

Mandate of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Ref.: AL OTH 32/2026

(Please use this reference in your reply)

26 March 2026

Dear Mr. Satya Nadella,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolution 1993/2A.

I am an independent human rights expert appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. I am part of the special procedures system of the United Nations, which has 59 thematic and country mandates on a broad range of human rights issues. I am sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, I would like to bring to the attention of your company information I have received concerning **the adverse human rights impacts of Microsoft Corp's activities in the occupied Palestinian territory. Microsoft Corp engagement and partnerships with the State of Israel, notably the Ministry of Defence, following the on-going military assault on Gaza and its illegal occupation of the occupied Palestinian territory raise serious concerns.**

According to the information received:

Microsoft Corp is a multinational software company that develops and supports software, services, devices, and solutions, including cloud technology and artificial intelligence systems.

In 1993, Microsoft Corp established Microsoft Israel Ltd in Tel Aviv, a solely owned subsidiary, and its first internationally located research center. Today, Israel is Microsoft's largest international location and one of three strategic

Microsoft Corporation

centres worldwide, with a business branch, Research and Development Center in Herzliya, and Microsoft for Startups programs.

In 2002, Microsoft completed the largest software deal in Israel at the time, valued at \$35 million. The contract specified that Microsoft would provide easy access to software services for the Israeli government for any purpose it saw fit. Additionally, the company would provide "Unlimited products" to the Israel Defense Forces (IDF) and the Israeli Ministry of Defense (IMOD).

In 2020, Israel's Coordination of Government Activities in the Occupied Palestinian Territory (COGAT) unit launched an app called Al-Munasiq (the coordinator). Palestinians relied on the app to apply for permits and access updates, however, to use the app, users were forced to agree to allow COGAT access to their data. The app runs on Microsoft Azure, and stores data on thousands of Palestinians. Human rights groups raised concerns that Microsoft was facilitating Israel's system of mass surveillance of Palestinians.

Microsoft deepened its ties with the Israeli military after October 2023, with the military's use of Microsoft's Azure and AI products increasing rapidly. Investigations published in August 2024 found that Israeli military systems lacked the capacity to independently manage the volume of data generated by its assault on Gaza. Prompting the military to rely on Microsoft, which provided substantial operational enhancements, including near-unlimited data storage and processing capacity, off-base server infrastructure, and advanced AI tools.

Microsoft staff and contractors provide specialised consulting and technical support both remotely and on military bases. Microsoft engineers have reportedly supported Israeli military intelligence units, including Unit 8200 and Unit 9900, which is responsible for the collection and analysis of visual intelligence, in their use of cloud infrastructure. Between October 2023 and June 2024, the Israeli military reportedly spent approximately USD 10 million on 19,000 hours of engineering support from Microsoft.

Microsoft has a significant presence in most branches of the Israeli military. Including Mamram, the military's central computing unit responsible for the military's tech infrastructure, Unit 8200 and Unit 81, military intelligence units that develop spy technology for Israel's intelligence community. Investigations indicate that Unit 8200 has been involved in spying on and blackmailing innocent Palestinians and pressuring them to become informants.

Microsoft also collaborates with the Israeli Air Force's Ofek Unit – which is responsible for managing large databases of potential targets for lethal airstrikes (known as the "target bank.").

Microsoft has also collaborated with Israeli defence companies, including Israel Aerospace Industries (IAI) and Elbit Systems, on the development of armoured vehicles incorporating Xbox-based control technology, designed to gamify operations for Israeli soldiers.

Microsoft partners directly with Mekorot, Israel's national water company. On 9 October 2023, Mekorot cut off all water supplies to Gaza. Since then, only minimal amounts have been restored, which remain grossly inadequate due to deliberate infrastructure damage, repeated shut-offs, fuel shortages, and mass displacement. This has left Palestinians in Gaza in a situation of extreme water insecurity.

The Israel Electric Corporation, Israel's national electricity provider, is a Microsoft Azure customer. The company cut off electricity supplies to Gaza, resulting in the shutdown of wastewater treatment facilities and sewage pumping stations. This disruption contributed to widespread dehydration, outbreaks of waterborne disease, and the destruction of agricultural crops due to the loss of irrigation.

In addition, Microsoft maintains partnerships with Israeli universities and education authorities, including institutions located in settlements considered illegal under international law. Microsoft also provides services, equipment, and technology to Israeli prison authorities and the police, thereby supporting Israel's settlement enterprise and broader system of control.

Without wishing to prejudice the accuracy of the information received, I would like to express serious concern that by continuing to provide products and services to the Israeli military, Microsoft's executive may be complicit in alleged war crimes, atrocity crimes and crimes against humanity committed by Israel. These include acts of genocide, annexation, unlawful killing, forcible transfer and starvation as a weapon of war. I note that, Microsoft's partnerships with the Israeli military not only continued, but accelerated over the last two years, despite the International Court of Justice's determinations in provisional orders issued in January, March and May of 2024 declaring that the situation in Gaza was catastrophic and deteriorating, that a plausible risk of ongoing genocidal acts occurring continues, and there remains ongoing evidence of Israel's unlawful occupation and annexation of the Palestinian territories. I also acknowledge that Microsoft terminated *some* services to unit 8200 in September 2025. The terminated services include specific parts of the cloud where Israel stored mass surveillance of civilians. However, Microsoft still sells tech to the Israeli military and unit 8200 – just with some restrictions for that Unit. However, Microsoft's executives may be exposed to allegations of complicity in war crimes under the Rome Statute, alongside other associated international crimes.

Furthermore, based on all of the information reviewed, there are reasonable grounds to believe that criminal liability may be triggered where it can be shown that Microsoft caused, contributed towards, or was directly linked to international crimes committed by the State of Israel and knowingly failed in its capacity to withdraw its support, enabling such crimes to occur.

In the occupied Palestinian territory, the United Nations Guiding Principles on Business and Human Rights must be read in conjunction with the responsibilities emanating from the [Advisory Opinion](#) of the International Court of Justice (ICJ) of 19 July 2024 on the "Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem". The Court found Israel's occupation – composed of its military presence, settlements, associated

infrastructures, and control of Palestinian natural resources – to be unlawful in its entirety on the basis of sustained violations of two peremptory norms of international law: the right to self-determination of the Palestinian people and the prohibition on the acquisition of territory by force. The latter may constitute the international crime of aggression under the Rome Statute of the International Criminal Court (ICC). The ICJ explicitly affirmed that “occupation cannot transfer or confer sovereign title to the occupying Power over the territory that it occupies”, Israel’s security concerns cannot override peremptory norms, and “the Palestinian people’s right to self-determination cannot be subject to conditions on the part of [Israel], in view of its character as an inalienable right”. In light of this, by collaborating with the Israeli military to facilitate its vast mass surveillance apparatus which underpins its illegal occupation and control of the Palestinian population, Microsoft’s support may further entrench the State of Israel’s unlawful annexation of that territory. This therefore constitutes a violation of customary international law regarding the prohibition on the use of force and the right of the Palestinian people to pursue self-determination.

