

IDENTIFYING PATTERNS OF BUSINESS INVOLVEMENT IN HUMAN RIGHTS ABUSES IN SYRIA

Input Submission for Business and Human Rights in Conflict and Post-Conflict Settings Project

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Methodology

The paper builds on the research the Syrian Legal Development Programme has conducted since April 2018 on the role of businesses in the Syrian conflict. It draws on publicly available information including media reports, academic publications and reports by intergovernmental human rights bodies and by international and local NGOs. The paper is also based on an analysis of open source information regarding: EU and US sanctions against Syrian businesses and businesspersons, the procurement operations of humanitarian actors in Syria, and the human rights policies and procedures of humanitarian actors, international development institutions and investment funds. Finally, the legal analysis is based on the UN Guiding Principles on Business and Human Rights, commentaries and explanatory notes as well as on primary sources of international law.

I. INTRODUCTION

This paper contributes to the UN Working Group on Business and Human Rights project on business in conflict and post-conflict settings. Specifically, the paper addresses the question of what “enhanced” due diligence may look like in the conflict and post-conflict context in comparison to non-conflict contexts. By providing examples of the involvement of Syrian businesses in conflict-related human rights abuses, it sheds light on the type of analysis required from businesses in order to identify the human rights risks they would be faced with if they decided to start business operations in Syria. The paper is Syria specific, but similar issues are likely to arise in other conflict settings, especially those where the government is a party to the conflict and a perpetrator of gross-human rights violations.

Although they are not the only ones involved in human rights abuses, this paper focuses exclusively on Syrian businesses located in government-controlled areas as opposed to those controlled by the opposition since the vast majority of economically relevant Syrian businesses are located and operate in the former, and given that the government is the primary preparator of human rights violations in Syria.

Section II outlines the human rights responsibility of businesses under international law, including the implications of human rights violations committed by third parties. Sections III and IV provide background information to help contextualise the involvement of Syrian businesses in the conflict and in conflict-related human rights abuses. Section III explains the relationship between the Syrian government and the business elites and the role played by the latter in the conflict. Section IV outlines some of the gross-human rights violations and international crimes committed by the Syrian government and by pro-government forces. Section V builds on the previous sections and provides examples of Syrian businesses’ involvement in conflict-related human rights abuses. In addition, it addresses how each type of involvement amounts to a breach of the business responsibility to respect human rights. Finally, Section VI addresses the working group’s question regarding how home states can protect against corporate-related human rights abuses in the Syrian context by identifying actions relevant to the Syrian context that home States can take to protect against conflict-related corporate human rights abuses and to meet their responsibilities under the UN Guiding Principles, respectively.

II. BUSINESS RESPONSIBILITY UNDER INTERNATIONAL LAW

This section outlines the human rights responsibility of businesses as articulated in the UN Guiding Principles on Business and Human Rights (UNGPs),¹ a set of international standards regulating business conduct endorsed by the UN Human Rights Council in 2011.²

Under international law, businesses are expected to respect human rights.³ To comply with this international standard, businesses are expected to avoid infringing on the human rights of others⁴ and to address the human rights abuses with which they are involved.⁵ If involved in an armed conflict, businesses must also abide by international humanitarian law.⁶ The responsibility to respect human rights is often a legal compliance matter as under an increasing number of domestic jurisdictions, the infringement of human rights gives rise to civil and, in some cases, criminal liability for business directors and business enterprises. In addition, under international law, human rights violations amounting to war crimes, crimes against humanity, and genocide give rise to the legal liability of individuals, including business directors and owners. The responsibility to respect human rights exists over and above legal compliance.⁷ Even where the involvement of a business in human rights abuses does not give rise to domestic or international legal liability, it constitutes a violation of a globally accepted standard applicable to businesses.⁸ Finally, the responsibility of businesses to

respect human rights applies not only to their own activities, but also, in some cases, to the conduct of third-parties.⁹ The UNGPs describe the scope of their responsibility to respect human rights through the following three categories of involvement with human rights abuses: *causation*, *contribution*, and *direct link*.¹⁰

