



General Assembly

Distr.: General
20 February 2017

English only

Human Rights Council

Thirty-fourth session

Agenda item 7

Human rights situation in Palestine and other
occupied Arab territories

Written statement* submitted by the Amuta for NGO Responsibility, a non-governmental organization 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.

[13 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-02599(E)



* 1 7 0 2 5 9 9 *

Please recycle



Submission of the Amuta for NGO Responsibility Regarding the Preparation of a Discriminatory Blacklist Pursuant to UNHRC Resolution 31/36

On March 24, 2016, the Human Rights Council (UNHRC) adopted resolution 31/36, “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan.” The resolution calls on the Office of the High Commissioner for Human Rights (OHCHR), in consultation with the UN’s Working Group on Business and Human Rights, to create a discriminatory blacklist of entities allegedly conducting activities in areas over the 1949 Armistice Lines. Prepared in conjunction with anti-Israel BDS (boycott, divestment and sanctions) activists, and in violation of the very international law it purports to uphold, the discriminatory blacklist intends to defame and economically destroy companies doing business with Israel. The ultimate goal is to isolate, demonize, and harm the Jewish State.

The following points illustrate just some of the many problems with this discriminatory blacklist. For a detailed analysis, see our January 2, 2017 submission to OHCHR.¹

- The UNHRC’s discriminatory blacklist operates from the premise that business in occupied territory is “illegal settlement activity” and is barred by international law. In fact, there is no such prohibition, and almost every country engages in and/or facilitates business activities in settlements in situations of occupation throughout the globe.
- The discriminatory blacklist is not limited to “settlements” but also targets companies providing security services to the State of Israel, by labelling legitimate security measures (undertaken everywhere in the world) as “illegal settlement activity.” The purpose of including such companies is to disrupt efforts to protect Israeli civilians from Palestinian terrorism (suicide bombings, stabbings, mass shootings, car ramming, kidnapping, etc...) and is part of a decades-long campaign to minimize and justify Palestinian violence.
- The discriminatory blacklist promotes the violation of the documents known as the Oslo Accords (1993-5), mutually agreed to by the PLO and Israel, and guaranteed by the UN and the international community. It seeks to punish activity necessary to carry out Israeli security and infrastructure obligations mandated by the agreements.
- In contrast to actual international law, the interpretation of “settlement activity” used in Resolution 31/36 is so absurdly broad that the UNHRC may blacklist entities with *any* presence and *for whatever purpose* over the 1949 Armistice lines.
- The UNHRC blacklist is seen as a “backdoor” to impose discriminatory sanctions. The UNHRC, however, does not have this power. Under Chapter VII, Article 41 of the UN Charter, the power to levy sanctions and implement enforcement mechanisms is solely vested in the UN Security Council. The creation of the blacklist is therefore an illegal usurpation of the Security Council by both the UNHRC and the OHCHR, in violation of the UN Charter.
- The discriminatory UNHRC blacklist violates due process norms by placing individuals and entities on an illegal sanctions list aimed at causing reputational harm and economic damage. The blacklist is being created by anonymous UN officials, in conjunction with BDS activists, utilizing vague and non-transparent criteria.

¹ Submission of the Institute for NGO Research (formerly Amuta for NGO Responsibility) Position Paper Regarding the Preparation of a Discriminatory Blacklist Pursuant to UNHRC Resolution 31/36, January 2, 2017, available at <http://www.ngo-monitor.org/nm/wp-content/uploads/2017/01/Submission-to-HRC-on-Blacklist.pdf>

There is no independent oversight of their work, no notice of inclusion, no right to challenge arbitrary determinations, and no access to compensation or other remedies for what could be millions of dollars in economic and reputational harm caused by OHCHR malice and/or negligence. Anne Herzberg, legal advisor of NGO Monitor (a project of the Amuta for NGO Responsibility), wrote to OHCHR seeking basic information about the procedural aspects of the blacklist, but OHCHR was either unwilling or unable to answer simple questions.

- The UNHRC blacklist violates international human rights law and UNHRC guidelines by promoting religious and national origin discrimination, and supporting antisemitic BDS. There are more than a dozen situations of military occupation and settlement activity currently in place around the globe. Yet, as part of the UNHRC's ongoing anti-Israel obsession and immoral double standards, Israel alone is singled out. Neither UNHRC nor OHCHR has taken any steps to blacklist economic activities in any other settlements despite their being far greater in scale and scope, as well as in demographic impact, than Israeli "settlements" located in Jerusalem or over the 1949 Armistice lines.
- The Palestinian Authority and many Palestinian companies routinely aid and abet violations of international human rights and humanitarian law. These violations encompass activities proscribed by the UNHRC and OHCHR as warranting inclusion on the blacklist such as "pollution, and the dumping of waste in or its transfer to Palestinian villages" and "captivity of the Palestinian financial and economic markets, as well as practices that disadvantage Palestinian enterprises, including through restrictions on movement, administrative and legal constraints." Yet, because of national origin and religious discrimination practiced by those preparing the blacklist, there is no indication that these Palestinian violators will be censured, guaranteeing they will be able to continue to act with impunity.
- Throughout history, boycotts and blacklists have been used as a primary tactic to target and discriminate against Jews. Many of these efforts have been aided and abetted by the UN. The discriminatory UNHRC blacklist is the latest iteration of that shameful legacy.

Conclusion

As discussed in this submission, the UNHRC blacklist, prepared in secret and without due process, violates the rights of the individuals, entities, and states targeted. It violates international agreements including the Oslo Accords, the Geneva Conventions, and the UN Charter. It promotes antisemitism and the campaign to eliminate a UN member state, while excusing the actions of others based on their national origin and religion. For these reasons, the blacklist is both illegal and discriminatory. It is yet another shameful stain on the UN, the UNHRC, and the OHCHR.