The ICJ also noted that Israel’s occupation is in breach of the law prohibiting racial segregation and apartheid. The United Nations General Assembly has since determined that Israel’s occupation must be withdrawn totally and unconditionally by 18 September 2025 (see: [A/ES-10/24](#)). Until such time as this happens, there must be no recognition, aid or assistance rendered that would assist in maintaining these wrongful acts.

Furthermore, in 2024, the ICJ has issued provisional measures connected to the risk of genocide in Gaza in the matter of *South Africa v Israel*, and the ICC has issued arrest warrants in the *Situation in the State of Palestine* for Israeli Prime Minister, Benjamin Netanyahu and former Israeli Defense Minister, Yoav Gallant, on the basis that there are reasonable grounds to believe they have committed war crimes and crimes against humanity related to persecution, widespread and/or systematic murder and starvation, and directing attacks against the civilian population in the oPt.

The ICJ provisional measures and ICC arrest warrants signal the risk that corporate entities – and their executives – that engage in the oPt are implicated in serious international crimes. Any decision to continue engagement in Israel’s economy is therefore done with knowledge of the crimes that may be taking place, and of the fact that they may provide material support to Israel to continue to commit those crimes. This could potentially include directors or senior representatives of Microsoft.

The applicable legal framework and the gravity of the situation on the ground in the occupied Palestinian territory, particularly in Gaza, indicates that there are reasonable grounds to believe that Microsoft is **contributing to gross human rights violations that require the immediate cessation of the concerned activity**, and the remedy of the harm done to Palestinians. This includes some of activities identified in UN resolutions [31/36 and 53/25](#)).

Such is the sustained gravity of the situation, proper human rights due diligence would have identified these responsibilities before the catastrophic events that have unfolded since October 2023. The continued failure to act responsibly in line with international law risks implicating Microsoft in an economy of much more serious violations, and increasing its associated liability. Indeed, given the international crimes

being considered by the ICC and the State of Israel's responsibility for genocide as considered by the ICJ, Microsoft is now **on notice of a serious risk of being implicated in international crimes**, the disregarding of which may give rise to criminal liability, both for Microsoft and its executives. It is further noted that compliance with domestic laws of a given jurisdiction, does not absolve corporate entities of their responsibilities or liabilities under international law.

Based on the above, we find that there are reasonable grounds to believe that Microsoft is complicit in entrenching crimes of genocide in Gaza through the enablement of:

1. Aiding and assisting in / contributing to the denial of the Palestinian right to self-determination;
2. Aiding and assisting in the maintenance of Israel's unlawful military occupation of Palestinian territory;
3. Aiding and assisting in the permanent annexation of occupied Palestinian territory.

Microsoft will undoubtedly be aware of the ICJ provisional measures that conclude the plausible risk that Israel is committing acts of genocide in Gaza, and therefore may be implicated in aiding and abetting actions that are at serious risk of constituting genocide.

This exposes Microsoft to potential criminal liability as defined in article 25(3)(c) of the Rome Statute which states that liability for aiding and abetting does not require an intent to commit the crime, it is sufficient that an individual knew or should have known that their actions are contributing to the commission of international crimes. Nothing prevents the prosecutor from extending the application of the Rome Statute to officials or individuals deemed to be complicit in such violations.

Ancillary to this, there are reasonable grounds to believe that Microsoft is implicated in the following violations:

1. **Aiding and abetting crimes against humanity**, including the widespread and systematic extermination, persecution, murder, and forcible displacement of the civilian population.
2. **Aiding and abetting in war crimes** by the use of collective punishment and the use of starvation of the civilian population, both of which constitute crimes under international law.

According to the above information, Microsoft is involved in mass surveillance, AI targeting, military training and arbitrary detention, among other violations. As provided in the information above, Israel does not have domestic technological capabilities to manage the vast volumes of data generated by its genocide and illegal occupation, it would be unable to carry out these violations if it weren't for Microsoft (and other technology companies) maintaining these services. Additionally, Microsoft

knows, or should have known, that the provision of such services would be utilised by the State of Israel for such acts of genocide and illegal occupation.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to me by the Human Rights Council, to seek to clarify all cases brought to our attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information with respect to measures taken by your company to respect human rights, including to conduct heightened human rights due diligence prior to investing in companies, or operating in conflict-affected contexts, with particular reference to the current hostilities in the occupied Palestinian territory, in accordance with the UN Guiding Principles on Business and Human Rights and the Advisory Opinion of the International Court of Justice. In this context, what are the measures that your company has taken or is planning to take to prevent from being associated with serious violations of international human rights law, international criminal law and international humanitarian law.
3. Please describe the strategies and safeguards your company has adopted to prevent or mitigate the misuse of data, analysis of visual intelligence and cloud infrastructure that may be inconsistent with international human rights standards, particularly when such requests originate from State actors.
4. Please indicate specific remedial measures that your company has taken or is considering taking to remedy victims affected by its activities. Please provide information on steps taken by your company to establish, or participate in effective operational-level grievance mechanisms, in line with the UN Guiding Principles to address adverse human rights impacts caused by your company in this context

This communication, and any response received from you, will be made public via the communications reporting [website](#) at the 60 days mark. Should your company respond within 60 days, both the communication and the response, may be published before the 60 days mark. The communications and responses will also be made available in the subsequent periodic report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your company to clarify the issue/s in question.

Please be informed that a copy of this letter will be sent to the governments of Israel, the State of Palestine and the United States of America.

Please accept, Mr. Nadella, the assurances of my highest consideration.

Francesca Albanese
Special Rapporteur on the situation of human rights in the Palestinian territory
occupied since 1967

Annex

Reference to international human rights law

Introduction

This annex sets out the international legal framework broadly applicable to the businesses involved in the occupied Palestinian territory (oPt). It aims to provide guidance on the interpretation and application of the legal concepts and factual findings presented in the main report. Not intended as an exhaustive exposition of international law in this domain, it presents the broad principles of business responsibility, particularly those applicable where corporate entities¹ are implicated in displacing Palestinians from their land and replacing them with unlawful colonies, contrary to international law. Business risk being held responsible for exploitative, abusive and even criminal conduct. Although business responsibility for and criminal complicity in violations was certainly identifiable in the oPt prior to October 2023, subsequent factual and legal developments could implicate corporations in unlawful occupation and genocide.

