



Submission to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

In response to the request for submissions on the private sector's commission of international crimes connected to Israel's unlawful occupation, racial segregation and apartheid regime in the occupied Palestinian territory (OPT):

The Need to Hold Accountable Nonprofit Enterprises Entrenching Zionist Colonisation of Palestine, through Illegal Israeli Settlement Activity

30 November 2024

Table of Contents

I. Introduction	2
II. Contextualizing the role of nonprofit enterprises in zionist settler colonization of historic Palestine	3
III. Involved nonprofit enterprises facilitate the construction and the expansion of settlements	5
IV. Involved nonprofit enterprises supply surveillance and identification equipment for settlements, fuelling the military and security industry	7
A. Involved Nonprofit Enterprises Actively Contribute to Genocide in Gaza, fuelling the military and security industry	7
V. Involved Nonprofit Enterprises Contribute to Rise in Settler Violence	8
VI. Involved nonprofit enterprises qualify as “business enterprises” under paragraph 96 of the UN Database and therefore must be listed	9
VII. Involved nonprofit enterprises fall under obligation for States to regulate third party conduct	11
A. Corporate involvement	12
VIII. Conclusion	13

I. Introduction

Nonprofit organizations provide significant financial support to the construction, maintenance, and proliferation of Israeli colonial settlements, contributing to and entrenching violations of international humanitarian, human rights, and criminal law in the occupied Palestinian territory (OPT); i.e., the West Bank, including eastern Jerusalem, and the Gaza Strip. Many of these nonprofits function out of the United States (U.S.), Canada, and European States. Commonly under the guise of “charitable purposes,” these nonprofits collect and distribute funds that facilitate international law violations, in contravention of their nonprofit status and the favorable tax designations they receive. As such, these nonprofit organizations are private entities that effectively function as business enterprises, abuse tax loopholes, and so far have evaded inclusion in the reporting on the United Nations (UN) database of business enterprises involved in Israeli settlement activity in the OPT [hereinafter “UN database”].¹ These nonprofit enterprises operate to maintain the illegal occupation of Palestinian territory by: (i) facilitating the construction and expansion of settlements; (ii) supplying surveillance and military equipment for settlements; and (iii) fuel increasing settler violence, and as such, their activities must come to an immediate end in compliance with the International Court of Justice (ICJ) advisory opinion on the illegality of the occupation.²

To this end, Al-Haq submits the following information, urging the Special Rapporteur to: (i) recognize the pervasive nature of nonprofit enterprise activity in entrenching Israel’s unlawful presence in the OPT, including by financing and maintaining the growth of Israeli colonial settlements in the occupied West Bank, including eastern Jerusalem; (ii) to hold States accountable for granting tax benefits and allowing these organizations to operate in their jurisdictions; and (iii) urge their inclusion in the annual update to the UN database.

¹ To receive 501(c)(3) tax-exempt status in the U.S., organizations must satisfy certain requirements, including being “organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes,” complying with restrictions related to lobbying, working within the confines of their mission statement, and ensuring that benefits do not inure to private parties. Moreover, 501(c)(3) organizations may not violate public policy. While §501(c)(3)s generally do not operate for profit, they may undertake certain activities generally associated with for-profit corporations such as earning income from selling goods or services. *See* 26 U.S.C. § 501, Exemption from tax on corporations, certain trusts, etc., <https://www.law.cornell.edu/uscode/text/26/501>; Internal Revenue Service, “Exemption Requirements - 501(c)(3) Organizations,” IRS.gov, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations>; *See also* 26 CFR § 1.501(c)(3)-1, Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals; *Bob Jones University v. United States*, 461 U.S. 574 (1983) (noting that organizations that do not provide “beneficial and stabilizing influences in community life” should not be supported by taxpayers with special tax status).

² *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, International Court of Justice (19 July 2024).

II. Contextualizing the role of nonprofit enterprises in Zionist settler colonization of historic Palestine

Rooted in its inherent settler colonial nature, the Zionist movement's goal to capture, confiscate, and settle Palestinian land through the vehicle of philanthropic colonial institutions began decades before the 'proclamation' of the State of Israel. For example, the Jewish National Fund (JNF) was established in 1901 in Basel, Switzerland, with the stated objective "to purchase, take on lease or in exchange or otherwise acquire any lands, forests, rights of possession and other rights in the prescribed region [Palestine and surrounding areas] . . . for the purpose of settling Jews on such lands".³ Joseph Weitz, the director of the JNF's Lands Department, wrote in his diary in December 1940:

There is no way besides transferring the Arabs from here to the neighboring countries, and to transfer all of them, save perhaps for [the Arabs of] Bethlehem, Nazareth and Old Jerusalem. Not one village must be left, not one [Bedouin] tribe. And only after this transfer will the country be able to absorb millions of our brothers and the Jewish problem will cease to exist. There is no other solution.⁴

The JNF relied on fundraising activities to acquire, along with other Zionist agencies, approximately seven percent of Palestinian land before 1948. Following the *Nakba* and forced dispossession of the Palestinian people from 1947-1949, almost 90 percent of Palestinian land was illegally expropriated and transferred to the state and the JNF under a range of military orders and laws to retroactively "legalize" the ill-gotten gains of crimes committed by Zionist militias.⁵

³ Badil Resource Center, *The Jewish National Fund: A parastatal institution in the service of colonialism and apartheid*, Al-Majdal Magazine (Issue No. 43, 2010) p. 2, https://www.badil.org/phocadownload/Badil_docs/publications/al-majdal-43.pdf.