Causation

A business causes human rights abuses where “its activities (its actions or omissions) on their own ‘remove or reduce’ a person’s (or group of persons’) ability to enjoy a human right”.¹¹

Contribution

Responsibility for contribution to human rights abuses can arise either through a business’ own activities alongside another entity or through another entity.¹² The UNGPs define contribution with reference to the international criminal law standard of aiding and abetting:¹³ “providing practical encouragement, or moral support which has a substantial effect on the perpetration of the crime”¹⁴ with the “knowledge that these acts assist the commission of the crime”¹⁵. Under customary international law, it is not required that the contribution is provided for the purpose of assisting the violations.¹⁶ In addition, it is arguable that the knowledge can be inferred from all relevant circumstances.¹⁷ Particularly relevant in this regard is, for instance, whether or not there is widespread knowledge about the commission of crimes by the principal perpetrator.¹⁸ At the same time, the UNGPs also embrace a broader concept of contribution that goes beyond the legal concept of aiding and abetting.¹⁹ The OHCHR clarified that the UNGPs do not require contribution to be substantial, rather it is sufficient that the activities of the business make the abuses more likely.²⁰ Finally, when determining whether the assistance provided amounts to contribution under the UNGPs, the scale and seriousness of the human rights abuses should be taken into account.²¹

Direct link

Business responsibility can also arise for the human rights abuses of a third party even if the business has not caused nor contributed to such abuses. Direct linkage refers to a situation where there is a direct link between the operations, products, or services of a business and the human rights abuses committed by an entity, including other businesses and state and non-state entities,²² with which it has a business relationship.²³ The term “direct link” is not intended to distinguish between direct and indirect links. If a business’ operations, products, or services are linked to human rights abuses, the business is responsible regardless of whether the link is direct or indirect.²⁴ The scope of business responsibility through direct linkage is not easily defined. However, according to the OHCHR, it is broad enough to include making financial resources available to a state known to be engaged in systematic and deliberate human rights abuses through the purchasing of a sovereign bond.²⁵

III. THE ROLE OF BUSINESSES IN THE SYRIAN CONFLICT

This section will describe the various types of actors that play a role in the Syrian economy to contextualize the business involvement in human rights abuses in Syria. Economists argue that one of the most important causes of the uprising in Syria was the Syrian government’s fast implementation of neoliberal policies since Bashar al Assad’s rise to power.²⁶ The years between 2000 and 2011 were characterised by extensive privatization, liberalization, and the reduction of subsidies in many products and services,²⁷ which mainly benefitted the upper class and relatives and close associates of the President and therefore lead to the economic marginalisation of the vast majority of Syrians.²⁸

At the onset of the conflict, the Syrian business community was divided in the following segments. The “integrated elite”, composed of business actors with social and family links to the government, which were the main beneficiaries of the new policies that enabled private-sector involvement in key areas of the economy.²⁹ The small and medium enterprises, which still represented the majority of all businesses,³⁰ but whose wealth and influence was rapidly decreasing due to their inability to take advantage of the new economic policies because of a lack of capital and political access.³¹ The “dependent elite” comprised of traders and industrialists of the traditional urban, Sunni merchant elite, and of other wealthy business actors with strong business ties with the government, but lacking family or social connection with it.³² The “expatriate elite”, whose wealth was mainly located outside of the country and which did not have interdependent relationships with the government.³³

Each segment of the Syrian business community played a different role in the conflict and was affected by it in different ways. Most of the small and medium enterprises and the majority of the “dependent elite” transferred their investments to neighbouring countries or had their assets seized for failing to adequately support the government.³⁴ The “integrated elite”, on the other hand, did not leave the country and started playing an increasingly political role by first funding the government’s orchestrated mass rallies and promoting government propaganda through their private media companies³⁵ and later by funding pro-government paramilitary groups.³⁶

