Geneva Convention, article 49, para. 6.

[417] Alex MacDonald, "The Trouble with [redacted] and Palestine," Huffington Post, October 26, 2012, http://www.[redacted]. [redacted] repeated this claim in May 2013 in an internal letter sent to the Brent Council in the United Kingdom. Letter from [redacted], [redacted] Communications Manager, to [redacted], Senior Contract Manager at [redacted] United Kingdom, May 21, 2013.

[418] United Nations, Guiding Principles on Business and Human Rights (A/HRC/17/31), para. 17, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed April 20, 2015).

1. Does [redacted] own and/or operate [redacted] Landfill through its subsidiary [redacted]?
    a. If not, what was the date of sale and to whom were the facilities sold? When were management operations transferred and to whom? Does [redacted] retain any role, as an advisor or otherwise, in managing [redacted] or transporting waste from Israel or Israeli settlements to waste treatment facilities in the occupied Palestinian territories? Please provide all relevant details.
    b. If so, was [redacted] aware prior to its acquisition of [redacted] Israel assets that [redacted] is located in the occupied West Bank?
2. Are you aware, what amount, if any, of waste originating from Palestinian areas in the West Bank were processed at [redacted] since [redacted] took ownership of [redacted] in 2007? What is the current amount of waste originating from Palestinian areas in the West Bank is processed at [redacted]?
3. Does [redacted] have a human rights or corporate social responsibility due diligence policy? If so, please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex XIII: Letter from Human Rights Watch to [redacted]

April 21, 2015

[redacted]
Associate General Counsel
[redacted]
[redacted]
[redacted]

Dear Ms. [redacted],

We write to request information concerning commercial links between [redacted] and [redacted], a textile manufacturer and supplier that operates a factory in an Israeli settlement in the West Bank.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in 90 countries around the world.

Human Rights Watch will publish a report based on research we are conducting into business activities related to Israeli settlements in the West Bank. Our research indicates that [redacted], which operates a factory in an Israeli settlement, has supplied textiles to [redacted].

We are writing to seek your response to several questions, set out below. We would appreciate it if you could provide us with a reply by May 20, 2015 so that we can reflect your views in our forthcoming report.

Based on publicly available bills of lading, [redacted] appears to have received at least 12 shipments from [redacted] between August 27, 2013 and July 29, 2014. [redacted], previously called [redacted], operates a factory in the Barkan industrial zone, an Israeli settlement in the West Bank, according to a list of factories published on

Barkan's website.[419] As such, the factory operates on land appropriated by Israel in apparent violation of international humanitarian law, which only permits an occupying power to appropriate property it occupies for military purposes or for the benefit of the occupied people.[420] Our research also found that [redacted] pays taxes to a settlement municipality, thereby facilitating another Israeli violation of international law, the prohibition against the transfer by an occupying power "of its own civilian population into the territory it occupies."[421]

Our research also indicates that [redacted] has taken advantage of the two-tiered system that Israel operates in the West Bank, whereby Palestinians working in Israeli settlements are afforded significantly weaker labor rights protections than their Israeli colleagues, despite an Israeli High Court ruling in 2007 holding that Israeli labor laws apply to all employment relationships in settlements. Dozens of Palestinian employees filed lawsuits from 2008 to 2012 alleging that [redacted] paid them significantly less than the minimum wage stipulated in Israeli law, and refused to provide social benefits such as sick days, vacations days, and overtime. Women workers reported being paid on average 2 shekels (US$0.50) less per hour than men, also in alleged violation of Israeli law. All cases settled out of court.

[redacted] 2013 Corporate Responsibility Report states that ethical sourcing is a core value of your company. The report commits to maintaining a zero-tolerance policy for discrimination and unfair wage practices among suppliers. It further states that "suppliers are evaluated through independent third-party audits, on-site assessments, and supplier questionnaires to confirm that they are conforming to our strict requirements related to worker safety and health."

The principles and practices described in your company's report clearly incorporate the human rights responsibilities articulated by the United Nations Guiding Principles on Business and Human Rights. As the Guiding Principles make clear, business enterprises are responsible for carrying out human rights due diligence "in order to identify, prevent,

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[419] Samaria Regional Council website, List of Factories in Barkan Industrial Zones as of January 15, 2015 http://www.shomron.org.il/?CategoryID=308 (accessed April 8, 2015) [Hebrew].