⁴ IMEU, *Fact Sheet: What is the Jewish National Fund?*, (June 26, 2020), <https://imeu.org/article/fact-sheet-what-is-the-jewish-national-fund>.

⁵ Today, the JNF functions as a parastatal organization, and along with the Israel Lands Authority, controls 93 percent of the land of historic Palestine. Together, they confiscate and consolidate control over Palestinian land, build illegal Jewish-only settlements throughout the OPT, systematically discriminate against Palestinians with Israeli citizenship through unequal land ownership laws, and further the ongoing dispossession of millions of Palestinians from accessing or returning to their land. Badil Resource Center, *Situating the JNF in Israel's Land Laws*, Al-Majdal Magazine (Issue No. 43, 2010), [https://www.badil.org/publications/al-majdal/issues/items/1319.html#:~:text=Under%20Israeli%20law%2C%20the%20ILA,and%20the%20JNF%20\(13%25\)](https://www.badil.org/publications/al-majdal/issues/items/1319.html#:~:text=Under%20Israeli%20law%2C%20the%20ILA,and%20the%20JNF%20(13%25);); Badil Resource Center, *Situating the JNF in Israel's Land Laws*, Al-Majdal Magazine (Issue No. 43, 2010), [https://www.badil.org/publications/al-majdal/issues/items/1319.html#:~:text=Under%20Israeli%20law%2C%20the%20ILA,and%20the%20JNF%20\(13%25\)](https://www.badil.org/publications/al-majdal/issues/items/1319.html#:~:text=Under%20Israeli%20law%2C%20the%20ILA,and%20the%20JNF%20(13%25);); Human Rights Watch, *Off the Map: Land and Housing Rights Violations in Israel: IV. Discrimination in Land Allocation and Access, Land Ownership and Distribution in Israel*, March 2008, https://www.hrw.org/reports/2008/iopt0308/4.htm#_ftn65 (noting that the JNF stipulates that only Jewish people may buy, lease, or mortgage JNF lands. Palestinian citizens of Israel can lease land owned directly by the state and not transferred to the JNF. According to Adalah, Palestinian citizens are blocked from leasing about 80 percent of land controlled by the state).

The JNF, repackaged as a philanthropic organization engaged in ‘ecological preservation’ in Israel, facilitates the ongoing *Nakba* of the Palestinian people.⁶ This is evident though, *inter alia*, the planting of forests over Palestinian villages depopulated and destroyed by Zionist militias and the Israeli military, thereby erasing and covering evidence of Palestinian life and preventing residents from returning to their homes.⁷ Indeed, “the act of donating to plant a tree in Israel, sponsor a park bench, or bankroll a section of forest became an important avenue to support the maintenance and growth of the Zionist movement”.⁸ The JNF’s nonprofit and charitable status in most countries, typically based on the JNF’s packaging as an ecological organization, has facilitated this process by providing tax subsidies to donors.⁹ These subsidized donations contribute to the JNF’s material discrimination against non-Jewish persons on both sides of the Green Line from accessing or exercising control over their property and natural resources. Palestinian properties and natural resources are diverted for the use of Jewish Israeli settlers in the OPT, contributing to the demographic manipulation, population transfer, and colonization of Palestinian land through Jewish settlement.¹⁰ In the U.S., the JNF is registered as a 501(c)(3) nonprofit, which means the American taxpayer is subsidizing its illegal activity and settler colonial aims. In 2017 alone, the JNF received over \$72 million in tax-deductible contributions in the U.S.¹¹

The JNF’s contributions to the violations of the rights of Palestinians by inhibiting their right to self-determination, as well as entrenching an apartheid regime on both sides of the Green Line, is detailed extensively in Al-Haq’s report: *Israeli Apartheid: Tool of Zionist Settler Colonialism*.¹²

The JNF, while a seminal institution, is not alone. Direct financial support to the Israeli government, settlements, and organizations which support the proliferation of illegal settlements over the last several decades commonly occur under the guise of “philanthropy.” Today, this method of philanthropic colonialism has significantly contributed to the financial support, maintenance, and spread of illegal settlements on Palestinian land to the tune of hundreds of millions of dollars. Notably, researchers at Al-Haq identified and documented a network of 34

⁶ See Jewish National Fund, Projects, <https://www.jnf.org/our-work#:~:text=Simply%20put%2C%20our%20work%20planting,and%20the%20people%20of%20Israel>., discussing JNF’s ecological activities “as innovators in ecological development and pioneers in afforestation and fire prevention.”

