



**American Friends  
Service Committee**

## The Holy Land Principles: Lowering the Bar on Human Rights

Dalit Baum, AFSC Economic Activism Program, March 24<sup>th</sup>, 2015

In the coming months, shareholders of three U.S.-based companies<sup>1</sup> will be asked to vote on the Holy Land Principles, a new set of principles focusing on corporate labor policies in Palestine/ Israel. As corporate complicity in human rights abuses in Palestine/ Israel becomes the focus of growing public concern, a new voluntary code for U.S. corporations doing business in that conflict zone is an important development.

The American Friends Service Committee (AFSC) has conducted a critical examination of the Holy Land Principles through a series of consultations with experts and stakeholders in Israel and the occupied Palestinian territory, in the U.S. and Europe; with AFSC staff engaged with Middle East issues at various levels in the organization, and through conversations with the proponents of this initiative.

Our examination shows that the Holy Land Principles fall short of the most basic and widely recognized standards of corporate respect for both human rights and labor rights. When corporate guidelines set a lower bar than existing non-voluntary and regulatory frameworks, they could be used to divert corporate accountability. We are concerned that the Principles in their present form are too limited in scope and too vague to support a change of corporate policies. Moreover, until they are amended to respond to the conditions in the occupied Palestinian territory, these Principles might stand in the way of other, more promising approaches. Based on these concerns, we recommend that shareholders abstain in the upcoming votes on the Holy Land Principles resolutions.

The following report describes our findings in detail, and outlines some suggested improvements. We hope that it will help create more conversation and more ideas to support corporate respect for human rights in Israel and the occupied Palestinian territory.

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<sup>1</sup> General Electric on April 22, Corning on April 29, and Intel on May 21. Another resolution was filed with Cisco.

## 1. Do the Holy Land Principles apply to the Holy Land?

The Holy Land, referred to in the name of this initiative, is traditionally identified with places mentioned in the Old and New Testaments, such as East Jerusalem, Bethlehem, Judea and the Galilee. Many of these are identified today with places in the occupied Palestinian territory, outside the recognized borders of the Israeli State.

The official website for the Principles creates an expectation that the Principles will respond to the human rights crisis of the military conflict in that part of the world:

“The Holy Land Principles seek to ensure that American dollars do not support discrimination, human rights abuses, or violations of international law in The Holy Land (Israel/Palestine, The West Bank, The Gaza Strip and East Jerusalem)... Responsible corporate conduct is especially urgent today because of the deprivations and sufferings caused by the conflict. By endorsing the Holy Land Principles, corporations will enhance America’s security as people in the Middle East see that American companies support equality and fairness for all<sup>2</sup>.”

But our examination below of the eight Holy Land Principles reveals that:

- They do not apply to human rights abuses associated with the Israeli military occupation of the West Bank or the Gaza Strip.
- They do not refer to violations of international humanitarian law or war crimes.
- They do not respond to most of the different manifestations of discrimination prevalent in that part of the world.

**The Holy Land Principles effectively refer only to the direct discrimination against Palestinian citizens of Israel, employed by U.S. companies inside the State of Israel.**

The Holy Land Principles are presented as following “in the tradition of the Sullivan Principles (South Africa) and the MacBride Principles (Northern Ireland).”<sup>3</sup> These were also, essentially, fair employment principles designed to protect one population group from workplace discrimination. Unlike these historical precedents, the Holy Land Principles are misleading by name and description. Moreover, even as principles for fair employment they are fundamentally flawed. These flaws will be discussed below.

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<sup>2</sup> Holy Land Principles, the official website, <http://www.holylandprinciples.org/8-holy-land-principles/>, retrieved 2/24/2015.

<sup>3</sup> Holy Land Principles, the official website, <http://www.holylandprinciples.org/8-holy-land-principles/>, retrieved 2/24/2015.

## 2. What do the Principles require of companies?

The eight principles of this initiative can be divided into three groups (with some principles in more than one group): principles to prevent discrimination in the workplace, principles designed to mitigate the discriminatory effects of the Israeli-Palestinian conflict, and principles to remedy existing inequalities in the workplace.