[420] See Hague Regulations of 1907, article 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See ibid, article 46; Fourth Geneva Convention, article 53. See also, Yorem Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

[421] See Fourth Geneva Convention, article 49.

mitigate and account for how they address their adverse human rights impacts." Human rights due diligence should include impacts that a company "may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships."[422]

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. Can you confirm that [redacted] is a supplier to [redacted]? If so, please describe the duration and nature of your business relationship with [redacted] and whether your company is aware that it operates a factory in an Israeli settlement in the West Bank.
2. What is your company's policy, if any, with regard to sourcing goods from factories in Israeli settlements? Please provide us with relevant details.
3. Has [redacted] received any goods produced in [redacted] Barkan industrial zone factory? If so, please describe the volume, nature, and value of those goods. If not, please describe why [redacted] has not received goods produced at the Barkan industrial zone factory.
4. Has your company evaluated [redacted], in line with your corporate responsibility policy, through a third party audit, on-site assessment, or supplier questionnaire? If such an investigation took place, what were the findings? Please provide us with relevant details.

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

[422] United Nations Guiding Principles on Business and Human Rights, para. 17.

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex XIV: Letter from Human Rights Watch to [redacted]

April 28, 2015

[redacted]
Coordination of Government Activities in the Territories
[redacted]
The office of the legal advisor to Samaria and Judea
[redacted]

Dear Ms. [redacted],

Human Rights Watch has carried out research regarding several settlements and nearby Palestinian communities in the West Bank, the findings of which we plan to publish in a report.

We write now to provide you with a summary of our interim findings, and to request further information relating to those findings that we can take into account and reflect in our forthcoming report. To facilitate this, we request that you provide us with your reply, including answers to the questions listed below and any other comments that you consider appropriate, by May 21, 2015.

Our research focused on the settlements of Ariel and the Barkan industrial zone, as well as the neighboring Palestinian communities of Salfit, Marda, and Haris. We found that the Israel apparently appropriated land from Palestinian landowners for the construction of Ariel and Barkan, and that these authorities severely restrict Palestinian access to land encompassed by the separation barrier surrounding Ariel. It also appears that the military authorities make it very difficult for Palestinians living in Area C to obtain the permits that they require in order to undertake such activities as constructing new buildings or infrastructure, operating quarries, or establishing waste treatment facilities. In addition, our research indicates that Palestinians working in Israeli settlements are afforded significantly weaker labor protections than their Israeli colleagues, despite a 2007 High Court ruling in *Kav LaOved v. National Labor Court* that Israeli labor laws apply to all

employment relationships in settlements. We have not been able to identify a lawful justification for this apparent differential treatment.

Further, our research indicates that the Civil Administration has revoked or denied Palestinians permits to work in settlements due to actions of family members or for other illegitimate reasons.

General Questions

1. Does the Civil Administration consider that it has a responsibility to conform with Israel's obligations under the 1907 Hague Regulations and the Fourth Geneva Convention to the Palestinian population of the West Bank, such as the bar on the appropriation of property in an occupied territory except for reasons of military necessity or for the benefit of the occupied people?
2. Does the Civil Administration view itself as responsible for conforming to Israel's obligations under international human rights law regarding the Palestinian population of the West Bank, including with regard to international legal prohibitions against discrimination?

Land Appropriations and Restrictions

3. According to our information, the Israeli military appropriated privately owned Palestinian land for the construction of Ariel and Barkan and related infrastructure. In some cases, the land is not formally registered, but individuals have tax documents and other evidence of ownership.
    a. Does the Civil Administration take Palestinian tax documents into account as evidence of land ownership when it determines whether or not land may be declared as state land?
    b. Does the Israeli government provide compensation to Palestinians for land it appropriates from them?
    c. Has the Civil Administration allocated any land declared to be "state land" for the natural growth of Salfit, Marda, or Haris? If so, how much land was allocated in each case, and when?
4. According to our information, many Palestinians own land encompassed by the separation barrier surrounding Ariel, which the military permits them to access during only two or three periods a year with prior military coordination. Our research indicates that the during harvesting season in 2014 such access was

permitted from October 15 to 25, except on Friday afternoon and Saturday, but that during this period the military opened the gates to permit entry only for a limited time in the morning and in the late afternoon. It also prohibits Palestinians from entering with cars, and only permits Palestinians who own land in the affected area to bring in one tractor during harvest season. We understand also that the military authorities require Palestinians to obtain permits before they can plant new tree seedlings on their lands.

a. On how many days did Palestinian landowners have access to their land in the area inside the barrier around Ariel in 2014?
b. On days when access is permitted, for how many hours per day are Palestinians able to access their lands, and at what times do the authorities open and close the gates in the barrier to enable Palestinians to pass through them?
c. Please provide the number of Palestinian requests to plant tree seedlings in the area that have been (i) received and (ii) approved in 2014.
d. What measures, if any, has the Civil Administration taken to prevent damage to Palestinian crops and trees in this area, such as by prohibiting animals belonging to settlers from entering?