Most importantly, the conflict saw the emergence of a new category: the “conflict elite”.³⁷ This category is composed of previously little known businesspersons and leaders of paramilitary groups that, by becoming involved in the war economy, accumulated considerable wealth during the conflict and that are now progressively integrating into the formal economy.³⁸ Economic activities linked to the war economy include the import of goods to areas controlled by the government,³⁹ assisting the government in circumventing sectoral EU and US sanctions,⁴⁰ pillaging,⁴¹ the levying of fees at checkpoints,⁴² the protection of convoys⁴³ and profiteering from the trade of goods in besieged areas.⁴⁴

The support provided to the government resulted in several members of the “integrated” and of the “conflict elite” being targeted by EU and US sanctions. At the same time, the Syrian government rewarded their loyalty and continued support by giving them preferential access to industries and sectors that were abandoned when competitors left Syria.⁴⁵ The economic actors that emerged during the conflict were also rewarded through their integration in the political system as demonstrated by the changes in the composition of local councils following the 2018 local elections,⁴⁶ and in the membership of the chambers of commerce and of industry’s boards since 2014.⁴⁷

Furthermore, the government gave both the “integrated” and the “conflict elite” preferential access to the business opportunities arising from the implementation of urban planning policies and legislation.⁴⁸ Issues concerning urban planning, especially in relation to informal settlements in the main Syrian urban centres, are not new. Experts have argued that these issues were among the triggers of the uprising.⁴⁹ However, when the uprising turned into armed conflict, the government began to use its policies and efforts with regard to land and property as a weapon of war by systematically targeting areas associated with the opposition.⁵⁰ Government policies and efforts include the disproportionate destruction of civilian properties,⁵¹ the intentional destruction of property records,⁵² and the passing of legislation which has the effect of expropriating residents of their property. The most notorious measures amongst the latter are Decree 66/2012 and Law 10 of 2018,⁵³ which empower the government to designate areas for urban redevelopment with minimum regard for the property rights of residents.⁵⁴

IV. HUMAN RIGHTS VIOLATIONS AND INTERNATIONAL CRIMES IN SYRIA

Throughout the conflict, pro-government forces intentionally targeted civilians and civilian objects⁵⁵ as well as medical facilities and personnel,⁵⁶ including by using chemical weapons on multiple occasions.⁵⁷ In addition, they systematically used starvation of civilians as a method of war by depriving civilians in besieged areas of goods essential for their survival⁵⁸ and forcibly displaced civilians from opposition-held areas.⁵⁹ Furthermore, the Syrian government arbitrarily detained tens of thousands of civilians that were perceived to support the opposition.⁶⁰ The vast majority of detainees were subject to torture or inhuman and degrading treatment,⁶¹ including sexual violence⁶² and thousands were killed in extrajudicial executions.⁶³ Finally, around 100,000 individuals are estimated to have been victims of enforced disappearance in Syria: the majority of cases are attributed to the government.⁶⁴

V. SYRIAN BUSINESS INVOLVEMENT IN CONFLICT-RELATED HUMAN RIGHTS ABUSES AND INTERNATIONAL CRIMES

This section provides examples of the different ways in which Syrian businesses have failed and continue to fail to uphold their responsibility to respect human rights by becoming involved in conflict-related human rights abuses and international crimes.