### **2.1 Prevention of workplace discrimination:** Principles 1, 4, 5, 6:

*1. Adhere to equal and fair employment practices in hiring, compensation, training, professional education, advancement and governance without discrimination based on national, racial, ethnic or religious identity.*

*4. Maintain a work environment that is respectful of all national, racial, ethnic and religious groups.*

*5. Ensure that layoff, recall and termination procedures do not favor a particular national, racial, ethnic or religious group.*

*6. Not make military service a precondition or qualification for employment for any position, other than those positions that specifically require such experience, for the fulfillment of an employee's particular responsibilities.*

Four of the eight principles are principles of nondiscrimination in the workplace. They are phrased in very general language, and resemble many other legal and regulatory strictures. However, when compared to existing law and to other initiatives and regulatory frameworks, they come up lacking.

### Israeli law actually requires more:

The Israeli Equal Opportunity in Employment Law (1988)<sup>4</sup> includes all of the above nondiscrimination provisions and many more. It is, of course, non-voluntary. As it is both criminal and civil, it allows for criminal state investigations, sanctions, and fines, as well as employee lawsuits filed individually against the company. All companies doing business in Israel are already committed, in their Israeli operations, to state law. This commitment is stated both in their Israeli registration documents and in any corporate code of conduct.

The practices covered by Israeli law are much more extensive than those mentioned above, and include nondiscrimination "in all work conditions," as well as in all payments or benefits associated with retirements, dismissal, or severance pay.

The stated causes for discrimination covered by the law are similarly more thoroughly defined, and they include gender, sexuality, personal status, parenthood, age, and military reserves duty as well as country of origin, place of residence, personal views, and party affiliation. We presume that the Holy Land

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<sup>4</sup> "(1988) ח"י" (Hebrew original), Nevo database, [http://www.nevo.co.il/law\\_html/Law01/p214m1\\_001.htm](http://www.nevo.co.il/law_html/Law01/p214m1_001.htm), retrieved March 2<sup>nd</sup>, 2015. See an unofficial English translation on the ILO website: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_127881.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127881.pdf)

Principles focus on “*national, racial, ethnic or religious identity*” in an attempt to codify the prevalent discrimination against Palestinian Arabs in the Israeli workplace, and this is why they forgo any mention of other types of discrimination. However, the Israeli law goes further than the Principles even in this, by stating other forbidden discrimination causes that are often used to conceal anti-Palestinian discrimination such as a person’s place of residence, their status as a contract worker, personal views, or party affiliation.

Military service as a precondition is another such coded phrase used in discriminatory hiring practices against Palestinians in Israel, as most Palestinian citizens of Israel do not serve in the Israeli military, while most Jewish citizens of Israel are required to serve. The law specifically precludes “all irrelevant conditions” on hiring, and the Israeli courts have ruled again and again that this requirement, when not directly related to the job requirements, is discriminatory and illegal. Furthermore, the law explicitly forbids discrimination based on military reserves duty status, and all use of a person’s “military profile,” both not mentioned in the Holy Land Principles.

#### A respectful work environment is not enough:

Principle #4 requires a work environment “respectful of all national, racial, ethnic and religious groups.” What does that mean? Could non-Jewish workers bring their lunch to work, even if it is non-Kosher, or would that be disrespectful to Jewish co-workers? Would a mixed-gender workplace be disrespectful to ultra-orthodox Jewish workers?

The Israeli law forbids “discrimination in all work conditions,” and Israeli courts have interpreted this to include all discriminatory rules in the workplace (such as employers forbidding the use of the Arabic language at work or in front of costumers) and all settings in which different groups enjoy different work conditions or some groups experience a hostile environment.

For Principle #4 to have any applicable meaning beyond the law, it has to go beyond the vague mention of “respect” and respond to actual testimonies of Palestinian workers by suggesting all ethnic and religious groups should enjoy the same workplace considerations enjoyed by Jewish-Israeli workers, even in a segregated work environment. Such a requirement would bring up some dilemmas: Should the employer allow paid vacation days on Muslim and Christian holidays as is done with Jewish religious holidays? Should Christians working on Sunday be compensated at the same higher rate as Jews working on Saturday? What about providing a place and time for Muslim prayer throughout the day or special provisions for workers who fast on Ramadan? What about the use of Arabic in company publications, among workers, and in customer service?