⁷ Al-Haq, *COP26: Jerusalem Wildfires in Summer 2021, When Climate Change-Related Fires Expose the JNF’s Colonial Afforestation Project*, (6 Nov. 2021), https://www.alhaq.org/advocacy/19171.html#_ftn13.

⁸ Badil Resource Center, *The Jewish National Fund: A parastatal institution in the service of colonialism and apartheid*, Al-Majdal Magazine (Issue No. 43, 2010) p. 2, https://www.badil.org/phocadownload/Badil_docs/publications/al-majdal-43.pdf.

⁹ *Ibid.*

¹⁰ Al-Haq, *Israeli Apartheid: Tool of Zionist Settler Colonialism*, (29 Nov. 2022), p. 80, https://www.alhaq.org/cached_uploads/download/2022/12/22/israeli-apartheid-web-final-1-page-view-1671712165.pdf.

¹¹ IMEU, *Fact Sheet: What is the Jewish National Fund?* (26 June 2020), <https://imeu.org/article/fact-sheet-what-is-the-jewish-national-fund>.

¹² See Al-Haq, *Israeli Apartheid: Tool of Zionist Settler Colonialism*, (29 Nov. 2022), https://www.alhaq.org/cached_uploads/download/2022/12/22/israeli-apartheid-web-final-1-page-view-1671712165.pdf.

U.S.-based nonprofit organizations connected to illegal settlement activity in the OPT, providing \$900 million to this philanthropic colonial enterprise since 2012.¹³

While many nonprofits are complicit in this philanthropic colonialism enterprise, some key players include the JNF, Israel Land Fund, Central Fund of Israel, One Israel Fund, Christian Friends of Israeli Communities, and HaYovel, amongst others.¹⁴

III. Involved nonprofit enterprises facilitate the construction and the expansion of settlements

At the broadest level, nonprofit enterprises provide financial support for the development, maintenance, and expansion of illegal settlements, including through financing structures that establish new settlements. For example, in 2007, Israeli authorities suspended plans to build more housing units in Maskiot settlement in the occupied Jordan Valley after international condemnation.¹⁵ Following the suspension, two U.S. charities, One Israel Fund and Christian Friends of Israeli Communities, raised tens of thousands of dollars to erect “temporary” structures in the settlement, enabling settlement building activity to persist until the government lifted the suspension.¹⁶

Furthermore, nonprofit enterprises based abroad distribute funds to organizations in Israel that confiscate land, displace Palestinians from their homes, and directly enable the transfer of Israeli settlers into the OPT. For example, the Central Fund of Israel, a New York-headquartered nonprofit, has donated millions of tax-exempt dollars to Israeli organizations including Ateret Cohanim and Israel Land Fund.¹⁷ Ateret Cohanim, an Israeli organization with a stated mission of “returning, reclaiming, and rebuilding a United Jerusalem”,¹⁸ directly engages in activities to

¹³ Research and data on file with Al-Haq. Data compiled from publicly available 990 forms reporting how much money the involved nonprofits were contributing to the Israeli settlement enterprise.

¹⁴ See Uri Blau, *U.S. Donors Gave Settlements More Than \$220 Million in Tax-exempt Funds Over Five Years*, Haaretz (7 Dec. 2015), <https://www.haaretz.com/2015-12-07/ty-article/haaretz-investigates-u-s-donors-to-israeli-settlements/0000017f-f6bb-d460-aff-ffffd93e0000>. 50 U.S.-based charities donated over \$281 million to illegal Israeli settlements between 2009 to 2013, including the Central Fund of Israel and Hebron Fund. Blau illuminated that “most of these funds came from donations, while some came from returns on capital investments,” and “nearly 80 percent of this income... was transferred to the occupied territories as grants, mostly through Israeli nonprofits.” This study is almost always cited in future reporting, especially legislation attempts like the New York based Not on Our Dime Campaign.

¹⁵ Isabel Kershner, *Israel Moves Closer to Building More Settler Homes*, N.Y. TIMES (25 July 2008), <https://www.nytimes.com/2008/07/25/world/africa/25iht-25mideast.14775701.html>; *Israel: Stop Plans for New West Bank Settlement*, HUMAN RIGHTS WATCH (5 Aug. 2008), <https://www.hrw.org/news/2008/08/05/israel-stop-plans-new-west-bank-settlement>.

¹⁶ Jim Rutenberg, Mike McIntire & Ethan Bronner, *Tax Exempt Funds Aid Settlements in West Bank*, N.Y. TIMES (5 July 2010), <https://www.nytimes.com/2010/07/06/world/middleeast/06settle.html>.

