



# General Assembly

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## Human Rights Council

### Forty-third session

24 February–20 March 2020

Agenda item 7

### Human rights situation in Palestine and other occupied Arab territories

## **Joint written statement\* submitted by Al-Haq, Law in the Service of Man, Al Mezan Centre for Human Rights, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies, Defence for Children International, Habitat International Coalition, Palestinian Centre for Human Rights, non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 February 2020]

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\* Issued as received, in the language(s) of submission only.



## Fulfilling the mandate of Resolution 31/36 (2016): A question of credibility for the UN Human Rights Council

As Israel's occupation is further entrenched, corporations continue to profit from Israel's grave breaches of international law, which deny the Palestinian people their inalienable right to self-determination, including permanent sovereignty over their land and other natural resources. Since 2016, Israel has escalated its construction of illegal Israeli settlements in the occupied West Bank amid increasing calls and threats by Israeli leaders for annexation.<sup>1</sup> There is an escalation in efforts, particularly by the United States,<sup>2</sup> to undermine international law with regard to the Israeli occupation and its illegal settlement enterprise in the occupied Palestinian territory and in the occupied Syrian Golan.

At the same time, steps by the United Nations (UN) Human Rights Council to provide a measure of transparency and accountability for Israel's illegal settlement activities and associated business enterprises, through the publication of a database of businesses operating in Israeli settlements ('the database'), as mandated by Human Rights Council resolution 31/36 of 24 March 2016,<sup>3</sup> have been stalled due to reported political pressure and interference exerted on the UN High Commissioner for Human Rights and her Office by certain States.<sup>4</sup>

In the years since the passing of Human Rights Council resolution 31/36, the Office of the UN High Commissioner for Human Rights (OHCHR) has consistently failed to publish the database. In March 2019, High Commissioner Bachelet wrote to the President of the Council pledging to fulfil the mandate "in coming months."<sup>5</sup> Now, one year later, the database has yet to be transmitted nor has there been adequate explanation or justification for the delay. These repeated, open-ended, and unexplained delays have no precedent in the handling of previous mandates by OHCHR.

During the 41st regular session of the Human Rights Council, 27 States presented a joint statement,<sup>6</sup> in which they reiterated the importance that the High Commissioner and her Office are able to carry out mandates and work independently and impartially "without

- <sup>1</sup> See, e.g., Tovah Lazaroff, "Netanyahu May Annex Ma'aleh Adumim before Jordan Valley," The Jerusalem Post, 27 January 2020, available at: <https://www.jpost.com/Israel-News/Report-Netanyahu-may-annex-Maaleh-Adumim-first-615508>.
- <sup>2</sup> On 28 January 2020, the United States White House released the Trump administration's so-called "Deal of the Century" plan. The proposal supports Israel's annexation of large swaths of Palestinian land in the occupied West Bank. See *Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People*, The White House, 28 January 2020, available at: <https://www.whitehouse.gov/wp-content/uploads/2020/01/Peace-to-Prosperity-0120.pdf>. See also Secretary Michael R. Pompeo Remarks to the Press, United States Department of State, 18 November 2019, available at: <https://www.state.gov/secretary-michael-r-pompeo-remarks-to-the-press/>.
- <sup>3</sup> UN Human Rights Council, Resolution 31/36 (2016), 24 March 2016, UN Doc. A/HRC/RES/31/36, para. 17. See also UN Human Rights Council, Report of the Independent International Fact-Finding Mission to Investigate the Implications of the Israeli Settlements on Civil, Political, Economic, Social and Cultural Rights of the Palestinian People throughout the Occupied Palestinian Territory, including East Jerusalem, 7 February 2013, UN Doc. A/HRC/22/63, para. 96.
- <sup>4</sup> There have been several media reports highlighting political interference exerted against the publication of the database. See, for example, Josef Federman, Josh Lederman and Jamey Keaten, "Israel races to head off UN settlement 'blacklist'," AP, 26 November 2017, available at: <https://www.apnews.com/9f910e5a7b264c38aad504a6147d9898>; see also Nick Cumming-Bruce, "Clash Over Israeli Settlements Has a New Front: A Delayed U.N. Report," The New York Times, 5 March 2019, available at: <https://www.nytimes.com/2019/03/05/world/middleeast/israel-united-nations-boycottcompanies.html>.
- <sup>5</sup> Letter from UN High Commissioner for Human Rights Bachelet to the President of the UN Human Rights Council, 4 March 2019, available at: <https://extranet.ohchr.org/sites/hrc/PresidencyBureau/BureauRegionalGroupsCorrespondence/Corresp2014DL/190304LettersfromtheHConResolution3136.pdf>.
- <sup>6</sup> To read the joint statement delivered by 27 States at the UN Human Rights Council, see: [https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/30/SP/21880\\_40\\_d77fc352\\_99a6\\_4ad8\\_a1b4\\_b9213d82fd16.docx](https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/30/SP/21880_40_d77fc352_99a6_4ad8_a1b4_b9213d82fd16.docx).

interference of any kind,” including based on “political considerations.” During the same session, 65 States requested, in a joint statement,<sup>7</sup> that the High Commissioner urgently fulfil the database mandate in its entirety. Moreover, in October 2019, the UN Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Michael Lynk, called on the High Commissioner to release the database “in a fully transparent fashion, with all businesses named.”

It is no longer a question of when the database will be released but of whether the UN High Commissioner for Human Rights will fulfil a mandate entrusted to her Office by the Human Rights Council. If the mandate, as established by resolution 31/36, is not fulfilled or continues to be unnecessarily delayed, this would set a dangerous precedent in the Human Rights Council. The effectiveness and credibility of the Council, as an institution, would be jeopardized if a High Commissioner is able to choose which mandates to implement without any explanation and this would send a message that mandates viewed negatively by some States can be overturned despite adoption by the Council. Any threat to the effectiveness and credibility of the Human Rights Council should be an issue of concern to all UN Member States.

## Conclusion and recommendations

Efforts to obstruct the transmission of the database not only promote impunity and enable further entrenchment and expansion of Israel’s illegal settlements but also threaten the effectiveness and credibility of the Human Rights Council as a whole. Accordingly, our organizations call on Member States of the UN Human Rights Council to:

- Ensure that all Human Rights Council mandates are implemented without delay, to protect the effectiveness and credibility of the Council as a whole;
- Publicly call on the UN High Commissioner for Human Rights to impartially and credibly fulfil the mandate entrusted to her in Human Rights Council resolution 31/36 of 24 March 2016; and
- Prevent the setting of a precedent that could be used to obstruct the fulfilment of future Human Rights Council mandates, as adopted by Member States.

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ADDAMEER Prisoner Support and Human Rights Association, Al Dameer Association for Human Rights, Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ), Community Action Center (Al-Quds University), Jerusalem Legal Aid and Human Rights Center (JLAC), and Ramallah Center for Human Rights Studies (RCHRS), NGO(s) without consultative status, also share the views expressed in this statement.

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<sup>7</sup> Joint statement on the importance of preserving the independence and impartiality of OHCHR in fulfilling Human Rights Council mandates, delivered by 65 states, available at: [https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/30/SP/21890\\_40\\_8d94eb9f\\_fc48\\_42f3\\_b992\\_104c545b213b.docx](https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/30/SP/21890_40_8d94eb9f_fc48_42f3_b992_104c545b213b.docx).