Providing financial support to and/or controlling pro-government paramilitary groups

Since the beginning of the conflict, several paramilitary groups supported the security and military operations of the Syrian armed forces and of their allies, thus becoming involved in the gross-human rights violations the UN Commission of Inquiry on Syria attributed to pro-government forces.⁶⁵ In addition, militias are reported to have played a central role in the pillaging of civilian properties in areas re-captured from the opposition.⁶⁶ Several business owners reportedly established, controlled and/or provided financial support to pro-government paramilitary groups. Ayman Jaber, a funding shareholder of Cham Holdings and of TV station Al Adounia with business interests in steel and oil and gas companies,⁶⁷ reportedly established and financed together with his brother Muhamad Jaber the Desert Hawks Brigade and the Sea Commando Regiment.⁶⁸ Rami Makhoul, cousin of Bashar al-Assad and arguably the most influential businessperson in Syria with interests in virtually every industry,⁶⁹ reportedly established and financially supported, including through his charitable foundation Al Bustan,⁷⁰ a number of pro-government militias including Dara' Qalamoun, Katai'ib al-Jabalawi, Leopards of Homs and Dir' al-Watan.⁷¹ Other influential businesspersons with reported links to pro-government paramilitary groups include Samer Foz⁷² and Mohammed Hamsho.

By virtue of the financial support knowingly provided to entities systematically involved in gross-human rights violations and international crimes, the aforementioned business owners *contributed* to such violations. In addition, it may be argued that the business enterprises owned by the aforementioned individuals are themselves *directly linked* to the violations committed by the paramilitary groups as the financial resources used to support the latter are likely to have originated from the revenues they generated.

Providing financial support to the Syrian government and to the Syrian armed forces

Several businesses are reported to provide substantial financial support to the Syrian government and to Syrian armed forces. Syrian businesspersons currently sanctioned by the EU on the basis of the financial support they provide to the Syrian government through their business interests include: Rami Makhoul,⁷³ Mohammed Hamsho,⁷⁴ Ayman Jaber,⁷⁵ Samir Hassan,⁷⁶ Hashim Anwar Al-Aqqad,⁷⁷ Samer Foz,⁷⁸ Khaled al-Zubaidi and Nader Qalei.⁷⁹ Telecom provider Syriatel is similarly listed in light of the fact that "through its licensing contract it pays 50 % of its profits to the Government".⁸⁰

With few exceptions,⁸¹ it is virtually impossible to obtain exact information about the extent of the

financial support businesses provide to the Syrian government and to determine what use the government makes of the finances it receives. Nevertheless, in light of the widespread knowledge about the human rights violations committed by the government and in light of the scale and seriousness of such violations, it could be argued that by providing financial support to the government, these businesses *contributed* or at least are *directly linked* to such violations.

More specific information exists with regard to the financial support provided by business actors to the Fourth Division of the Syrian army. Levying fees on goods at checkpoints is one of the most profitable economic activities the Fourth Division uses to finance military operations.⁸² The activity was run through intermediaries who are awarded the right to levy fees at a specific checkpoint in exchange for regular payments to the Fourth Division.⁸³ Business owners known to have been awarded contracts for the levying of fees include Khaled Hboubati, who reportedly paid SYP 700 million a month to the Fourth Division, Ali Muhanna – owner of the Muhanna Company and of the al-Manara Tourist Resort, Rami al-Tabal and Ramez al-Tabal, shareholders of the Qasoora Trading Company and of the United Company for the manufacture of baby diapers.⁸⁴ The former is also chairman of the Asas Oil Company.⁸⁵

In this context, the link between the business enterprises, through the owners, and conflict related human rights violations is even stronger since the financial resources are made available to an entity - a division of the armed forces – exclusively dedicated to the war effort and known to have been involved in conflict-related gross human rights violations. Thus, leaving little doubt as to the use that is going to be made of the financial resources provided. This is supported by the conclusion reached by the UN Fact Finding Mission on Myanmar with regard to businesses maintaining commercial relationships with the Armed Forces of Myanmar. In the view of the Fact Finding Mission such businesses “may find themselves complicit, in law, fact or the eyes of the broader public, in contributing to the resources available to the [Armed Forces of Myanmar] to continue its involvement in gross violations of international human rights law and serious violations of international humanitarian law”.⁸⁶