¹⁷ See, e.g., Alex Kane, *Tax-Exempt U.S. Non-Profits Fuel Israel Settler Push to Evict Palestinians*, THE INTERCEPT (14 May 2021), <https://theintercept.com/2021/05/14/israel-settler-evictions-jerusalem-nonprofits/>; *Fact Sheet: The Central Fund of Israel*, INSTITUTE FOR MIDDLE EAST UNDERSTANDING (17 May 2021), <https://imeu.org/article/fact-sheet-the-central-fund-of-israel>.

¹⁸ ATERET COHANIM, <https://www.ateretcohanim.org> (last visited 31 Oct. 2023).

displace Palestinians from their homes in Sheikh Jarrah, a neighborhood in eastern Jerusalem.¹⁹ Israel Land Fund is an Israel-based organization that supports the “[a]cquisition of lands and properties from non-Jews...to ensure the land is returned to Jews and maintained by Jews” by facilitating the sale of land to settlers, explicitly referring to their goal of preventing land ownership by “hostile and enemy elements”.²⁰ Israel Land Fund forces the transfer of Palestinians in eastern Jerusalem, including in the neighborhoods of Sheikh Jarrah and Silwan. Israel Land Fund boasts on its website that it “employs numerous lawyers, appraisers, surveyors, investigators, translators and other professionals as outsourcers in order to run as cheaply and efficiently as possible”, while Ateret Cohanim wrongly declares that all land acquired by the organization is the result of fair trade with Palestinian owners, despite using “middle-men” to circumvent prohibited purchases.²¹

Furthermore, Friends of Ir David, a tax-exempt nonprofit 501(c)(3) in the U.S., funds the Israel-based Ir David Foundation, commonly known as Elad.²² Elad conducts joint operations with the JNF to “Judaize east Jerusalem”, particularly in the Silwan neighborhood.²³ Since 2012, Friends of Ir David has contributed \$112 million explicitly toward “Settlement Expansion/Establishment”.²⁴

IV. Involved nonprofit enterprises supply surveillance and identification equipment for settlements, fueling the military and security industry

Nonprofit enterprises allocate a significant portion of their settlement support to “Security” projects. For instance, the JNF has contributed \$14 million to “Security” projects since 2012.²⁵ Such “Security” projects commonly encompass the financing of, *inter alia*, surveillance cameras, security vehicles, drones, fences, and cameras. For example, the Central Land Fund, which

¹⁹ Al-Haq, *Sheikh Jarrah and Silwan: Ongoing Nakba and Israeli Dispossession of Palestinians*, (27 May 2021), <https://www.alhaq.org/advocacy/18442.html#:~:text=Al%2DHaq%20reaffirms%20the%20urgent,Palestinians%20i n%20Sheikh%20Jarrah%20and>. See e.g., Nir Hasson, *Israeli NGO Advances Plans for Fortified Settlement Inside Arab Area of East Jerusalem*, HAARETZ (2 May 2023), <https://www.haaretz.com/israel-news/2023-05-02/ty-article/.premium/israeli-settler-group-advances-gated-community-inside-arab-neighborhood-of-east-jerusalem/00000187-d93b-d6a1-ad87-f93b58c60000?v=1697585833100>; Mersiha Gadzo, *Palestinians Battle Home Evictions in East Jerusalem’s Silwan*, ALJAZEERA (7 Dec. 2018), <https://www.aljazeera.com/features/2018/12/7/palestinians-battle-home-evictions-in-east-jeruselems-silwan>.

²⁰ See *About the Fund*, ISRAEL LAND FUND, <https://www.israelandfund.com/about-the-fund> (last visited 31 Oct. 2023).

²¹ Al-Haq, *Housing Demolitions and Forced Evictions in Silwan*, (2020) p. 50, https://www.alhaq.org/ cached_uploads/download/2021/08/17/silwan-webversion-1-page-view-1629184473.pdf. See e.g., *The Israel Land Fund*, DEFUND RACISM, <https://defundracism.org/israel-land-fund/> (last visited 31 Oct. 2023).

²² Will Lowry, *How US Donors Fund Settlement Activity in East Jerusalem*, The National (19 May 2021), <https://www.thenationalnews.com/world/the-americas/how-us-donors-fund-settler-activity-in-east-jerusalem-1.1225992>.

²³ Al-Haq, *Finding David: Unlawful Settlement Tourism in Jerusalem’s so-called ‘City of David’*, (16 Nov. 2022), <https://www.alhaq.org/publications/20869.html#:~:text=The%20'City%20of%20David%2C'.and%20demolition%20of%20Palestinian%20homes>; See also Seth Morrison, *JNF Board Member Quits Over Evictions*, The Forward (13 Dec. 2011), <https://forward.com/opinion/147766/jnf-board-member-quits-over-evictions/>.

²⁴ Research and data on file with Al-Haq.