We would also like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultations with governments, civil society, human rights defenders and the business community. The guiding principles were established as the authoritative global standard for all states and companies to prevent and address the negative impacts of business activities on human rights. The guidelines are based on the recognition that:

- a. The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialised bodies or companies performing specialised functions, which must comply with all applicable laws and respect human rights;
- c. The need for appropriate and effective remedies for rights and obligations when they are violated.

Guiding principle 1 reiterates the State's duty to "protect against human rights abuses by business enterprises on its territory and/or under its jurisdiction". Guiding principle 2 provides that States should make clear that all companies domiciled on their territory and/or under their jurisdiction are expected to respect human rights in all their activities. In addition, guiding principle 1 reiterates that States must take appropriate measures to "prevent, investigate, punish and remedy such abuses through effective policies, laws, regulations and adjudication". Guiding principle 3 further requires, among other things, that a State "provide effective guidance to business enterprises on how to respect human rights throughout their operations".

¹ [A/HRC/59/23](#), para. 5.

Guiding principle 4 establishes that States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the States or that receive substantial support and services from State agencies, where appropriate by requiring human rights due diligence.

Principles 11 to 24 and principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have caused or contributed to adverse impacts. Moreover, the commentary of principle 11 states that “business enterprises should not undermine States’ abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes”. The commentary of guiding principle 13 notes that “[b]usiness enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. [...] Business enterprise’s ‘activities’ are understood to include both actions and omissions; and its ‘business relationships’ are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services”.

The guiding principles have identified two main components to the business responsibility to respect human rights, which require that “business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (guiding principle 13).

Principles 17-21 lay down the four-step human rights due diligence process that all business enterprises should take steps to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Principle 22 further provides that when “business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to guiding principle 25).

Furthermore, according to guiding principle 26, States should take appropriate measures to ensure the effectiveness of domestic judicial mechanisms when dealing with business-related human rights abuses, including by considering how to limit legal, practical and other obstacles that may lead to denial of access to remedy.

Guiding principle 7 on supporting business respect for human rights in conflict affected areas provides that States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:

(a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships; (b) Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence; (c) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation; (d) Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.

The UN Working Group on Business and Human Rights, in its report on "business, human rights and conflict-affected regions: towards heightened action (A/75/212), urges home and host States to use their key policy tools and levers to ensure that business engages in conflict-sensitive heightened human rights due diligence when operating in conflict-affected areas. To conduct heightened human rights due diligence, business should focus on three main steps: first, identify the root causes of tensions and potential triggers, which include the contextual factors such as the characteristics of a country or region that can affect conflict, and the real and perceived grievances that can drive conflict. This conflict analysis will help identify the human rights abuses or impacts that may arise due to the conflict and not just business operations. There will be a difference between workplace risks based on normal safety concerns versus those related to employees belonging to different groups that were parties to a conflict. Second, map the main actors in the conflict and their motives, capacities and opportunities to inflict violence, which include affected stakeholders, parties to the conflict and "mobilizers", those people or institutions using grievances and resources to mobilize others, either for violence or for peaceful conflict resolution. Businesses should pay particular attention to human rights defenders, those "individuals or groups that, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights." In conflict-affected contexts, human rights defenders may share the same claims as a party to the conflict but advocate for rights holders in a peaceful manner. Businesses should, therefore, be careful to differentiate between the two, and not expose human rights defenders to undue risks, for example by initiating frivolous legal proceedings or reporting them to authorities. Third, identify and anticipate the ways in which the businesses' own operations, products or services impact upon existing social tensions and relationships between the various groups, and/or create new tensions or conflicts. The report also underscores that there is ample evidence of the differentiated impact of violence on women and girls and that conflict exacerbates gender-based discrimination. Accordingly, it is important for business to realize the specific experience of women and girls in conflict and post-conflict situations and, given the risks to women and girls of sexual violence, discrimination and pervasive inequality, the private sector should address gender and conflict as part of any heightened human rights due diligence.

When responsibility may entail criminal liability

Failure to act responsibly in line with international law may implicate corporate entities in more serious violations giving rise to criminal liability, for the *corporate* entity and/or for its executives.

Drawn from the legacy of the Industrialists' trials at Nuremberg,² corporate accountability for international crimes is based on a recognition of the critical role the economy plays in times of war and conflict,³ and the fact that corporate entities may be involved in heinous violations of international law constituting *international* crimes.

Individual executives can be held criminally liable for the actions of their corporate entities, including before the International Criminal Court.⁴ While, increasingly, *corporate* entities themselves, could also face criminal liability as a result of the emerging crystallization of customary international legal principles.⁵ This includes some domestic jurisdictions which attribute criminal liability to corporations,⁶ and a growing body of treaties enshrine criminal liability of legal persons, which means that under international law corporations can be criminally liable for specific crimes, including genocide,⁷ apartheid,⁸ financing terrorism,⁹ organized crime¹⁰ and corruption.¹¹

The conduct of corporations and their executives may entail direct criminal liability but more commonly constitutes complicity or aiding and abetting liability. This may involve instigating, moral support,¹² or abetting, furnishing aid or assistance for or procuring the means for the commission of a crime¹³ or the creation of conditions necessary for atrocity crimes to occur.¹⁴ International tribunals have generally found

