



LPHR statement responding to CEMEX's position on legality of settlements

09 September 2015 - CEMEX's claim that settlements approved by the Israeli government are accordingly legal is based on wholly inadequate reasoning which must urgently be reviewed and overturned.

CEMEX appears to have ignored that it has been the consistent position of the international community that establishment of settlements by the Government of Israel is incompatible with Israel's obligation under Article 49, paragraph 6 of the Fourth Geneva Convention not to transfer part of its civilian population into the Occupied Palestinian Territory. This position was confirmed by the International Court of Justice in its Advisory Opinion on Legal Consequences of the Construction of a Wall.

The further claim made by CEMEX that Israel's Supreme Court has validated the settlements to which it provides construction materials requires some examination. The Israeli Supreme Court has held that if Israel's military authorities could show that a settlement was established in a strategic position and that its aim was to enhance the defence of the state of Israel, requisition of private Palestinian land could be justified on the basis of being for military needs. On the other hand, the Israeli Supreme Court has found that if the motivation for establishment of a settlement was political, rather than security, requisition of the private land would be unlawful. The Court has otherwise refused to rule on the general legality of settlements by finding that a petition challenging the entire settlement policy on various legal grounds was non-justiciable.

The final claim made by CEMEX that Israel's settlements are legal because they are in areas outlined in the interim agreement between Israel and the Palestinian Authority as areas under the control and the responsibility of Israel until both parts reached a permanent agreement, ignores the basic legal principle, as set out in the KLP decision dated 1 June 2015, that no agreement can override the rules relating to occupation set out in the Hague Regulations and the Fourth Geneva Convention.

The full decision by KLP to exclude the companies HeidelbergCement AG and Cemex SAB de SV from their investment portfolios is an exemplary model of ethical and legal reasoning in support of the general corporate responsibility to respect human rights and international humanitarian law. LPHR would urge CEMEX to urgently review and overturn its current position so that it is compatible with the immaculately considered position set out by KLP, and with the overwhelming international consensus that Israel's settlements are illegal. Only after doing so can CEMEX assert with any credibility and justification that it 'operates under a strict policy of compliance with local and international laws'.

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