²⁵ *Ibid.*

contributed \$304 million to Israel and illegal Israeli settlements in the OPT since 2012, directed \$3 million of that total to “Security” projects. Similarly, the Christian Friends of Israeli Communities contributed over \$2 million to ‘security-related equipment’ in illegal settlements.²⁶

The need to list nonprofit enterprise activity on the database has grown more critical since 7 October 2023, as these enterprises are capitalizing on the ongoing genocidal attacks against Palestinians in Gaza to facilitate further land grabs and violence in the West Bank. For example, HaYovel, through its “Operation Ittai,” is appealing to “Christians from all over the world to stand with Israel”, and send security equipment characterized as “humanitarian supplies” because illegal settlements are “surrounded by 2 million Arabs, most of whom are hostile to the Jewish people”.²⁷ Operation Ittai has a stated mission to “equip and defend 200 communities throughout Judea and Samaria with the critical equipment that they need, ensuring that Israel’s biblical heartland will not only be protected during this time of crisis, but will remain a safe haven for the 500,000 Jewish people who live there”.²⁸ This “critical equipment” includes outfitting illegal settlements with night vision binoculars, aerial surveillance drones, flashlights, helmets, and kevlar bulletproof vests.²⁹ Since 7 October, Operation Ittai transferred at least \$3.5 million to 200 illegal settlement communities in the OPT.³⁰

A. Involved Nonprofit Enterprises Actively Contribute to Genocide in Gaza, fueling the military and security industry

It is necessary to mention the role that involved nonprofit enterprises are playing in the ongoing genocide in Gaza. As calls for the resettlement of Gaza ring through the Israeli government and the public, soldiers are carrying out atrocities to make future settlement rebuilding and the expulsion of Palestinians from the Gaza Strip a reality.³¹

For example, Friends of the IDF (FIDF) is a US-based 501(c)(3) nonprofit headquartered in New York City that financially contributes to projects for the “wellbeing of the soldiers of the Israel Defense Forces (IDF), veterans and family members.”³² Among the projects that the FIDF undertakes include providing “Lone Soldier Fund Days” and plane tickets for soldiers who volunteer from abroad to join the occupation forces, and to provide “scholarships” to combat

²⁶ *Ibid.*

²⁷ HaYovel, Operation Ittai, <https://serveisrael.com/operation-ittai/>.

²⁸ *Ibid.*

²⁹ *Ibid*; See A/HRC/22/63, para. 96(b).

³⁰ HaYovel, “Since October 7th, Operation Ittai has brought in a whopping \$3.5 million worth of equipment to help keep Israel safe and sound”, Facebook (19 Feb. 2024), <https://www.facebook.com/hayovelisrael/videos/since-october-7th-operation-ittai-has-brought-in-a-whopping-35-million-worth-of-/278293238442562/>.

³¹ ‘It is doable’: 10 Likud MKs to attend conference calling for ‘resettling Gaza,’ Times of Israel (16 Oct. 2024), <https://www.timesofisrael.com/it-is-doable-10-likud-mks-to-attend-conference-calling-for-resettling-gaza/>; [Translated from Hebrew] “A few thousand remain in the north of the Gaza Strip” Israeli Public Broadcasting Corporation (5 Nov. 2024), <https://www.kan.org.il/content/kan-news/defense/820691/>.

³² Homepage, Friends of the IDF, <https://www.fidf.org/>, (last accessed 12 Nov. 2024).

soldiers who served in Gaza and the West Bank.³³ According to FIDF, the nonprofit has “transferred tens of millions of dollars in response to IDF requests for support during the Hamas-Israel War.”³⁴ Thus, FIDF is one example of how nonprofit enterprises are directly providing tens of millions of dollars to the Israeli Occupying Forces (IOF) to support their criminal acts of genocide, war crimes, and crimes against humanity.

V. Involved Nonprofit Enterprises Contribute to Rise in Settler Violence

Involved nonprofit enterprises, by directly contributing to and maintaining the proliferation of settlements throughout the OPT, contribute to an increasing rise in settler violence. The scope of settler violence extends beyond the tangible, dire consequences typically associated with attacks – including killings, injuries, property damage, or forcible transfers. Settler violence encompasses a broader range of abuses that permeate the daily lives of Palestinians, manifesting in various forms and consequences, including fragmentation, intimidation, harassment, systematic disruption of livelihoods, and economic subordination. It is not confined to isolated instances but rather represents an ongoing pattern of violence that erodes the social fabric of the colonized people, entrenching the existing structural regimes of racial discrimination and colonial domination. As such, this multifaceted violence not only inflicts immediate harm but also fundamentally undermines the right to self-determination for the colonized Palestinian people.

