

Annex I: Letter to Airbnb

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July 18, 2018

Brian Chesky

CEO

Airbnb

Via e-mail:

Dear Mr. Chesky,

We write to request information in connection with research that Human Rights Watch has carried out on 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 lists properties in Israeli settlements in the West Bank for rent on its online platform. 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 August 15, 2018 so that we can reflect your views in our forthcoming report. In addition, we request to meet with you so that we can share our preliminary findings and hear your views on them.

Between March 22, 2018 and July 6, 2018, Airbnb listed at least 139 properties for rent in Israeli settlements in the West Bank, not including East Jerusalem. As such, Airbnb is facilitating the rental of properties on land appropriated by Israel in violation of international humanitarian law, which permits an occupying power to appropriate property it occupies only for military purposes or for the benefit of the occupied people.¹



² See Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Annexed Regulations Concerning the Laws and Customs of War on Land of 18 October 1907 (Hague Regulations), 3 Martens Nouveau Recueil (ser. 3) 461, 187 Consol. T.S. 227, entered into force January 26, 1910, art. 55. An occupying power may only confiscate private property if "absolutely necessary" for military operations. See *ibid.*, art. 46; Fourth Geneva Convention, Geneva Convention relative to the Protection of Civilian Persons in Time of War, adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21,

Human Rights Watch previously met with Airbnb representatives to discuss our concerns with the company's settlement listings, yet your company continues to make these properties available through its website.

Assisting Israeli settlers to profit from renting out settlement homes makes settlements more attractive and sustainable, 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."² In addition, the tourist traffic generated from renting these properties on Airbnb helps support other businesses in settlements, such as restaurants, recreational facilities, and tour guiding, and the profits earned by Israeli settlers contributes to property tax and other revenues for the settlement local authorities (municipalities). In many cases, the land on which the properties were built is privately owned by Palestinians, and the Israeli military authorities seized it from them or rendered it inaccessible to them by erecting physical barriers and declaring it off-limits.

Our research also indicates that Airbnb is renting these properties under conditions of discrimination; West Bank Palestinians cannot enter settlements except as laborers bearing special permits, making it all but impossible for them to stay at an Airbnb property there, in some cases even when they themselves own the land on which the property is built. Palestinian landowners may not access their land, much less profit from renting it out using the Airbnb platform, while Israeli settlers list and profit from properties on land that has been unlawfully seized. Even where the land is not privately owned, the existence of the settlement is a trigger for serious violations of the rights of Palestinians to access other privately-owned plots, to freedom of movement, and to access education and health services and protections for the family unit.

In some cases, the properties in the settlements are listed as being located inside Israel, misleading prospective guests about where they are staying. In other cases, the Airbnb properties are located on land that the Israeli military authorities acknowledge has been unlawfully taken from Palestinian owners.

As we detail in a 2016 report,³ any business relationship in or with settlements contravenes businesses' human rights responsibilities as articulated in the United Nations Guiding Principles on Business and Human Rights. Under the Guiding Principles,

1950, art. 53. See also, Yoram Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

² See Fourth Geneva Convention, art. 49.

³ Human Rights Watch, *Occupation, Inc.: How Settlement Businesses Contribute to Israel's Violation of Palestinian Rights*, January 2016, <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>.

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.”⁴

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 does Airbnb list? Please indicate how many of those listings are active (dates available to book) and how many are inactive but have not been removed.
2. What determines whether a property in an Israeli settlement will be listed as being located in Israel in the “neighborhood” section of the listing? We noticed that some settlement properties are listed as being in Israel, while others do not have an additional geographic designation, beyond the name of the settlement.
3. What if any steps does Airbnb take to ascertain that a host has the requisite rights in a property that would allow them to rent it to guests via the Airbnb platform?
4. Airbnb’s nondiscrimination policy permits hosts outside the United States and European Union to exclude certain guests if required to do so under local law, effectively allowing hosts in settlements to exclude West Bank Palestinians. How does this policy square with Airbnb’s stated commitment to inclusivity and diversity? Moreover, the settlement listings fail to set out this restriction as required under the nondiscrimination policy. What action, if any, has Airbnb taken to ensure compliance?
5. Please provide information as to the amount of revenue that Airbnb earned last year related to its listing properties in Israeli settlements in the West Bank.
6. Does Airbnb have a policy on doing business in occupied territory or in situations of armed conflict, and ensuring compliance with international human rights and humanitarian law? 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 and to present our preliminary findings in greater detail,