These are vital questions for creating a fair and equitable work environment for Palestinian workers in Israel. Unfortunately, Principle #4 does not require companies to deal with them.

#### The Principles fail to respond to discrimination in the occupied territory:

The Principles do not address the employment by Israeli firms of Palestinians from the occupied Palestinian territories, including East Jerusalem. Discrimination against these workers is LEGAL by Israeli laws. It is similarly permissible by the Holy Land Principles, because it is based on the lack of Israeli citizenship, and citizenship is not mentioned anywhere in the Principles.

As non-citizens, Palestinians who live in the occupied territory and work inside Israel are subjected to a draconian and arbitrary work permit system. This opaque system is managed by the *Shabak* (General Security Service), and does not allow for job security, freedom of movement, or organizing. It requires a completely separate hiring and human resources management system and lends itself easily to exploitation and abuse.

For Palestinians employed by Israeli firms in the occupied West Bank, the situation is even worse. Discrimination based on citizenship means that Palestinian workers are subject to different laws than their Israeli co-workers. Most Israeli labor laws were extended to the Israeli settlements outside the state borders in installments, first by Israeli military decrees and then by Israeli court rulings. However, until recently the law did not even require the same minimum wages or minimum age for Palestinian workers, and to this day there is hardly any enforcement of minimum wage or minimum age laws outside the Israeli state borders.

Palestinians have no representation in this legal system and have very little access to remedy through it. Unlike their Israeli co-workers, Palestinians under occupation have no civil rights, no freedom of assembly, no freedom of expression, and no protection from Israeli military violence. Many times they are not allowed outside of the factory gates, they cannot bring in family, and sometimes they are not allowed to bring their own food to work<sup>56</sup>. Human and labor rights organizations<sup>78</sup> in Israel and worldwide view this structural segregation and discrimination as inherently abusive work conditions.

## **2.2 Mitigation of discriminatory effects of the conflict:** Principles 6, 7:

*6. Not make military service a precondition or qualification for employment for any position, other than those positions that specifically require such experience, for the fulfillment of an employee's particular responsibilities.*

*7. Not accept subsidies, tax incentives or other benefits that lead to the direct advantage of one national, racial, ethnic or religious group over another.*

Only principles #6 and #7 are specifically designed to address the conditions of the Israeli-Palestinian conflict and its direct effect on U.S. business in the area. As discussed above, all the other Principles deal

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<sup>5</sup> Niv Hachlili, "How does SodaStream treat its Palestinian workers when the media isn't looking?," +972 Blog, July 24, 2014, <http://972mag.com/when-the-media-isnt-looking-how-sodastream-really-treats-its-workers/94215/>, retrieved March 3<sup>rd</sup>, 2015.

<sup>6</sup> Stephanie Westbrook, "SodaStream 'treats us like slaves,' says Palestinian factory worker," The Electronic Intifada, May 9<sup>th</sup> 2013, <http://electronicintifada.net/content/sodastream-treats-us-slaves-says-palestinian-factory-worker/12441>, retrieved March 3<sup>rd</sup> 2015.

<sup>7</sup> Kav LaOved, "Palestinian Workers Project," <http://www.kavlaoved.org.il/en/areasofactivity/palestinianworkers/>, retrieved March 3<sup>rd</sup>, 2015.

<sup>8</sup> Who Profits, "Palestinian workers in Settlements," <http://whoprofits.org/content/palestinian-workers-settlements>, retrieved March 3<sup>rd</sup>, 2015.

in very general terms only with issues of equality in the Israeli workplace and apply only to Israeli citizens.

Principle #6 was already discussed in the previous section, and was shown to be limited and redundant. Principle #7 is the only principle that goes beyond employment issues. The proponents of the Holy Land Principles present this Principle as a way to prevent U.S. companies from conducting any business in illegal Israeli settlements in the occupied West Bank. This is a worthy intent, but Principle #7 is based on incorrect and partial information about Israeli settlements and state subsidies, rendering it irrelevant.