That being said, the legal and factual analysis of settler violence, and the human rights impacts of illegal settlement activity on the Palestinian people, pervasive throughout the OPT and familiar to the Special Rapporteur, will not be elaborated upon in detail for the purposes of this submission. However, it must be noted that so long as the nonprofit enterprise system continues unabated while enjoying favorable tax breaks to continue supporting and facilitating illegal settlements in the OPT, an ensuing rise in settler violence against Palestinians will follow.³⁵

VI. Involved nonprofit enterprises qualify as “business enterprises” under paragraph 96 of the UN Database and therefore must be listed

A business enterprise is generally understood to be any corporation, association, or venture which carries out the sale of goods, trade, or the performance of services, and a trade or business is not excluded from the classification of a business enterprise merely because it does not result in profit.³⁶ Under Paragraph 96 of the 2013 report of the International Fact-Finding Mission on Israeli Settlements in the OPT, the parameters of business activities to be reflected in the database are not

³³ “Stories,” Friends of the IDF, <https://www.fidf.org/how-we-help/stories/>, (last accessed 12 Nov. 2024).

³⁴ “About Us,” Friends of the IDF, <https://www.fidf.org/about-fidf/>, (last accessed 12 Nov. 2024).

³⁵ Al-Haq, *Palestinian Groups Send a Letter to Third States on the Dangerous Escalation of Settler Violence against Palestinians* (8 Nov. 2023), <https://www.alhaq.org/advocacy/22122.html>.

³⁶ See “Business enterprise definition,” Law Insider, <https://www.lawinsider.com/dictionary/business-enterprise>; 26 CFR § 53.4943-10 Business enterprise; definition. As argued in this submission, the charitable exemption U.S. law carves out to this definition does not apply to the relevant nonprofits as their charitable endeavors are a guise for illegal activity, and as such, disqualifies these organizations from charitable status and the exemption. 26 CFR § 53.4942(a)-2 (c)(3)(iii)- Computation of undistributed income.

limited to “for profit” business enterprises.³⁷ Nonprofits and business enterprises are not mutually exclusive endeavors, as nonprofits may simultaneously operate as limited liability corporations (LLC).³⁸ Not all nonprofits are considered “charities,” as nonprofits may receive their status from other endeavors, such as educational, religious, scientific, or other purposes for the public good.³⁹ Finally, the UN Guiding Principles call on all States to protect against human rights abuse within their territory and/or jurisdiction by third parties, which includes nonprofits.⁴⁰

Furthermore, many nonprofit enterprises contributing to Israel’s confiscation of land, facilitating the transfer of its population into the OPT, and appropriation and pillage of Palestinian natural resources, are built for the stated illegal purpose which qualifies it for inclusion on the database. Thus, their involvement in certain settlement activities listed in Paragraph 96 are evident and verifiable. For example, as outlined above, involved nonprofit enterprises facilitate the construction and expansion of settlements, a qualifying activity under Paragraph 96(a), and supply surveillance and identification equipment to settlements, a qualifying activity under Paragraph 96(b).

From 2012 to 2023, U.S.-based nonprofits collectively contributed \$126 million explicitly to “Settlement Expansion/Establishment” while \$26 million went to “Security”, financing the purchase of drones, surveillance cameras, and other technology to surveil and monitor Palestinians living in areas close to colonial settlements and outposts.⁴¹ Another \$24 million went to “Agricultural/Environmental Projects” to facilitate the continued confiscation, forestation, and greenwashing of Palestinian villages and farmland.⁴² According to an investigation published in Haaretz, money filtering into illegal settlements from the U.S.-based nonprofits is an “added luxury for the settlements, contributing to religious education...improving living conditions ... leisure activities ... but also purchasing buildings in the West Bank and East Jerusalem,” for illegal transfer of population into occupied territory.⁴³

³⁷ OHCHR, “Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the 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.

³⁸ See *supra*, note 1; MarketWatch Guides, *Can a Nonprofit be an LLC?*, <https://www.marketwatch.com/guides/business/can-a-nonprofit-be-an-llc/>.

³⁹ 26 U.S.C. § 501, Exemption from tax on corporations, certain trusts, etc., <https://www.law.cornell.edu/uscode/text/26/501>; Internal Revenue Service, “Exemption Requirements - 501(c)(3) Organizations,” IRS.gov, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations>; See also 26 CFR § 1.501(c)(3)-1, Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

⁴⁰ HR/PUB/11/04, Guiding Principles on Business and Human Rights, Art. 1(A)(1), https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

⁴¹ Research and data on file with AI-Haq.

⁴² Research and data on file with AI-Haq.

⁴³ Uri Blau, *U.S. Donors Gave Settlements More Than \$220 Million in Tax-exempt Funds Over Five Years*, Haaretz (7 Dec. 2015) <https://www.haaretz.com/2015-12-07/ty-article/haaretz-investigates-u-s-donors-to-israeli->

Notably, the “charitable purpose” for which many nonprofits claim to pursue is a cover for nefarious illegal activity that significantly contributes to Israel’s illegal settlement enterprise. As such, these nonprofit enterprises whose activities support the illegal settlements are covered by the mandate establishing the UN database, and cannot be considered as “charities”. Purposeful misnomers shrouding illegal activity as charitable endeavors must not provide impunity for the extensive nonprofit network engaged in supporting, maintaining, and facilitating the confiscation and transfer of Palestinian land and resources.