Providing material support to the Syrian Government and the Syrian Armed Forces

According to the US Treasury, business owner Yasir Abbas⁸⁷ and Muhammad Qaterji, a well-known intermediary between ISIS, Kurdish controlled territories, and the Syrian government and owner of a fast-growing business conglomerate,⁸⁸ assisted through their businesses with the shipping of weapons from Iran and Iraq to the Syrian government.⁸⁹ The EU sanctioned Tarif Akhras for having provided logistical support to the Syrian government in the form of “buses and tank loaders” through his company Akhras Group.⁹⁰ In addition, Issam Anbouba, President of Anbouba for Agricultural Industries Co and a co-founder of Cham Holdings, was sanctioned for providing property, including warehouses, to the Syrian government for improvised detention centres.⁹¹ Finally, Syriatel was sanctioned by the US Treasury for having facilitated “computer or network disruption, monitoring, or tracking that could assist in or enable serious human rights abuses by or on behalf of the [...] Government of Syria”.⁹² More specifically, according to the US Treasury, “Syriatel was directed by the Syrian government to sever network connectivity in areas where attacks were planned and [...] records cell phone conversations on behalf of the Syrian government”.⁹³ The material support provided by Syriatel and by the aforementioned businesspersons, presumably through their companies, to a government known to have been involved in gross-human rights violation constitutes *contribution* since it facilitated the commission of such violations by the Syrian government.

Manipulating siege conditions

Throughout the conflict, pro-government forces systematically resorted to sieges as a method of warfare.⁹⁴ Sieges are not per se prohibited under IHL, but give rise to a number of human rights issues concerning the civilian population’s right to access to food, water, and healthcare. Pro-

government forces repeatedly violated the human rights of the civilians affected by sieges including through deliberately resorting to the starvation of the civilian population as a method of warfare.⁹⁵ Some businesses accumulated extraordinary wealth by controlling the trade of food and other basic goods within the besieged areas. One of the best known examples is that of Mohieddine Manfoush, who through the Manfoush Trading Company established himself as the most important supplier of food and basic commodities to eastern Ghouta during the siege of the area by pro-government forces between 2013 and 2018.⁹⁶ As one of the few traders allowed to import goods in the besieged area, Manfoush's company was able to control prices and to amass a considerable fortune.⁹⁷ As a result, as confirmed by the COI, the prices of food in Eastern Ghouta became prohibitive for the majority of the population.⁹⁸ For instance, according to some reports, the price of sugar was set at the equivalent of \$19 per kilo, approximately twenty times higher than the price in Damascus.⁹⁹ Even though Manfoush's company did not *cause* an adverse impact on eastern Ghouta civilian population's right to adequate food, by setting prohibitive prices for essential foodstuffs it arguably *contributed* together with the conditions imposed by the besieging forces to abusing such right.

Involvement in pillage and destruction of civilian property

Pillage and the disproportionate destruction of civilian property constitute violations of customary IHL,¹⁰⁰ as well as violations of the human right to property. In addition, pillage constitutes a war crime in non-international armed conflicts.¹⁰¹ One of the activities through which the Fourth Division of the Syrian armed forces finances its activities is the pillage of scrap metals from properties in areas where pro-government forces have regained control.¹⁰² The scrap metals are subsequently processed and either exported through ports controlled by the Fourth Division or used in the domestic market.¹⁰³ The main commercial partners of the Fourth Division in this activity are reported to be Samer Foz and Imad Hamsho, shareholders of the Sorouh Construction Company which owns a melting facility, and Mohammed Hamsho, who owns the Hadeed Metal Manufacturing Company as part of the Hamsho International Group.¹⁰⁴ Hamsho's company is also reported to provide the machinery necessary to separate metals from concrete.¹⁰⁵ By processing pillaged scrap metals, these companies are knowingly facilitating the criminal conduct of the Fourth Division, thus arguably *contributing* to the violations. At the very least, the products of these companies are *directly linked* to the pillage committed by a business relationship, the Fourth Division.