Permits

5. Is it possible for Palestinian residents of the West Bank to obtain security permits from the Civil Administration to enter settlements for the purpose of purchasing property and living in them? If so, please describe the permits required, the process by which they may be obtained, how many applications have been received, and how many permits have been issued.
6. Our research indicates that it is very difficult for Palestinians to obtain construction permits for residential or economic purposes in Area C, and similarly difficult to obtain permits for resource extraction and public infrastructure. We understand that the Civil Administration approved less than 2 percent of Palestinian applications for construction permits in 2009 and 2010; that it has not issued any permits to Palestinian companies to open quarries in Area C since 1994; and that it has denied most requests to renew existing licenses. Is this correct? Please also inform us:
    a. How many Palestinian building permit requests were received, and how many were approved, from 2012 to 2014?

b. For the same period, how many building permit applications were received and approved from Israeli citizens in the West Bank?
c. How many Palestinian requests to operate a quarry in Area C were received and approved since 1994?
d. How many Palestinian-owned quarries are currently authorized to operate in Area C, and how many currently authorized quarries within Area C are owned by Israeli or international companies?

7. According to our information, in 2014, the Civil Administration made approval of a permit for the operation of al-Minya waste treatment facility near Bethlehem contingent on it accepting waste from Israeli settlements. We understand that the permit was later issued without such an agreement, but that settlement waste is currently brought to the site by military escort. Is this correct? Please also inform us:
    a. What are the criteria for approving permits for waste treatment sites in Area C?
    b. How much waste was transported from Israeli settlements to al-Minya facility in 2014?
    c. If Palestinian officials agreed to settlements' use of the site, please provide information about the terms of the agreement.
    d. How many waste treatment facilities are currently authorized to operate in Area C? How much Israeli-origin and Palestinian-origin waste is processed by each site?
    e. How many applications to operate waste treatment facilities did the Civil Administration reject since 1994, how many applications remain pending, and in each case, what are the reasons for rejection or lack of approval?

Labor Protections

8. According to our information, the Israeli military commander issued three military orders improving labor protections for Palestinians employed in Israel settlements beyond those afforded by Jordanian law. The first, issued in 1976, requires insurance for workplace injuries; the second, issued in 1982 and amended in 2007 to apply to settlement industrial zones, requires employers to pay the minimum wage as stipulated in Israeli law; and the third, issued in October 2013, incorporates the Women Workers Act. In 2007, the High Court ruled that Israeli settlement employers' treatment of Palestinian employees must comply with Israeli labor law.

a. What is the Civil Administration's responsibility in implementing and enforcing labor protections in settlements?
b. Which labor laws does the Civil Administration enforce for Israelis, and which does it enforce for Palestinians employed in settlements?
c. Does the Israeli military commander intend to implement the 2007 High Court ruling, and if so when?

9. According to our information, the Civil Administration is responsible for enforcing compliance with military orders, including those relating to protecting Palestinian workers in settlements.
    a. Please provide the number of staff positions assigned to enforce labor laws in settlements in the Civil Administration.
    b. How many settlement companies has the Civil Administration audited, checked or investigated for conformity with labor laws since 2010?
    c. How many settlement employers did the Civil Administration fine or otherwise discipline for labor violations against Palestinian workers, and how many has it fined or disciplined for violations against Israeli workers?

Work Permits

10. According to our information, Palestinians may be precluded from obtaining a permit to work in a settlement, or their permit may be revoked, without their being informed of the specific reason for the decision. In some cases that Human Rights Watch examined, it appeared that Palestinians were precluded from obtaining such permits by reason of their family connection to a person involved in a security incident. In other cases, Palestinians who were denied a permit to work in a settlement told Human Rights Watch that they believed their employer had initiated their preclusion or the revocation of their permit ostensibly on security grounds as an act of retaliation because of their complaints against working conditions or to avoid paying them severance. Some Palestinians said they did not know why the authorities had revoked their permit or declined to renew it.
    a. Please state the criteria used for granting, revoking, or renewing work-permits for Palestinians in settlements.
    b. Please indicate the process through which Palestinians may challenge their preclusion from obtaining a permit.
    c. How many preclusions were challenged in 2014 and what was the results of such challenges?

d. How many Palestinian requests for a permit to work in a settlement did the Civil Administration receive in 2014, how many requests did it approve, and how many permits did it revoke?

