



LPHR files OECD Guidelines complaint against JCB for involvement in human rights breaches in the occupied Palestinian territory

10 December 2019

The UK charity, [Lawyers for Palestinian Human Rights](#) (LPHR), has today filed a comprehensive evidence-based [human rights complaint](#) against JCB, a world-leading construction equipment company headquartered in Britain, to the UK National Contact Point for the OECD Guidelines for Multinational Enterprises (situated in the Department of International Trade). The complaint is being brought under the [OECD Guidelines for Multinational Enterprises](#).

LPHR has gathered credible, clear and compelling video, photographic and written contemporaneous evidence that substantiates the material and prolific use of JCB products in a number of specific demolition and displacement incidents, and in settlement-related construction. The primary sources of our evidence are the prominent Palestinian human rights organisation, Al-Haq; the leading Israeli human rights organisation, B'Tselem; and the UK charity, EyeWitness to Atrocities, founded by the International Bar Association.

One of the items of video evidence submitted with LPHR's complaint can be viewed [here](#). The video footage, taken on 11 September 2019 in the South Hebron Hills, shows a JCB vehicle, identifiable as the model 3CX, demolishing structures that are likely to be the six family homes reported in the B'Tselem commentary that accompanies the video.

The primary evidence submitted with our complaint that substantiates the material use of JCB products in demolitions, relates to incidents in ten villages or areas in the occupied Palestinian territory, covering a time period of 2016 to 2019. In total, 89 homes are identified as having been demolished, resulting in the displacement of at least 484 individuals, including children and the elderly. One school (*Khirbet Tana Elementary School*) is among other property documented to have been demolished, as are water tanks.

The evidence demonstrates that vulnerable Palestinian Bedouin communities in Area C of the occupied West Bank are frequently affected by demolitions and displacement, with associated human rights breaches that include the violation of the right to adequate housing under international human rights law.

LPHR submits JCB is in breach of five human rights responsibilities under the OECD Guidelines

LPHR sets out detailed submissions that JCB is in current breach of five provisions of the human rights chapter of the OECD Guidelines. They are summarised here:



1. JCB is in breach of the general obligation under Chapter 4, paragraph 1 of the OECD Guidelines to respect human rights. This specific submission is made as a consequence of our submissions that the company is in breach of specific human rights obligations at paragraphs 2-5 of Chapter 4 of the OECD Guidelines (the following four listed below).
2. JCB has failed to avoid contributing to adverse human rights impacts and to address impacts where they do occur, through: i) its action of selling products that facilitates another entity (Israeli authorities/private contractors) to cause adverse human rights impacts; and/or ii) its omission of failing to stop sales of products that facilitates another entity (Israeli authorities/private contractors) to cause adverse human rights impacts, when having actual or constructive knowledge of such adverse impacts.
3. JCB has not sought ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations and products by virtue of the use of its machinery by Israeli authorities and private contractors, that it is linked to via a supply chain.
4. JCB has failed to develop a human rights policy that: has been approved by its Board; benefits from internal and/or external expertise; sets out the company's expectations from its staff; is publicly available; and is embedded across the business.
5. JCB has failed to carry out human rights diligence as appropriate to its size, nature and context of operations and the severity of the risks of adverse human rights impacts.

LPHR requests three actions for JCB to resolve its involvement in human rights violations

As a consequence of our submissions that JCB is in breach of its human rights responsibilities under the OECD Guidelines, LPHR concludes its complaint by requesting that JCB:

1. immediately suspend supply of products to Comasco (an Israeli company which is the exclusive dealer of JCB products in Israel) that could be identified as being part of the supply chain that results in demolitions or settlement-related construction, and to permanently cease supply to Comasco should it not be able to provide credible and verifiable guarantees that such products will not be involved in the violation of Palestinian human rights;
2. develops and publishes on its website a human rights policy which specifically sets out the due diligence methodology it applies to ensure that its products are not at risk of contributing and/or being directly linked in a business relationship to the violation of human rights; and



3. agrees to participate with LPHR and other appropriate stakeholders in establishing an effective grievance mechanism to enable remediation. Such a mechanism would be administered in accordance with the core criteria for a remediation process as specified in the OECD Guidelines, and incorporate appropriate financial and/or non-financial remedies for individuals in respect of damages suffered through the known uses of JCB products in the demolition of their homes and property, including those identified in this complaint.