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- ² *Krupp Case (United States of America v. Alfred Krupp)*, Judgment of 31 July 1948, in *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10*, Vol. IX; *I.G Farben Case (United States of America v. Carl Krauch et al.)*, Judgment of 30 July 1948, in *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10*, Vol. VIII.
- ³ Submission (1.3); Anita Ramasastry, "Corporate Complicity: From Nuremberg to Rangoon - An Examination of Forced Labor Cases and Their Impact on the Liability of Multinational Corporations" *Berkeley Journal of International Law* vol. 20, Issue 1, p. 91. Annika van Baar, "Transnational Holocaust Litigation and Corporate Accountability for Atrocities Beyond Nuremberg" (19 February 2019); Jonathan Kolieb, 'Through the Looking-Glass: Nuremberg's Confusing Legacy on Corporate Accountability under International Law' *American University International Law Review* vol. 32, No. 2, (2017), p. 569, 582.
- ⁴ Michael Kelly, *Prosecuting Corporations for Genocide* (OUP, 2016); Submission 1.3; [A/75/212](#), para. 11.
- ⁵ International Law Commission, Draft articles on Prevention and Punishment of Crimes Against Humanity, with commentaries, 2019, [A/74/10](#), pp. 81-84, https://legal.un.org/ilc/texts/instruments/english/commentaries/7_7_2019.pdf, African Union, Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 27 June 2014, art. 46 (not yet in force); Special Tribunal for Lebanon, *New TV S.A.L. Karma Mohamed Tashin Al Khayat*, Case No. STL-14-05/PT/AP/AR126.1, Decision of 2 October 2014; *U.S. v. Krauch, et. al.*, (the I.G. Farben Case), VIII Trials of War Criminals Before the Nuremberg Military Tribunals, iii-iv (1952); *contra* UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998, Official Records, vol. III (A/CONF.183/13), art. 23, para. 6, footnote 71.
- ⁶ E.g. Ecuador Código Orgánico Integral Penal, Registro Oficial, Suplemento, Año 1, N°180, 10 February 2014, art. 90; HYPERLINK "http://www.ipinst.org/wp-content/uploads/publications/businessand_intcrime.pdf" www.ipinst.org/wp-content/uploads/publications/businessand_intcrime.pdf.
- ⁷ Genocide Convention, Article VI; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, para. 420; Michael Kelly, *Prosecuting Corporations for Genocide*.
- ⁸ International Convention on the Suppression and Punishment of the Crime of Apartheid (1973), art. I(2).
- ⁹ International Convention for the Suppression of the Financing of Terrorism, art. 5.
- ¹⁰ UN Convention against Transnational Organized Crime, art. 10.
- ¹¹ UN Convention against Corruption, art. 26.
- ¹² International Criminal Tribunal for Yugoslavia, *Prosecutor v. Blaškić*, Case No. IT-95-14-A, 29 April 2004, paras. 46-47.
- ¹³ *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, para. 533-538; *Prosecutor v. Blagojević*, Case No. IT-02-60-T, para. 777; International Criminal Tribunal for Rwanda, *Prosecutor v. Kamuhanda*, Case No. ICTR-95-54A-A, Judgment, 22 January 2003, para. 596.
- ¹⁴ International Criminal Tribunal for Rwanda, *Prosecutor v. Nahimana, Barayagwiza and Ngeze*, Case No. ICTR-99-52-T, Judgment, Summary, 3 December 2003, paras. 973-974.

that criminal liability for such forms of complicity: (a) *can* be established where the aid or assistance has a material effect on the commission of the crime,¹⁵ and (b) depends on the knowledge possessed by the entity/executive of how its services or activities will be utilised, and the effect on the commission of the crime.¹⁶

In other words, it is not necessary to show that the entity or individual *intended* the particular harm; it is sufficient that in providing logistical, financial or operational support, they had actual or constructive *knowledge* that the principal *perpetrators* were engaged in a given crime,¹⁷ or, in the case of prosecutions before the ICC, acted “for the *purpose* of facilitating the commission of such a crime”.¹⁸ Financial and managerial control over a corporate entity engaged in the crime is sufficient to establish the basis for individual criminal responsibility.¹⁹ Jurisprudence has confirmed that corporate actors cannot avoid accountability by claiming that they were merely fulfilling commercial contracts.²⁰

Mechanisms of enforcement

This international framework is enforceable via a range of mechanisms – particularly at the domestic and regional levels – established by States in order to fulfil the legal obligations outlined in section 2.1.

For many corporate actors a key incentive to uphold practices that respect human rights is the risk of reputational damage arising from their involvement in human rights violations and international crimes. The UN Database (see 3.1 below),²¹ for instance, has significantly promoted awareness of corporate responsibility in the oPt and contributed to divestment decisions.

¹⁵ Note: the most common criminal standard requires “a substantial effect” on the commission of the crime: International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Tadic*, Case No. IT-94-1-T, 7 May 1997, paras. 688-692; while the ICC does not set such a high standard, an “effect” is sufficient: International Criminal Court, *Prosecutor v. Bemba*, Case No. ICC-01/05-01/13, Trial Judgment Pursuant to Article 72 of the Statute, 19 October 2016, para. 90; International Criminal Court, *Prosecutor v. Al Mahdi*, Case No. ICC-01/12-01/15, Decision on the Confirmation of Charges, 24 March 2016, para. 26; See Oona A. Hathaway et al, “Aiding and Abetting in International Criminal Law”, *Cornell Law Review*, vol. 104, (2019), pp. 1606-1609.

¹⁶ International Criminal Tribunal for Yugoslavia, *Prosecutor v Furundzija*, Trial Judgment, Case No. IT-95-17/1-T, 10 December 1998, paras. 209, 235; www.icj.org/wp-content/uploads/2012/06/Vol.1-Corporate-legal-accountability-thematic-report-2008.pdf, pp. 9, 39-40; Irene Pietropaoli, “Expert Legal Opinion”, pp. 18-19; consider also the *Lundin Oil Case* before the Swedish District Court, <https://www.business-humanrights.org/en/latest-news/lundin-petroleum-lawsuit-re-complicity-war-crimes-sudan/>.

¹⁷ *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, para. 541; *Prosecutor v. Blagojević*, Case No. IT-02-60-T, paras. 384, 777; International Criminal Tribunal for Rwanda, *Prosecutor v Ntakirutimana and Ntakirutimana*, Case No. ICTR-96-10-A and ICTR-96-17-A, Appeal Judgement, 13 December 2004, paras. 500-501, 551; see also in the context of state responsibility: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, para. 421; William A. Schabas, *Genocide in International Law: The Crime of Crimes* (CUP, 2009) p. 522.

¹⁸ Rome Statute, article 25(3)(c) (Emphasis added); International Criminal Court, *Prosecutor v. Bemba*, Case No. ICC-01/05-01/13, Trial Judgment Pursuant to Article 74 of the Statute, para. 97 (Oct. 19, 2016).

¹⁹ International Residual Mechanism for International Criminal Tribunals, *Prosecutor v Kabuga* (Case No. MICT-13-38-PT, Prosecution’s Second Amended Indictment, 1 March 2021, paras. 9, 25, 30, 34.

²⁰ *Trial of Bruno Tesch and Two Others (The Zyklon B Case)* (1947) 1 Law Reports of Trials of War Criminals 93 (British Military Court, Hamburg) pp. 102.