⁴ United Nations Guiding Principles on Business and Human Rights, adopted March 21, 2011, UN Doc. A/HRC/17/31, para. 17.

prior to publication. Such a meeting would be a follow up to conversations we have had with members of your corporate social responsibility team. If you would like to arrange such a meeting, please contact our colleagues [REDACTED] [REDACTED] or [REDACTED] [REDACTED].

Thank you for your kind assistance in this matter.

Sincerely,

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

Arvind Ganesan
Executive Director
Business and Human Rights
Human Rights Watch

Annex II: Letter to Booking.com

HUMAN RIGHTS WATCH

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July 25, 2018

Gillian Tans
Chief Executive Officer
Booking.com B.V.

Via e-mail: [REDACTED]

Re: Israeli Settlements in the West Bank

Dear Ms. Tans,

We write to request information in connection with research that Human Rights Watch has carried out on 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 lists properties in Israeli settlements in the West Bank for rent on its online platform. 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 August 21, 2018 so that we can reflect your views in our forthcoming report.

As of July 23, 2018, Booking.com listed at least 25 vacation rentals in Israeli settlements in the West Bank, not including East Jerusalem. As such, Booking.com is facilitating the rental of properties on land appropriated by Israel in violation of international humanitarian law, which permits an occupying power

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to appropriate property it occupies only for military purposes or for the benefit of the occupied people.¹

Assisting Israeli settlers to profit from renting out settlement homes makes settlements more attractive and sustainable, 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.”² In addition, the tourist traffic generated from renting these properties on Booking.com helps support other businesses in settlements, such as restaurants, recreational facilities, and tour guiding, and the profits earned by Israeli settlers contributes to property tax and other revenues for the settlement local authorities (municipalities). In many cases, the land on which the rental properties were built is privately owned by Palestinians, and the Israeli military authorities seized it from them or rendered it inaccessible to them by erecting physical barriers and declaring it off-limits.

Our research also indicates that Booking.com is renting these properties under conditions of discrimination; West Bank Palestinians cannot enter settlements except as laborers bearing special permits, making it all but impossible for them to stay at a Booking.com rental property there, in some cases even when they themselves own the land on which the property is built. Palestinian landowners may not access their land in settlements, much less profit from renting it out using the Booking.com platform, while Israeli settlers list and profit from properties on land that has been unlawfully seized. Even where the land is not privately owned, the existence of the settlement is a trigger for serious violations of the rights of Palestinians to access other privately-owned plots, to freedom of movement, and to access education and health services and protections for the family.

A majority of the Booking.com properties in settlements are listed as being located inside Israel, misleading prospective guests about where they are staying. In other

¹ See Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Annexed Regulations Concerning the Laws and Customs of War on Land of 18 October 1907 (Hague Regulations), 3 Martens Nouveau Recueil (ser. 3) 461, 187 Consol. T.S. 227, entered into force January 26, 1910, art. 55. An occupying power may only confiscate private property if “absolutely necessary” for military operations. See *ibid.*, art. 46; Fourth Geneva Convention, Geneva Convention relative to the Protection of Civilian Persons in Time of War, adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21, 1950, art. 53. See also, Yoram Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge Univ. Press, 2009), pp. 224-27.

² See Fourth Geneva Convention, art. 49.

cases, the Booking.com properties are located on land that the Israeli military authorities acknowledge is privately owned by Palestinians.