The demolition of the entire Palestinian village of Khan al-Ahmar is urgent at the time of submission of LPHR's complaint

LPHR's complaint is being submitted to coincide with the 'mid-December at the earliest' timeline [reportedly](#) given by the government of Israel at an Israeli Supreme Court hearing in June this year, to proceed with the long-planned demolition of the entire Palestinian village of Khan al-Ahmar in Area C of the Occupied West Bank. This will result in the permanent displacement of its 188 residents.

The issue received prominent attention in July 2018, when JCB products were photographed alongside reports that Israeli authorities had commenced the paving of an access road to Khan al-Ahmar. This was viewed as a facilitating step towards undertaking the impending demolition of the whole Palestinian village. The government of Israel subsequently paused the planned demolition amidst significant diplomatic pressure, including from the [UK government](#).

Tareq Shrourou and Claire Jeffwitz of Lawyers for Palestinian Human Rights, said:

“LPHR's OECD Guidelines complaint presents credible, clear and compelling evidence that substantiates the material and prolific involvement of JCB heavy machinery products in specific demolition and displacement incidents that significantly impacts Palestinian families, including children and the elderly, and also its use in settlement-related construction.

“JCB's facilitating of these tightly connected policies and practices that result in human rights violations against Palestinians must cease immediately. Furthermore, a remediation mechanism should be established to provide adequate remedy for individuals who have suffered damages as a result of JCB's material contribution to violations.

“We hope that JCB will do the right thing and shall now take all necessary measures to fully meet its human rights responsibilities under the OECD Guidelines for Multinational Enterprises. LPHR's objective of ending JCB's unacceptable involvement in human rights violations against Palestinians should be a shared one.”



NOTES TO EDITORS

Contact information: Tareq Shrourou, Director of LPHR, contact@lphr.org.uk

1. [Lawyers for Palestinian Human Rights](#) (LPHR) is a UK legal charity that works on projects to protect and promote Palestinian human rights. Our trustees include the senior human rights lawyers, Sir Geoffrey Bindman QC, Fiona McKay, Tessa Gregory and Nusrat Uddin.
2. LPHR's OECD Guidelines [complaint](#) comprises 11 sections and is 30 pages long. Its first appendix includes links to video evidence. The second and third appendices outlines the photographic and written evidence submitted in an accompanying 205 page evidence bundle. The fourth appendix to the complaint provides a commentary on the urgent case of the impending demolition of the entire Palestinian village of Khan al-Ahmar.
3. The [UK National Contact Point](#) considers complaints that a multinational enterprise based or operating in the UK, is in breach of the [OECD Guidelines for Multinational Enterprises](#). The human rights chapter of the OECD Guidelines reflects the principles within the [United Nations Guiding Principles on Business and Human Rights](#). The UK National Contact Point is funded by the UK government and is based in the Department for International Trade.
4. The OECD Guidelines constitute the only government-backed international instrument on responsible business conduct with an in-built grievance mechanism. Once a complaint is submitted, the National Contact Point will initially assess whether or not to accept it. If it does, it will offer a platform for mediation. In the absence or failure of mediation, the National Contact Point will fully examine the complaint and then publish its decision.
5. LPHR previously submitted a comprehensive human rights complaint to the UK National Contact Point regarding the activities of G4S in the occupied Palestinian territory and Israel. The complaint resulted in [adverse human rights findings](#) being made against G4S by the UK National Contact Point in June 2015. Nine months later, G4S [announced](#) it had commenced a process to sell its subsidiary, G4S Israel. In June 2017, G4S [announced](#) the completion of the sale of G4S Israel to FIMI Opportunity Funds (an Israel private equity fund).
6. The parliamentary Joint Committee on Human Rights expressly referred to LPHR's written evidence when recommending in its '[Human Rights and Business 2017: Promoting responsibility and ensuring accountability](#)' report that, "*the [UK] Government gives clear guidance to procurement officers that large public sector contracts, export credit, and other financial benefits should not be awarded to companies who have received negative final statements from the [UK] National Contact Point and who have not made effective and timely efforts to address any issues raised.*"