²¹ [A/HRC/RES/31/36](https://docs.un.org/en/A/HRC/RES/53/25) (2016); HYPERLINK "https://docs.un.org/en/A/HRC/RES/53/25" [A/HRC/RES/53/25](https://docs.un.org/en/A/HRC/RES/53/25) (2023); UN Database: HYPERLINK "http://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session31/database-hrc3136" www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session31/database-hrc3136.

An examination of all legislative and policy mechanisms adopted by states is beyond the scope of this report. In many jurisdictions, corporate violations of *jus cogens* norms, customary international law, international criminal law and international human rights law are enforceable in courts, while in others domestic criminal laws, tortious and negligence laws, and contract laws provide useful mechanisms for victims. The UNGPs can and should be consistently used to provide the normative lens to assess corporate conduct and establish legally relevant facts.

Examples of corporate accountability for violations of international law include: in the UK for toxic emissions from a subsidiary-run copper mine,²² in the Netherlands for the supply of nerve gas to Iraq,²³ in France for payments to armed groups to keep a cement factory running²⁴ and in Sweden for using the military to secure oil fields in Sudan.²⁵ In the US, a civil suit under the Alien Torts Statute, under which US courts can hold American corporations accountable for “violation[s] of the law of nations,”²⁶ led to settlement with a US oil company for its complicity in violations in Myanmar.²⁷

Where a corporate entity profits from actions that constitute an international crime (e.g., a war crime, genocide, apartheid or an act of aggression), this may also form the predicate crime for an offence under money laundering and proceeds of crime legislation that exists in many domestic jurisdictions,²⁸ which, if successfully proven, can infect all corporate dealings along the supply chain, such as provision of insurance, tech services, legal accountancy and banking services.²⁹

Domestic human rights due diligence laws now exist in several states, including France,³⁰ Germany,³¹ Norway³² and Switzerland,³³ and the number can be expected to increase across EU states following the adoption of the EU Directive on Corporate

²² Supreme Court of the United Kingdom, *Vedanta Resources PLC v Lungowe* [2019] UKSC 20.

²³ District Court of The Hague, *Public Prosecutor v. Frans Cornelis Adrianus van Anraat*, 23 December 2005, www.internationalcrimesdatabase.org/Case/178/Van-Anraat/.

²⁴ “Communiqués de Presse: Lafarge Poursuivi Pour Financement Presume de Terrorisme” (15 November 2016). Cour de cassation, [7 September 2021] Pourvoi No. 19-87.036; HYPERLINK “<http://www.asso-sherpa.org/lafarge-in-syria-french-supreme-court-issues-decisive-ruling-on-charges-faced-by-the-multinational>” www.asso-sherpa.org/lafarge-in-syria-french-supreme-court-issues-decisive-ruling-on-charges-faced-by-the-multinational.

²⁵ HYPERLINK “<http://www.business-humanrights.org/en/latest-news/lundin-petroleum-lawsuit-re-complicity-war-crimes-sudan/>” www.business-humanrights.org/en/latest-news/lundin-petroleum-lawsuit-re-complicity-war-crimes-sudan/.

²⁶ Alien Torts Statute, 28 US Code, para. 1350; note Supreme Court decisions in *Sosa v. Alvarez-Machain*; *Kiobel v. Royal Dutch Petroleum*; *Jesner v. Arab Bank* and *Nestle v. Doe* have severely restricted the scope of the Statute in recent years; see Federica Violi, “Navigating Corporate Accountability in International Economic Law: A Critical Overview”, (2024) in Ioannis Papadopoulos, et al., (eds), *Handbook of Accountability Studies: Politics, Law, Business, Work* (Elgar Publishing, forthcoming 2025).

²⁷ *Doe v Unocal* (hereafter Unocal) <https://earthrights.org/case/doe-v-unocal/#timelineff69-1a905f26-f4b6>, *Wiwa v Royal Dutch Petroleum Co* (Wiwa), *Talisman, Bowoto v Chevron* (Bowoto), *John Does v Exxon Mobil Corp* (Exxon Mobil), *Rio Tinto*, and *Beanal v Freeport-McMoran Inc.* (Beanal).

²⁸ E.g. Proceeds of Crime Act 2002 (UK).

²⁹ Consider *World Uyghur Congress v National Crime Agency* [2024] EWCA Civ 715.

³⁰ French Duty of Vigilance Act 2017, *LOI n°2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre*.

³¹ German Act on Corporate Due Diligence Obligations in Supply Chain 2021, *Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten*, 16 July 2021.

³² Norwegian Transparency Act 2021, *Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions*, <https://lovdata.no/dokument/NLE/lov/2021-06-18-99>.

³³ Swiss Due Diligence Act 2021, Nicolas Bueno, “The Swiss Human Rights Due Diligence Legislation: Between Law and Politics”, *Business and Human Rights Journal*, vol. 6, No. 3 (2021), pp. 542-549.

Sustainability Due Diligence in July 2024,³⁴ subject to proposed amendments.³⁵ These laws establish mechanisms for supervision and enforcement through injunctive orders and effective, proportionate and dissuasive penalties.³⁶ They are often complemented by regulations applicable to particular sectors, such as dual-use cyber-surveillance items,³⁷ forced labour³⁸ and non-financial reporting entities.³⁹

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct have opened new opportunities for scrutiny.⁴⁰ These require all 51 adhering States, including Israel,⁴¹ to establish National Contact Points (NCPs) to promote the guidelines and create a non-judicial grievance mechanism allowing NGOs, trade unions, affected individuals and communities to lodge complaints about the direct operations or supply chains of companies operating in or from an OECD-country,⁴² and to receive a mediated outcome or final determination with recommendations.⁴³

Where direct remedies are not available against corporate entities, it may be possible to hold States responsible for failing to comply with their obligations vis-a-vis corporate entities within their jurisdiction.⁴⁴

Applying the framework to the occupied Palestinian territory

In the case of the oPt, corporate entities **have been on notice for decades** regarding the widespread and systematic nature of the human rights violations perpetrated there. Proper human rights due diligence would have identified the risk of corporate entities incurring responsibility for such violations well before the catastrophic events that have unfolded since October 2023 – all the more so if the required heightened processes were followed.

³⁴ EU Corporate Sustainability Due Diligence Directive, 2024/1760, (July 2024).

³⁵ www.business-humanrights.org/en/latest-news/eu-ohchr-publishes-commentary-on-omnibus-proposal-warns-that-omnibus-proposal-risks-backsliding-on-csddd/.

³⁶ https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en#what-are-the-obligations-for-companies; www.morganlewis.com/pubs/2024/03/the-first-french-court-rulings-on-the-duty-of-vigilanc.