Having recovered control of the neighbourhood of Qaboun in early 2017 and following the forced displacement of the remaining fighters and civilians,¹⁰⁶ the Syrian government announced that it was destroying tunnels created by anti-government groups, as well as explosive remnants armed groups left behind.¹⁰⁷ Through the analysis of satellite images, Human Rights Watch reported that the government demolished houses with machinery and through means inconsistent with closing underground tunnels.¹⁰⁸ In addition, the majority of buildings demolished during this period appeared intact and potentially inhabitable before they were demolished.¹⁰⁹ Workers linked to one of Mohammed Hamsho's companies were reportedly involved in the demolitions during 2018.¹¹⁰ By taking part in the demolitions, Hamsho's company arguably *caused* or *contributed* to the disproportionate destruction of civilian property and to the abuse of the property rights of previous residents. In addition, it *contributes* to the violation of the displaced population's right to return.

Businesses established with wealth accumulated through human rights abuses

Reports of war profiteers establishing business enterprises through wealth accumulated through their involvement in conflict-related gross human rights abuses are increasingly common.¹¹¹ Khodr Ali Taher, who rose to fame as the main contractor used by the Fourth Division in the business of convoy protection, invested in and established eleven companies since 2017.¹¹² The capital for these investments reportedly came from the income generated by the Fourth Division through various illicit activities, including the pillage of civilian properties.¹¹³ Bassam Al-Hasan, commander of the

Syrian Republican Guard who was reportedly involved in the establishment of the National Defence Forces (NDF),¹¹⁴ the largest paramilitary group in Syria,¹¹⁵ recently established together with his nephew Saqr Rustom, who led the Homs branch of the NDF, a company named Damas Real Estate Development and Investment LLC, with the aim of getting involved in urban redevelopments.¹¹⁶ The aforementioned Mohieddine Manfush, whose wealth dramatically increased during the siege of eastern Ghouta, has recently established companies in Hungary, Slovakia and Turkey.¹¹⁷ Wassim Kattan, a largely unknown figure in the Syrian business landscape who in the space of a few months in 2018 was awarded the rights to develop a valuable real estate location in Damascus¹¹⁸ and established four companies in the tourism, trading and construction sectors,¹¹⁹ accumulated part of his wealth through the import and sale at inflated prices of foodstuff in eastern Ghouta through 2017.¹²⁰

Although the UNGPs and later commentaries do not focus on this scenario, it can be argued that where a substantial amount of the capital used to establish a business enterprise derives from wealth accumulated through the owner's or another entity's involvement in human rights abuses, the business enterprise itself is involved in the human rights abuses. The enterprise's entire operations are arguably *directly linked* to the human rights abuses committed by the owner or by the third-party entity that provided the capital.

Involvement in urban redevelopment projects

As explained above,¹²¹ the Syrian government has adopted a number of legislative measures, including but not limited to Decree 66 and Law 10, which enables it to expropriate, with no or minimum compensation for previous residents, and to redevelop vast residential areas,¹²² in most cases known for their opposition to the government.¹²³ These urban redevelopment projects also raise serious issues about the ability of displaced residents to exercise their right to return.¹²⁴ To date, the only urban redevelopment project that is ongoing and in relation to which information exists about the businesses taking part in it is the one known as Marota City in the Basateen Al-Razi neighbourhood of Damascus.¹²⁵ Other areas designated for redevelopment under the aforementioned legislation include Qaboun, Jobar and Al Tadamon.¹²⁶ All these areas were under the control of the opposition at some stage of the conflict and were all affected by forced displacement.¹²⁷ Mohammed Hamsho purchased large areas of the Qaboun neighbourhood in preparation for the upcoming redevelopment.¹²⁸ The business enterprises participating in these redevelopment projects are *directly linked* to the government's violations of the property rights of former residents through the adoption and implementation of the aforementioned legislative measures. In addition, they arguably *contribute* to the violation of the right to return of displaced residents.