### The Principles do not prevent business activity in illegal Israeli settlements:

Israeli settlements in the West Bank (including the Jordan Valley and East Jerusalem) are towns and neighborhoods built on areas conquered by the Israeli military during the 1967 war. East Jerusalem was annexed by the State of Israel, in direct contradiction to the international principle of the inadmissibility of territorial acquisition by war. The annexation is not recognized by most other states (including the U.S.)<sup>9</sup>. Even according to Israeli law, other West Bank settlements are outside the Israeli borders, in areas under Israeli military sovereignty. That makes for a very complicated governance and legal system, no transparency, and no public scrutiny of any kind.

Several Israeli researchers and NGOs have been tracking the special subsidies and benefits to the Israeli settlements for a long time, including Shlomo Swirsky<sup>10</sup> and the Adva Center, Peace Now<sup>11</sup>, Shir Hever<sup>12</sup> and the Alternative Information Center, B'Tselem<sup>13</sup>, Who Profits, and Kav LaOved. These subsidies and incentives are extremely difficult to track, but they add up to very impressive sums:

The Israeli tax regime has been extended to Israeli citizens and companies outside Israel very slowly and in parts. Until a few years ago, settlers and settlement companies were not required to pay taxes in Israel. Labor laws were also introduced late and in parts. Lack of monitoring and enforcement of labor and environmental protections serve as an indirect incentive for corporations to move out to the settlements. Land leases and rents in settlement industrial zones are substantially cheaper than in Israel, often due to the ways in which the land was obtained originally. Governmental ministries channel monies to healthcare, transportation, education, and infrastructure in settlements at a rate two to four

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<sup>9</sup> United Nations Security Council Resolution 478, <http://unispal.un.org/UNISPAL.NSF/0/DDE590C6FF232007852560DF0065FDDB>, retrieved March 6<sup>th</sup>, 2015.

<sup>10</sup> Swirski, Shlomo, *The Burden of the Occupation: The Cost of Occupation to Israeli Society, Polity and Economy*, 2008, Adva Center.

<sup>11</sup> Peace Now, *The Price of the Settlements*, 2013, <https://peacenow.org/WP/wp-content/uploads/Price-of-Settlements-2013-English.pdf>, retrieved March 3<sup>rd</sup>, 2015.

<sup>12</sup> Shir Hever, *The Political Economy of Israel's Occupation: Repression Beyond Exploitation*, Pluto Press, 2010.

<sup>13</sup> B'Tselem, "Encouragement of Migration to the Settlements," May 9<sup>th</sup> 2010, <http://www.btselem.org/settlements/migration>, retrieved March 3<sup>rd</sup>, 2015.

times higher than services inside Israel. Recent revelations<sup>14</sup> have exposed great sums of state funds funneled annually through the Settlement Division of the World Zionist Organization to settlements, away from the public eye.

For our discussion of the Principles, however, we focus only on “subsidies, tax incentives or other benefits” provided directly by the government to corporations operating in settlements. These are extensive, and they are provided by the Israeli Ministry of Industry, Trade and Labor, using a trick of definitions: once a year the Ministry publishes a list of “National Priority Areas.” Along with certain locals within Israel's borders, most settlements are labeled as “National Priority Area A.” This translates into automatic tax incentives and allows companies operating in these areas to apply for special grants and benefits. This systems renders Principle #7 in its present formulation unusable. Companies which apply for special grants or enjoy special benefits technically do not receive them because they are in a settlement, but because they are in a National Priority Area A. They might receive the same in another location, and in some settlements they do not receive them.

Furthermore, there is no way to show that these specific supports may “*lead to the direct advantage of one national, racial, ethnic or religious group over another*” as stated by Principle #7. It can be claimed that industrial development in a settlement industrial zone contributes to the economy of the settlement regional council, which represents settlers, almost exclusively all Jewish, at the expense of their Palestinian neighbors. It can be similarly claimed that the same grants may provide jobs to Palestinian workers in construction or industry in an area confiscated long before from its rightful Palestinian owners. It is impossible to show how one specific grant would lead to “*the direct advantage of one... group over another*” as required by Principle #7. That inequality is the basic condition of a foreign military occupation, exacerbated by the systematic dispossession of Palestinians by the settlement project as a whole, by the illegal exploitation of Palestinian natural resources, by land confiscations and other Israeli military strictures restricting Palestinian economic development.