As we detail in a 2016 report,³ any business relationship in or with settlements contravenes businesses' human rights responsibilities as articulated in the United Nations Guiding Principles on Business and 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."⁴

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

1. What if any steps has Booking.com taken to ensure it meets its corporate responsibility to respect human rights, as articulated in the UN Guiding Principles on Business and Human Rights? Does the company have policies and procedures pertaining to international human rights or international humanitarian law, including policies on doing business in occupied territories?
2. What determines whether a property in an Israeli settlement will be listed as being located in Israel?
3. Given the widely known nature of disputes over land ownership involving settlements in the West Bank, what if any steps does Booking.com take to ascertain that hosts have the requisite rights in a property that would allow them to rent it to guests via its platform?
4. Booking.com's 2017 Impact report lists "inclusive growth" as one of its four key areas of social responsibility, saying that the company is committed to "making sure local communities benefit equally through tourism." Yet West Bank Palestinians are forbidden to access Booking.com properties in

³ Human Rights Watch, *Occupation, Inc.: How Settlement Businesses Contribute to Israel's Violation of Palestinian Rights*, January 2016, <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>.

⁴ United Nations Guiding Principles on Business and Human Rights, adopted March 21, 2011, UN Doc. A/HRC/17/31, para. 17.

settlements, even where they themselves own the land on which the rental properties are built. How does Booking.com ensure it meets its stated commitment to inclusion of local communities when it allows listings of settlement properties?

5. What if any steps has Booking.com taken to notify Palestinian prospective guests that settlement properties are off-limits to them?
6. What percentage of rental prices or other fees does Booking.com earn from its property listings? Please provide information as to the amount of revenue that Booking.com earned last year related to its listing properties in Israeli settlements in the West Bank.

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 and to present our preliminary findings in greater detail, prior to publication. If you would like to arrange such a meeting, please contact our colleague [REDACTED] ([REDACTED]).

Thank you for your kind assistance in this matter.

Sincerely,

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

Arvind Ganesan
Director
Business and Human Rights
Human Rights Watch

Annex III: Follow-up Letter to Booking.com

HUMAN RIGHTS WATCH

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Joe Saunders, Deputy Program Director
Frances Sinha, Human Resources Director



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August 28, 2018

Greetings,

I am forwarding this letter after multiple attempts to confirm its receipt by Ms. Tans have failed. Please acknowledge receipt of this letter via e-mail to my colleague, [REDACTED], at [REDACTED]. In addition, I wish to add the following question:

At some point between July 25, 2018 and August 9, 2018, the geographical designations of ten of fifteen properties advertised on Booking.com and located in Israeli settlements in the West Bank outside East Jerusalem were changed on the Booking.com web site from "Israel" to "Israeli settlement." When was the change made to these listings and why?

I thank you in advance for your cooperation.

Best regards,

Sari Bashi
Israel and Palestine Advocacy Director
Middle East and North Africa
Human Rights Watch

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Annex IV: Booking.com Statement to Human Rights Watch

Statement from Booking.com September 28, 2018

Booking.com is a private limited liability company, incorporated under the laws of the Netherlands, having its corporate seat in Amsterdam. Booking.com operates an international online reservation platform through which participating accommodations can make their rooms available for reservation and through which visitors of its website can make reservations at such accommodations. Booking.com does not buy or (re)sell any rooms nor does it operate as a travel or tourist agency. Booking.com permits all accommodations worldwide, including all accommodations located in Israel and the Occupied Palestinian Territory, to register themselves on Booking.com's website and to offer their accommodations to travelers, where this is in compliance with legislation applicable to Booking.com and its operations. Booking.com is therefore of the view that it does not provide "services and utilities supporting the maintenance and existence of settlements, including transport", as referenced in paragraph 96 of the Report of the International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory.

Our mission at Booking.com is to empower people to experience the world. The Booking.com website and mobile apps are available in over 40 languages, offer more than 28 million total reported listings, and cover more than 130,000 destinations in 228 countries and territories worldwide.

Everything we do in terms of how we display information on [Booking.com](https://www.booking.com) is always in accordance with applicable law. Our geographic labeling of properties gives full transparency to customers about where an accommodation is located and we continuously update and optimise this information. By marking properties concerned as being in 'Israeli settlements' we provide transparency to anybody looking (or not looking) for accommodations in these territories.