VI. RECOMMENDATIONS FOR STATE ACTORS

This section aims to address the working group's question regarding the role that home states should play in protecting against corporate-related human rights abuses in conflict and post-conflict contexts. Here, we address the question specifically from the Syrian context.

Documentation

- Ensure that the involvement of Syrian businesses in conflict-related human rights abuses receives attention in international forums where the state is present, be it Syria related avenues or thematic ones.
- Advocate for the Commission of Inquiry on Syria and other relevant international investigative mechanisms to investigate and report on the involvement of business actors in conflict-related human rights abuses in Syria;
- Promote the identification of business activities raising particular conflict-related human

rights concerns in Syria on the model of the activities identified by the “UN fact-finding mission on the implications of Israeli settlements on the rights of Palestinians in the Occupied Palestinian Territories”;

- Promote the creation of a database of business enterprises involved in activities raising particular conflict-related human rights concerns in Syria on the model of the OHCHR database on “business enterprises involved in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory”;
- Encourage Syrian CSOs to gather information on the involvement of Syrian businesses in conflict-related human rights abuses;
- Support Syrian CSOs in acquiring the technical skills required to gather information on business involvement in conflict-related human rights abuses;
- Advocate for the IIM to collect and analyse evidence concerning the involvement of business actors in conflict-related human rights abuses.

Economic sanctions

- Support the renewal of Syria targeted sanctions;
- Promote the continued inclusion in relevant sanctions lists of Syrian business actors involved in conflict-related human rights abuses;

Procurement in the context of humanitarian operations

- Promote the inclusion of adequate human rights due diligence within the procurement operations of UN agencies in Syria;
- Ensure the implementation of adequate human rights due diligence within the procurement operations of state-funded humanitarian INGOs in Syria;
- Promote further transparency with regard to the procurement operations of state-funded humanitarian INGOs in Syria.

International development institutions

- Promote the inclusion of additional human rights-based criteria in the environmental and social policies of international development institutions.

Institutional investment funds

- Ensure that human-rights based considerations form part of the decision-making process for the state public pension funds;
- Promote the exclusion from the fund of business enterprises involved in conflict-related human rights abuses.

Public procurement

- Ensure to include and to implement requirements that suppliers respect human rights;
- Ensure to address the specific human rights risks arising in Syria and in other conflict settings.

Ensure Compliance with Business and Human Rights in Syria Across Home State Government

Entities

Although the certain the foreign ministry of a home state may have policies against participating in reconstruction in Syria, other government agencies may not have the same policies and may inadvertently further business-related HLP rights abuses in Syria. As such, the state government should ensure that there are policies across government agencies to ensure compliance with

business and human rights in Syria. This includes:

- Ensuring that the state is not a safe haven for businesses involved in human rights abuses in Syria.
- Educating home state businesses on the business scene in Syria and on how to conduct human rights compliant business activity in Syria.

ENDNOTES

¹ UN Guiding Principles on Business and Human Rights, UN Doc. A/HRC/17/31.

² UN Doc. A/HRC/17/4.

³ UNGPs, Principle 11.

⁴ According to UNGP 12, the responsibility to respect human rights includes, at a minimum, those included in the UDHR, the ICCPR and the ICESCR and the principles concerning fundamental rights set out by the ILO's Declaration of fundamental principles and rights at work as developed in the ILO eight core conventions.

⁵ UNGPs, Principle 11.

⁶ UNGPs, Commentary to Principle 12; ICRC, 'Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law', 11 September 2006.

⁷ UNGPs, Commentary to Principle 11.

⁸ D. Curtin, A. Nollkaemper, 2005, 4.

⁹ UNGPs, Principle 13.

¹⁰ UNGPs, Principle 17.

¹¹ OHCHR, 'OHCHR response to request from BankTrack for advice regarding the application of the UN Guiding Principles on Business and Human Rights in the context of the banking sector', 12 June 2017, 5.