We would welcome receiving any additional information or comments that you are able to provide.

We would also welcome an opportunity to discuss these issues with you or other representatives of your company. If you would like to arrange such a discussion, please contact our colleagues Sarkis Balkhian ([redacted]@hrw.org) or Darcy Milburn ([redacted]@hrw.org).

Thank you for your kind assistance in this matter.

Sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch

Chris Albin-Lackey
Acting Director
Business and Human Rights Division
Human Rights Watch

Annex XV: Re/Max Letter to Code Pink

From: RE/MAX Newsroom ‹newsroom@remax.com›
Date: Fri, Nov 14, 2014 at 4:17 PM
Subject: RE/MAX LLC Statement on Franchise Operations in the West Bank

RE/MAX LLC Statement on Franchise Operations in the West Bank
(Denver, CO - November 14, 2014) RE/MAX LLC understands the serious nature of the controversy surrounding real estate operations in the West Bank and has been working to find a resolution that is acceptable to all parties. To better understand the situation, it is important to know how the RE/MAX organization is structured.

As a franchise organization, each RE/MAX office is independently owned and operated. Additionally, RE/MAX is proud to offer its franchisees great autonomy in the operation of their businesses. In 1995, RE/MAX LLC sold the franchise rights for Europe, which included Israel. RE/MAX Europe then sold the rights to use the RE/MAX brand to the current owner of RE/MAX Israel. As a result, RE/MAX LLC has no contractual agreement with RE/MAX Israel.

However, a few years ago it came to our attention that four offices using the RE/MAX brand were located in the West Bank. One was found to be illegally using the protected RE/MAX marks, and legal action was taken against that office. Another office has been closed, and one was moved from the West Bank to another location elsewhere in Jerusalem. At this time, there is only one RE/MAX office remaining in the West Bank, and RE/MAX LLC is exploring possible options for this office.

Earlier this year, RE/MAX LLC considered placing the West Bank within the master franchise for the country of Jordan, and for several months has been actively searching for

investors to purchase that combined region. It is hoped that an announcement can be made soon regarding this development.

It is important to note that a UN Report on the Palestinian territories distributed in 2013 contained factual errors about the RE/MAX organization. The authors of this report never consulted RE/MAX LLC during their research process to verify any information about RE/MAX.

RE/MAX LLC has long recognized the concerns that have been raised about a presence in the West Bank, and has taken specific actions to remedy the situation. RE/MAX LLC continues to work toward an equitable solution and remains committed to policies that are respectful of the rights of all individuals.

OCCUPATION, INC.

How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights

More than a half million Israeli settlers live in 237 settlements in the Israeli-occupied West Bank including East Jerusalem. Successive Israeli governments have facilitated this process, even though settlements are unlawful under international humanitarian law and are part and parcel of Israeli policies that dispossess, discriminate against, and abuse the human rights of Palestinians. But the system is not just propagated by the Israeli government; it also depends on the involvement of a multitude of businesses that operate in the settlements.

Occupation, Inc. examines the role of businesses that operate in settlements, finance settlement construction, provide services to settlers, or trade with settlement businesses. Using a series of case studies, it describes how such businesses facilitate and sustain unlawful settlements and thereby contribute to a system whose existence and expansion is contingent on the unlawful confiscation of Palestinian land and resources and a discriminatory two-tiered and abusive system of laws, rules, and services that Israel has imposed in the area of West Bank under its exclusive control.

The report also finds that businesses engaged in settlement-related activities often benefit from Israel's violations of international humanitarian law and its discriminatory and abusive policies that encourage the expansion of settlements and the settlement economy while severely restricting Palestinians, harming their livelihoods, and stymying Palestinian economic development. For example, settlement businesses are often eligible for government subsidies; have access to vastly disproportionate amounts of land and water; and receive building permits and licenses to extract natural resources that the Israeli government all but denies Palestinians.

Because the violations described in the report are intrinsic to abusive, harmful, and long-standing Israeli policies and practices in the West Bank, it concludes that the only way settlement businesses can comply with their responsibilities under international human rights standards is by ending their businesses in settlements or in settlement-related commercial activity.

Barkan, located in the occupied West Bank, is an Israeli residential settlement and industrial zone that houses around 120 factories that export around 80 percent of their goods abroad. In the background is the Palestinian village of Qarawat Bani Hassan.

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