Nonprofits financing illegal settlements throughout the OPT is inconsistent with serving a charitable purpose. For example, in the U.S., to earn 501(c)(3) nonprofit status, “charitable” is defined in its generally accepted legal sense to include purposes which: provide relief to the poor, distressed, or underprivileged; lessen neighborhood tensions; eliminate prejudice and discrimination; and defend human and civil rights secured by the law.⁴⁴ To the contrary, Israeli settlements and settlers contribute to violence, discrimination, and dispossession of Palestinians in violation of international law, including the Geneva Conventions’ prohibition on forcible mass transfer and deportation of protected persons.⁴⁵ Thus, by supporting Israeli settlements and settlement activities, nonprofit 501(c)(3)s are engaged in illegal activity beyond the scope of “charitable” status.

Rather, nonprofit enterprises engaged in philanthropic colonialism contribute to facilitating the construction and growth of settlements by explicitly engaging in business activities that are listed in the aforementioned Paragraph 96. In doing so, involved nonprofit enterprises and donors receive favorable tax status in countries such as the United States, where they financially benefit from financing criminal activity in the OPT. As nonprofit enterprises funnel the money toward illegal activity, the agents financially benefit, such as Ir David, the JNF, and others, who acquire Palestinian land for settlement with money delivered by nonprofit enterprises. For example, Atarot, an industrial settlement located on confiscated Palestinian land in the OPT, was built on land acquired by the JNF through this philanthropic colonial process.⁴⁶

VII. Involved nonprofit enterprises fall under obligation for States to regulate third party conduct

States’ obligations to respect, protect, and fulfill the human rights of individuals within their territories and jurisdictions extends to the actions of third parties within their territory or

[settlements/0000017f-f6bb-d460-aff-fffd93e0000](#); Geneva Convention (IV) on Civilians, Art. 49; Rome Statute Violation of Rome Statute, Art. 8(2)(b)(viii).

⁴⁴ Internal Revenue Service, “Exempt Purposes - Internal Revenue Code Section 501(c)(3),” IRS.gov, <https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-purposes-internal-revenue-code-section-501c3>.

⁴⁵ Geneva Convention (IV) on Civilians, Art. 49.

⁴⁶ Marya Farah, The Atarot Exception? Business and Human Rights Under Colonization, Jerusalem Quarterly (Issue 80, Winter 2019), <https://www.palestine-studies.org/en/node/1649529>.

jurisdiction.⁴⁷ This includes the duty to protect against human rights abuses committed by nonprofits. Furthermore, States which give favorable tax status and tax breaks to nonprofits engaged in illegal settlement activities, may be in breach of their international law obligations where such wrongful acts can be attributed to them. By actively giving favorable treatment to nonprofit enterprises built for the purpose of committing human rights violations in the OPT, or failing to take appropriate steps to prevent, investigate, punish, and redress nonprofits' abuse, States are complicit in the violations.

The UN Human Rights Council has called on States to implement the Guiding Principles on Business and Human Rights⁴⁸ in relation to the OPT, and to ensure that third parties domiciled in their territory and/or under their jurisdiction refrain from committing or contributing to human rights abuses against the Palestinian people.⁴⁹ Although many nonprofits may organize under a “religious” or “political” purpose, OHCHR notes that the political position of enterprises is not a relevant consideration in determining whether their actions are consistent with the Guiding Principles or whether their business activities fall within the ambit of Human Rights Council resolution 31/36.⁵⁰

Furthermore, compliance with national laws and regulations of a State where nonprofits are registered does not necessarily equate to compliance with the Guiding Principles or international law, which exist “over and above compliance with national laws and regulations protecting human rights”.⁵¹ Therefore, even if nonprofits are registered within State guidelines, if they are serving a purpose which is illegal under international law, States are obligated to prevent, investigate, punish and redress such illegal activity. Finally, nonprofits which pass money to Israel-based affiliates, who in turn use that money to facilitate illegal settlement activity, remain complicit, as they are responsible for preventing or mitigating adverse human rights impacts directly linked to their operations through their business relationships, and have a responsibility to conduct enhanced due diligence, particularly in the OPT.⁵² This requires that the non-profit take active steps to identify and assess any actual or potential adverse human rights impacts made as a result of business relationships.⁵³ As such, nonprofit enterprise activity that supports and facilitates the

⁴⁷ HR/PUB/11/04, Guiding Principles on Business and Human Rights, Art. 1(A)(1), https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

⁴⁸ HR/PUB/11/04, Guiding Principles on Business and Human Rights, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

⁴⁹ See, for example, Human Rights Council, “Resolution adopted by the Human Rights Council on 22 June 2020: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan”, 29 June 2020, UN Doc A/HRC/RES/43/31, para. 12(b).