³⁷ Regulation (EU) 2021/821.

³⁸ Regulation (EU) 2024/301.

³⁹ E.g. HYPERLINK

"http://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf" www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf; www.ccc.ca/wp-content/uploads/2019/12/9.-CCC-Human-Rights-Due-Diligence-Guidelines-Defence-Security.pdf.

⁴⁰ OECD Guidelines.

⁴¹ <https://mneguidelines.oecd.org/ncps/israel.htm>.

⁴² <https://mneguidelines.oecd.org/ncps/how-do-ncps-handle-cases.htm>.

⁴³ UK National Contact Point, *Final Statement: Lawyers for Palestinian Human Rights complaint to UK NCP about JCB*, Decision, 12 November 2021; Spanish National Contact Point, *Final Statement: Comité de Solidaridad de la Causa Árabe (CSCA) & a company active in the construction sector*, 25 May 2022.

⁴⁴ Ralph Wilde, Legal Opinion, 1 December 2024, https://alhaqueurope.org/wp-content/uploads/2024/12/ralph_wilde_icj_opt_ao_thirdstateseu_legal_opinion.pdf, paras. 91-94.

An inherently unlawful context, gradually exposed

Since 1967, Palestinian and Israeli human rights groups,⁴⁵ the United Nations main organs⁴⁶ as well as UN treaty bodies,⁴⁷ special rapporteurs,⁴⁸ investigative committees⁴⁹ and major international NGOs – including Human Rights Watch,⁵⁰ Amnesty International,⁵¹ Save the Children⁵² and Oxfam⁵³ – have systematically documented the Israeli occupation’s many violations, including the economic structures that sustain it.

In its 2004 Advisory Opinion, the ICJ found that Israel’s construction of the Wall in the West Bank, including east Jerusalem, violated peremptory norms of international law, including the right to self-determination, the prohibition on annexation and obligations under international humanitarian and human rights law, including the crime of forced displacement.⁵⁴

The 2004 Advisory Opinion laid the foundation for civil society responses such as the BDS campaign⁵⁵ and initiatives by other actors⁵⁶ who have mobilized around the principle that those who profit from occupation should be held accountable. In response to mounting pressure, as well as internal risk assessments and strategic considerations, several companies have taken action. Some corporations have divested – for example, KLP from Caterpillar,⁵⁷ Irish Strategic Investment Fund from six Israeli companies⁵⁸ and AXA from five Israeli banks and Elbit Systems⁵⁹ – or have withdrawn their operations from the Israeli market, as have Veolia,⁶⁰ CRH,⁶¹ General Mills,⁶² G4S,⁶³

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- ⁴⁵ www.alhaq.org/cached_uploads/download/2025/01/14/punishing-a-nation-1736840036.pdf;
www.alhaq.org/cached_uploads/download/alhaq_files/publications/Annexation_Wall_english.pdf;
https://badil.org/cached_uploads/view/2021/04/19/wp-e-11-1618822997.pdf;
https://badil.org/cached_uploads/view/2021/04/19/icl-wp12-eng-1618823024.pdf;
www.btselem.org/publications/fulltext/202101_this_is_apartheid.
- ⁴⁶ UNSC 242 (1967), 338 (1973), [S/RES/2334](https://www.un.org/Depts/da/resolutions/res_2334.htm) (2016).
- ⁴⁷ [CERD/C/113/3](https://www.unhcr.org/refugees/cerd/C/113/3).
- ⁴⁸ [A/HRC/49/87](https://www.unhcr.org/refugees/a/hrc/49/87) (2022); [A/HRC/13/53](https://www.unhcr.org/refugees/a/hrc/13/53) (2010).
- ⁴⁹ [A/HRC/28/79](https://www.unhcr.org/refugees/a/hrc/28/79) (2015); [A/HRC/50/21](https://www.unhcr.org/refugees/a/hrc/50/21) (2022).
- ⁵⁰ www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution.
- ⁵¹ www.amnesty.org/en/latest/campaigns/2022/02/israels-system-of-apartheid/; www.amnesty.org.uk/files/2018-09/3.%20Campaign%20Briefing%201%20-%20Israel%20Palestine%2050%20years%20of%20occupation.pdf?5wqeX6EBE_M50pnGGMDot1UJj3FPvx6q=.
- ⁵² www.un.org/unispal/wp-content/uploads/2003/07/6bb117b13425504685256ea90055c8ab_assessment.pdf;
https://unispal.un.org/pdfs/GS_HumImplosion.pdf.
- ⁵³ https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/bp104-palestinians-five-years-of-illegality_4.pdf.
- ⁵⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, I.C.J. Reports 2004, paras. 120-123; 163(3)(D).
- ⁵⁵ <https://bdsmovement.net/BNC>.
- ⁵⁶ www.whoprofits.org/; <https://afsc.org/>; <https://dontbuyintooccupation.org/>;
<https://act.progressive.international/watermelon/>.
- ⁵⁷ www.klp.no/en/corporate-responsibility-and-responsible-investments/exclusion-and-dialogue/exclude-caterpillar-inc.pdf.
- ⁵⁸ www.gov.ie/en/department-of-finance/press-releases/minister-mcgrath-notes-ntma-confirmation-of-divestment-from-certain-investments-in-the-occupied-palestinian-territory/.
- ⁵⁹ https://hwkvufmtfxjkrhbrfqkj.supabase.co/storage/v1/object/public/PUB/AXA_investments_Israeli_banks_report.pdf.
- ⁶⁰ www.middleeastmonitor.com/20150829-veolia-completes-withdrawal-from-israel-in-victory-for-bds-campaign/.
- ⁶¹ www.crh.com/media/1062/dev-strat-update-07012016_2.pdf.
- ⁶² www.generalmills.com/news/stories/an-update-on-general-mills-joint-venture-in-israel.
- ⁶³ <https://mayafiles.tase.co.il/RHtm/1524001-1525000/H1524391.htm>; www.g4s.com/news-and-insights/news/2017/06/29/sale-of-g4s-secure-solutions-israel-ltd; www.g4s.com/news-and-insights/news/2016/05/23/statement-regarding-the-sale-of-g4s-israel.