On top of all this, Principle #7 is impossible to comply with. How can companies be expected to investigate all possible government grants and supports and reveal their hidden discriminatory agendas?

Finally, even if companies refrained from all special benefits associated with having their sites in illegal settlements, what about companies sourcing from settlements or marketing through the settlements? What about companies that build these illegal settlements, provide them with loans or vital infrastructure services or supply them with a security apparatus? Appropriate language to prevent corporate complicity in illegal settlements activity would state just that: “the company will not participate in any business relationship with illegal Israeli settlements in the occupied West Bank, including through its supply chain.”

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<sup>14</sup> Meirav Arolosoroff, “The Israeli government's twilight zone that helps settle the West Bank,” Ha’aretz March 3<sup>rd</sup>, 2015, <http://www.haaretz.com/business/.premium-1.645011>, retrieved March 3<sup>rd</sup>, 2015.

In a response to the U.S. Securities and Exchange Commission (SEC)<sup>15</sup>, Fr. Sean McManus, President of the Holy Land Principles Inc., explained the reasoning behind Principle #7:

“[The relevant company’s] operations and ability to offer fair and equal employment in Israel are inevitably complicated by Israel's settlements. Israel's Arab Christians and Muslims are denied equal access to these settlements due to Jewish-only roads and Jewish-only residency requirements. Due to their strategic importance, Israel designates these settlements as Priority A Zones, and offers significant incentives to corporations to invest there. ...

“Approximately 10% of Israel's workforce lives in such settlements – but not Israeli Arabs. That is why the Holy Land Principles argued before the SEC: 'In summary, tax subsidies are available for the construction of facilities in the settlements, but since Palestinians, as a practical matter, are unable to commute to the jobs created by such facilities, accepting the subsidies results in de facto job discrimination against the Palestinians. Consequently, Principle #7 relates directly to the problem of discrimination in employment.’”

The SEC accepted this reasoning, despite its serious factual flaws. In reality, the settlements are mostly Jewish-only, but they have no such explicit “residency requirement.” There are no Jewish-only roads; some of the roads are Israeli-only, permitting access to non-Jewish Israelis, including Palestinian citizens of Israel. Most settlers work inside Israel and not in the settlements themselves. A large percentage of workers in the settlement industrial zones are Palestinian workers from different parts of the West Bank and also from within Israel. Sometimes transportation to work is fully provided by the employer, who depends on cheap and unprotected Palestinian labor. The discrimination against Palestinian workers in the settlements (as described in the previous section) results from their lack of citizenship, and it is manifested in their segregation in the workplace and restriction to mainly minimum wage jobs. None of these serious issues are addressed by the Holy Land Principles.

Added to the arguments in the previous section, this shows that the Holy Land Principles have no bearing on businesses in the occupied Palestinian territories and actually refer only to the employment of Israeli citizens working for U.S. companies inside the State of Israel.

### **2.3 Correction of Workplace Inequalities Principles: Principles 2, 3, 4, 8:**

*2. Identify underrepresented employee groups and initiate active recruitment efforts to increase the number of underrepresented employees.*

*3. Develop training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.*

*4. Maintain a work environment that is respectful of all national, racial, ethnic and religious groups.*

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<sup>15</sup> Holy Land Principles, Inc., “SEC’s Rejection of Intel: Its Significance for the Holy Land Principles,” PRNewswire-USNewswire, Feb. 16, 2015, <http://www.prnewswire.com/news-releases/secs-rejection-of-intel-its-significance-for-the-holy-land-principles-300036406.html>, retrieved March 3<sup>rd</sup>, 2015.