⁵⁰ OHCHR, “Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem”, 1 February 2018, UN Doc A/HRC/37/39, para. 55.

⁵¹ *Ibid*, para. 57.

⁵² *Ibid*, para. 59, 37.

⁵³ *Ibid*, para. 59. See also PAX & ECCHR, *Funding Conflict*, (2023), https://www.ecchr.eu/fileadmin/user_upload/PAX_ECCHR_Rapport_Lafarge_2023.pdf, (Charities, in their business

establishment, maintenance, and existence of settlements are in direct conflict with international law and must be addressed by home States. We ask that the Special Rapporteur expand the scope of accountability to include these critical players driving illegal settlement activity in the OPT.

A. Corporate involvement

The pervasive nature of the nonprofit settlement network extends to the corporate level as well. For example, corporations such as Apple encourage their employees to donate to nonprofits that contribute to the settlement enterprise in the OPT by “price-matching” donations – so they in effect increase or double the original amount donated. Thus, State obligations to protect against human rights abuses committed by third party actors within their territory extends to these corporations contributing to nonprofit settlement activity.

In April 2024, Apple employees and shareholders demanded that the tech giant cease its donation matching policy with nonprofits that contribute to illegal settlements in the West Bank, the IOF, and the ongoing genocide in Gaza.⁵⁴ These nonprofit organizations include:

- Friends of the Israel Defense Forces, which collects donations for IOF soldiers;
- HaYovel, which directly fuels the military and security industry by purchasing surveillance equipment for illegal settlements;
- One Israel Fund, which provides financial support to build settler infrastructure and expand settlements;
- Jewish National Fund, historically the organization that has expropriated the most Palestinian land and resources for the Israeli settlement enterprise; and
- IsraelGives, a platform that facilitates donations to illegal settlements, paramilitary groups, and IOF units operating in the West Bank and Gaza.

Apple claims to be “deeply committed to respecting internationally recognized human rights in our business operations, as set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.”⁵⁵ Furthermore, Apple’s “approach is based on the UN Guiding Principles on Business and Human Rights.”⁵⁶ However, Apple, along with several other big tech corporations, are flagrantly violating these obligations of international human rights law by directly donating to

relationships, must conduct enhanced due diligence in conflict zones. “Value chain relationships (e.g. state agencies, state-owned or affiliated companies, non-state armed groups de facto governing an area, private security providers), may be active participants in the conflict. As the UN Working Group on Business and Human Rights states in its July 2020 report on business in conflict-affected areas, ‘Businesses are not neutral actors, their presence is not without impact. Even if a business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics.’”)

⁵⁴ “Apple Cease Funding for Illegal Settlements and Israeli Military,” 13 April 2024, <https://openletter.earth/apple-cease-funding-for-illegal-settlements-and-israeli-military-d5e63fa8>.

⁵⁵ Apple, “Our Commitment to Human Rights,” May 2024, https://s2.q4cdn.com/470004039/files/doc_downloads/gov_docs/2024/Apple-Human-Rights-Policy.pdf.

⁵⁶ *Ibid.*

maintain the illegal occupation of Palestinian territory and contributing to the ongoing genocide in Gaza.

States where corporations such as Apple are subject to jurisdiction are required to protect against human rights abuses committed by these corporations which encourage donations to involved nonprofit enterprises.⁵⁷

VIII. Conclusion

Given the role of nonprofit organizations in entrenching Israel's settler colonial apartheid regime and maintaining the illegal occupation, including through sustaining Israel's colonial settlement enterprise, Al-Haq calls on the Special Rapporteur to:

1. Continue to acknowledge the pervasive influence of nonprofit enterprise activity in financing and maintaining the growth of Israeli settlements in the OPT, in contravention of the ICJ Advisory Opinion on the illegality of the occupation as a whole;
2. Urge the OHCHR to list the JNF, Central Fund of Israel, One Israel Fund, Christian Friends of Israeli Communities, HaYovel, Friends of Ir David, FIDE, and all other similarly positioned nonprofit organizations in the upcoming update and report of the UN database;
3. Urge the OHCHR to update the database annually and comprehensively, ensuring both the addition and removal of enterprises from the database, as mandated by Human Rights Council resolution 31/36 (2016), thereby ensuring transparency of enterprises that are involved in Israel's illegal colonial settlement enterprise;
4. Demand States to rescind "charitable" and other tax-exempt status of, and ending the unlawful flow of investment from institutions that benefit from and maintain Israel's unlawful occupation, illegal settlement enterprise, and settler-colonial apartheid regime; and
5. Push to hold States that grant tax exempt and special financial status to involved nonprofit enterprises accountable.

⁵⁷ HR/PUB/11/04, Guiding Principles on Business and Human Rights, Art. 1(A)(1), https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.