¹² Ibid.

¹³ UNGPs, Commentary to Principle 17.

¹⁴ ICTY, *Prosecutor v Sainovic et al.*, Appeals Chamber Judgment (23 January 2014), para 1649.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ ICJ, 'Corporate Complicity and Legal Accountability', Vol. 2, 17.

¹⁸ In the post WWII *Flick* case, a German businessman was convicted of aiding and abetting the crimes committed by the SS through the provision of financial support despite his denial of having had knowledge of the crimes committed by the SS since such knowledge was widespread.

¹⁹ UNGPs, Commentary to Principle 17.

²⁰ OHCHR, 2017, 5.

²¹ Essex Business and Human Rights Project, 'Investor Obligations in the Occupied Territories: A Report on the Norwegian Government Pension Fund – Global', April 2019, 10; J. P. Bohoslavsky, V. Opgenhaffen, 'The Past and Present of Corporate Complicity: Financing the Argentinean Dictatorship', (2010) HHRJ, 174-175.

²² OHCHR, *The Corporate Responsibility to Respect Human Rights: an Interpretive Guide*, 2012, 5.

²³ OHCHR, 2017, 6.

²⁴ OHCHR, 'Request from the Chair of the OECD Working Party on Responsible Business Conduct', 27 November 2013, 3.

²⁵ Ibid, 8.

²⁶ Ibid; J. Daher, 'Assad Regime Still Reliant on Fractions of the Sunni Bourgeoisie', *Syria Untold*, 21 December 2017.

²⁷ J. Daher, 'The Political Economic Context of Syria's Reconstruction: a Prospective in Light of a Legacy of Unequal Development', European University Institute Robert Schuman Centre for Advanced Studies, December 2018.

²⁸ Ibid.

²⁹ S. Abboud, 'Syria's Business Elite', German Institute for International and Security Affairs, August 2013, 3.

³⁰ S. Abboud, 2013, 2.

³¹ S. Abboud, 'The Economics of War and Peace in Syria: Stratification and Factionalization in the Business Community', *The Century Foundation*, 31 January 2017.

³² S. Abboud, 2013, 3.

³³ Ibid, 4; S. Abboud, 2017.

³⁴ S. Abboud, 2017; J. Daher, 2017.

³⁵ See Council Implementing Regulation (EU) No 363/2013 sanctioning Adounia TV for "incit[ing] violence against the civilian population in Syria."

³⁶ J. Daher, 2017.

³⁷ S. Abboud, 2017.

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- ³⁸ Ibid; S. Abboud 2013, 6; J. Daher 2018; C. Cornish, 'The Men Making a Fortune From Syria's War', *Financial Times*, 3 October 2019; N. Soura, 'The Black Market Kings of Damascus', *The Atlantic*, 3 October 2016.
- ³⁹ M. Georgy, M. El Dahan, 'How a Businessman Struck a Deal With Islamic State to Help Assad Feed Syrians', *Reuters*, 11 October 2017.
- ⁴⁰ S. Abboud, 2017.
- ⁴¹ See Section V below.
- ⁴² See Section V below.
- ⁴³ A. Aldassouky, 'The Economic Networks of the Fourth Division During the Syrian Conflict', European University Institute Robert Schuman Centre for Advanced Studies, January 2020, 8-11; N. Madi, 'Cultivating a Crisis: The Political Decline of Agriculture in Syria', European University Institute Robert Schuman Centre for Advanced Studies, December 2019, 18-20.
- ⁴⁴ See Section V below.
- ⁴⁵ J. Daher, 2017.
- ⁴⁶ A. Favier, M. Kostrz, 'Local elections: Is Syria Moving to Reassert Central Control?', European University Institute Robert Schuman Centre for Advanced Studies, February 2019, 13-15.
- ⁴⁷ J. Daher, 2017.
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