Yokohama⁶⁴ and Pret a Manger,⁶⁵ and Ben & Jerrys continues to fight to implement its decision to withdraw sales to colonies against efforts of its parent company Unilever.⁶⁶ In the sports sector, sustained advocacy led Adidas, PUMA, and Erreà to end their sponsorship of the Israel Football Association.⁶⁷

In 2016, the UN Human Rights Council adopted resolution [A/HRC/RES/31/36](#), pursuant to which the Office of the High Commissioner for Human Rights established a database in 2020 ('UN database') listing business enterprises that have "directly and indirectly enabled, facilitated and profited from the construction and growth of the settlements", identifying ten specific types of activities.⁶⁸ Its most recent iteration, updated in 2023, lists 97 companies.⁶⁹ While it does not cover the full gamut of relevant activities, the database captures critical components of the complex matrix of corporate entities involved in the displacement and replacement of the Palestinians.

Seismic shift: international court proceedings

Recent legal developments concerning the oPt have significantly reshaped the assessment of corporate responsibility and potential liability.

Most significant is the ICJ's Advisory Opinion of 19 July 2024, which addressed the legality of Israel's very *presence* in the oPt. The Court declared the prolonged presence of Israel in the whole of the territory, including its colony regime – composed of its military presence, settlements, associated infrastructures and control of Palestinian natural resources⁷⁰ – as illegal⁷¹ in its entirety on the basis of sustained violations of two peremptory norms of international law: the right to self-determination of the Palestinian people and the prohibition on the acquisition of territory by force (annexation).⁷² The Court also recognized, among others, the violation of the non-derogable norm prohibiting racial segregation and apartheid.⁷³

The ICJ's finding of a violation of the prohibition on the use of force effectively qualifies the occupation as an act of aggression.⁷⁴ Consequently, any dealings that support or sustain the occupation and its associated apparatus may amount

⁶⁴ www.y-yokohama.com/release/pdf/2024111414mg004.pdf.

⁶⁵ www.reuters.com/business/retail-consumer/british-sandwich-chain-pret-abandons-plan-open-israel-2024-06-03/.

⁶⁶ www.unilever.com/news/press-and-media/press-releases/2021/unilever-statement-on-ben-and-jerrys-decision/; www.nbcnews.com/business/business-news/ben-jerry-s-withdraws-sales-israeli-settlements-clashes-parent-company-n1274403; <https://fortune.com/europe/2025/03/19/unilever-oppressiveness-ben-jerrys-ceo-sacked-social-mission/>; www.timesofisrael.com/ben-jerrys-founder-said-looking-to-buy-back-company-from-unilever-amid-israel-spat/.

⁶⁷ www.bdsmovement.net/news/israel-football-association-loses-yet-another-sponsor.

⁶⁸ HYPERLINK "https://docs.un.org/en/A/HRC/22/63" [A/HRC/22/63](#) (2013) para. 96; HYPERLINK

"https://docs.un.org/en/A/HRC/RES/31/36" [A/HRC/RES/31/36](#) (2016); HYPERLINK

"https://docs.un.org/en/A/HRC/43/71" [A/HRC/43/71](#) (2020).

⁶⁹ HYPERLINK "http://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session31/database-hrc3136/23-06-30-Update-israeli-settlement-opt-database-hrc3136.pdf" www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session31/database-hrc3136/23-06-30-Update-israeli-settlement-opt-database-hrc3136.pdf para. 14.

⁷⁰ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024, para. 111.

⁷¹ *Ibid.*, paras. 155 and 261-264.

⁷² *Ibid.*, paras. 173, 179 and 252.

⁷³ *Ibid.*, paras. 223-229.

⁷⁴ *Ibid.*, paras. 252-258.

to complicity in an international crime under the Rome Statute.⁷⁵ While Israel, as the de facto occupying power, remains bound by international humanitarian law, the illegality of the occupation means all administrative and military actions it undertakes in the oPt – from controlling visas, permits and movement, to incarceration and economic regulation – lack lawful authority under international law and should be considered invalid.⁷⁶

Second, the recognition by the ICJ of the violation of the right to self-determination in turn informs the interpretation of all human rights and other legal obligations that flow therefrom. As the Court said, **the right to self-determination** is the most fundamental and existential right for all human beings, as it pertains to the inherent capability of a people to exist and determine themselves as a people in a given territory, free from foreign control and occupation.⁷⁷ Without this right, a people are unable to exercise control over their lives and resources in the territory recognized under international law as their own.⁷⁸

On the basis of the ICJ's Advisory Opinion, the UN General Assembly demanded that Israel bring to an end its unlawful presence in the oPt by 17 September 2025.⁷⁹ Until that happens, States must not provide aid or assistance or enter into economic or trade dealings, and must take steps to prevent trade or investment relations that would assist in maintaining the illegal situation created by Israel in the oPt.⁸⁰ It should be emphasized that the failure of States to act on the ICJ ruling does not absolve corporate entities of their responsibilities under international law and the UNGPs.

Atrocity crimes

This sustained situation of illegality with impunity, with its associated violations of international law and international crimes, has predictably given rise to further egregious violations, amounting to atrocity crimes, committed since October 2023. These have in turn precipitated the opening by the ICJ and ICC of proceedings concerning Israel: the former relating to genocide, the latter to war crimes and crimes against humanity.

On 26 January 2024, following the *South Africa v. Israel* proceedings under the Genocide Convention, the ICJ ordered Israel to take “all measures” within its power to prevent genocidal acts against Palestinians,⁸¹ and in May 2024, the Court ordered Israel to “immediately halt” military operations that may bring about conditions of life intended to destroy.⁸² In separate proceedings, *Nicaragua v. Germany*, the ICJ reminded

⁷⁵ Rome Statute, Article 8 bis; [A/77/356](#), para. 22.

⁷⁶ Ralph Wilde, Legal Opinion, para. 45.

⁷⁷ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, I.C.J. Reports 202, paras. 230-233; [A/77/356](#) paras. 16-18.

⁷⁸ [A/77/356](#) (2022) para. 237.

⁷⁹ [A/RES/ES-10/24](#) (2024), para. 2.

⁸⁰ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, I.C.J. Reports 202, paras. 278-279.

⁸¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order, 26 January 2024, I.C.J. Reports 2024, para. 86(1).

⁸² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for the Modification of the Order of 28 March 2024, Order, 24 May 2024, I.C.J. Reports 2024, paras. 29, 57(2)(a).

all States “of their international obligations relating to the transfer of arms⁸³ to parties to an armed conflict, in order to avoid the risk that such arms might be used to violate” international law.⁸⁴

By placing States on explicit notice of this risk of genocide, the ICJ orders engaged the obligation under Article 1 of the Genocide Convention to “prevent and punish” genocide, thereby exposing all those who continue to aid, abet or assist Israel in committing such acts to potential international responsibility for complicity in genocide.

In November 2024, the ICC issued arrest warrants in the *Situation in the State of Palestine* for Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant, on the basis that there are reasonable grounds to believe that they bear criminal responsibility for war crimes and crimes against humanity.

Consequences for corporate entities

The above legal developments have significantly reshaped the assessment of corporate responsibility and potential liability, which must now be interpreted in light of these orders and decisions of international courts.

The scale and severity of violations occurring throughout Israel’s decades-long military occupation – which has helped entrench a settler-colonial apartheid regime – should already have alerted corporate actors to their responsibility to avoid *causing, contributing to* or being *directly linked to* ongoing human rights violations, and the possibility that they may have been complicit in the commission of international crimes, such as by aiding and abetting and facilitating them. The political economy of Israel’s occupation set out in the report, is illustrative of the entwinement of all manner of corporate activities with the *displacement* and *replacement* of Palestinians in the oPt. At a minimum, this *directly linked* these corporate activities with an entrenched and structural set of violations that almost certainly already triggered the responsibility of corporate entities to cease engagement linked to the oPt under the UNGPs, on the basis of their limited capacity to wield influence in order to prevent or mitigate the adverse impact. But the recent and ongoing ICJ and ICC proceedings have removed any possible doubt and put corporate entities – whether subsidiaries, parent companies or direct actors and investors – clearly on notice of the serious risk of being implicated in very serious violations of international law, including human rights violations and international crimes, and of their actions having contributed to or become criminally complicit in these violations and crimes.

Israel’s ongoing illegal occupation of the oPt creates an untenable situation for corporate entities to simply continue business as usual. The finding that the occupation is *per se* illegal, and that international crimes, including genocide, and arguably the crime of aggression, may have been committed, has gone far beyond a “heightened risk” of adverse human rights impact. The private sector must, in its own interests,

⁸³ www.un.org/unispal/document/arms-transfers-un-experts-20jun24/.

⁸⁴ *Alleged Breaches of Certain International Obligations in Respect of the Occupied Palestinian Territory* (Nicaragua v. Germany), Order, 30 April 2024, I.C.J. Reports 2024, paras. 22-24; *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024, para. 285(7).

urgently reconsider all engagement connected to Israel's economy of occupation and now genocide.

A consequence of the ICJ Advisory Opinion is a requirement for heightened human rights due diligence on the part of corporate entities, which must now address the fundamental illegality at the heart of Israel's enterprise. They can no longer limit their legal assessments and mitigation measures to questions of Israel's specific conduct and whether certain human rights (e.g., environmental, workers' or children's rights or lack of fair trial guarantees) and humanitarian frameworks are respected.⁸⁵ For example, the incarceration of thousands of Palestinians, whether in administrative detention or after being convicted in military courts, is unlawful due to the lack of legal authority and because it is part of a governance system using mass incarceration of Palestinians as a tool of systemic repression and forced displacement, and not merely due to the absence of fair trial guarantees. The Advisory Opinion also signals that corporate entities must recognize the primacy of the right to self-determination and its interpretive function in the construction of all other human rights protections.⁸⁶ This means human rights policies and environmental, social and governance frameworks cannot continue to overlook the right to self-determination, which is firmly embedded within human rights law,⁸⁷ recognized as a foundational right of all peoples, and the prerequisite to all other rights.⁸⁸

It also means recognizing that any engagement with the Palestinian people and in the oPt must comply with their right to self-determination. This supersedes paternalistic justifications based on the fiduciary obligations of the occupying power under the Fourth Geneva Convention, and invalidates specious justifications by corporate entities, such as that an investment through Israel as the occupier can eventually benefit the Palestinians as well, or that divestment would have adverse human rights impacts.⁸⁹

The ICJ Advisory Opinion, endorsed by the UN General Assembly, imposes a prima facie responsibility on corporate entities to not engage and/or to withdraw totally and unconditionally from any dealings with any component of the occupation. Where corporate entities disregard this notice, fail to abide by their responsibilities under the UNGPs and continue engagement through their activities and relationships with Israel, its economy, its military and private sector connected to the oPt, they knowingly contribute to or cause violations, including the denial of the Palestinian right to self-determination, the permanent annexation of Palestinian territory or the maintenance of Israel's unlawful occupation of Palestinian territory. The escalation in legal responsibility arises also because ongoing sustainment of any relationships and activities in such a serious context, contributes to legitimating Israeli conduct and

⁸⁵ Ralph Wilde, Legal Opinion, paras. 51-52.

⁸⁶ HYPERLINK "<https://docs.un.org/en/CCPR/C/70/D/547/1993>" [CCPR/C/70/D/547/1993](https://docs.un.org/en/CCPR/C/70/D/547/1993), para. 9.2; HYPERLINK "<https://docs.un.org/en/CCPR/C/124/D/2950/2017>" [CCPR/C/124/D/2950/2017](https://docs.un.org/en/CCPR/C/124/D/2950/2017), paras. 9.9-9.11; [CCPR/C/124/D/2668/2015](https://docs.un.org/en/CCPR/C/124/D/2668/2015), paras. 1.4, 2.4, 6.11.

⁸⁷ Common Article 1 of both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

⁸⁸ HYPERLINK "[https://docs.un.org/en/a/res/637\(vii\)](https://docs.un.org/en/a/res/637(vii))" [A/RES/637\(VII\)](https://docs.un.org/en/a/res/637(vii)); CCPR General Comment No. 12 (1984) para. 1.

⁸⁹ UNGP Commentary to 19; Tyler McCreary, "Historicising the encounter between state, corporate and indigenous authorities on Gitxsan lands" *Windsor Yearbook of Access to Justice*, vol. 33, No. 3, (May 2016), p. 18.

furthering impunity which in turn leads to ever more egregious conduct. Normalisation of the illegal is essential to the survival of Israel's settler-colonial enterprise.

Now, this is a political economy that was always eliminatory and has turned into genocidal mode. Confirming this, the ICJ Provisional Measures and ICC Arrest Warrants signal the risk that corporate entities – and their executives – that engage in the oPt are implicated in serious international crimes. Any decision to continue engagement in Israel's economy is therefore done with knowledge of the crimes that may be taking place, and of the fact that they may provide material support to Israel to continue to commit those crimes.

Corporate entities and their executives can, and indeed must, find themselves liable in civil or criminal law for such conduct, in addition to the multitude of other crimes and human rights violations that are part of the economy of occupation. The actions entities and executives do or do not take in accordance with their responsibilities, vis-a-vis these legal developments and the UNGPs, have material relevance to key evidential questions that would arise in the course of determining their civil and/or criminal liability.