*8. Appoint staff to monitor, oversee, set timetables, and publicly report on their progress in implementing the Holy Land Principles.*

This section is potentially the most promising part of the Holy Land Principles. These are principles that supposedly require companies to go beyond their present commitments, take action, and remedy existing inequalities in the workplace. Still, this section fails to provide a useful set of expectations for companies due to its vagueness and disregard for existing initiatives and analyses of inequalities on the ground.

Avoiding the word “Palestine” renders the Principles inapplicable:

It seems as if the authors of the Principles struggled mightily with different ways to refer to Palestinian workers in Israel without using the word “Palestinian.” The previous section included mention of “national, racial, ethnic and religious groups,” perhaps because Palestinians are alternatively seen as a different national or ethnic group, they are racialized and subjected to racism, and as non-Jews they belong to non-hegemonic religious groups in Israel (Muslim, Christian of several denominations, Druze).

Principle #2 refers only to “underrepresented groups” and Principle #3 to “minorities.” Why the inconsistency? What employee groups are deemed “underrepresented”? Would this refer to special recruitment of single mothers, or perhaps tall bearded men? Which “minorities”? Does this refer to minorities in Israel, or minorities in Palestine? Would these Principles commit companies to providing specialized job training programs for new Jewish immigrants? For transgender youth?

Along with Principle #4, this section of the Principles is too poorly defined to inspire real change in corporate policies or practice.

Two of the Principles can be easily amended to become powerful tools:

Principle #3 calls for specialized professional training for some groups, a requirement already predicated by the Israeli Equal Opportunity in Employment Law, but it adds to it an expectation for training “in substantial numbers” and for “expanding existing programs.” This is a welcome added requirement, but it needs to be more concrete.

Principle #8 mentions some undescribed reporting mechanism, which is the single most important requirement for maintaining corporate accountability. There is no mention of an auditing or monitoring body such as the ones created for the Sullivan Principles and for the MacBride Principles, with the authority to set the frequency, scope and parameters of reporting, or to rate companies based on their compliance.

Both of these are potentially powerful requirements that just need to be phrased more clearly in order to make any difference. If companies would commit to regular and audited reporting on the number of Palestinian employees in all levels of the organization, or the number of Palestinian trainees in existing programs, that could serve as a strong motivation for a change in hiring policies. The Principles in their present formulation do not require anything specific.

There are several professional training and job assignment projects designed for Palestinian workers in Israel, and it is worthwhile to study the main obstacles which they have encountered in growing their numbers. Israeli advocacy groups have been unsuccessful in asking U.S. companies to report on the

number of Palestinian employees, and it is useful to understand why. A good guideline mechanism to counter Israeli workplace discrimination should respond to the local analysis of causes and to the needs of local initiatives.

### We should listen to the people on the ground:

Despite strong Israeli labor laws, the discrimination against Palestinian citizens of Israel in the Israeli workplace is very prevalent. In some regards it is getting worse, despite more initiatives and programs actively trying to mitigate it.

There is a wealth of research and publications about the systematic discrimination of Palestinian workers in Israel and in Israeli settlements, published by Palestinian, Israeli, and international human and labor rights organizations, labor unions, NGOs, some corporations, governmental and state agencies, and parliamentary bodies.<sup>16</sup> There are also several initiatives for training and professional education and placement for some industry sectors.

The expectation from any new set of principles for corporate behavior, in any part of the world, is to respond to the specific complexities of business operations in that area and to chart corporate standards that respond to the concerns of affected groups on the ground. See, for example, Principle #8, arguably the most important of them all, as it sets a public reporting expectation in place, however minimal. What would the actors on the ground most need from such reports?

We have listed below some of the main issues brought up time and again regarding employment equality for Palestinian citizens of Israel, none of which is in any way addressed by the Holy Land Principles:

- a. Cities, towns and village areas in Israel are almost completely segregated. Palestinian towns and villages are the poorest local governments. State land confiscations left them with no land reserve for future development, banks generally do not approve loans in these areas, and there are hardly any factories or industrial zones near Palestinian residential areas.
- b. Many of the statistics about Palestinian underrepresentation in the workforce are due to a very low employment rate among Palestinian women. Affordable child care and day care centers are mostly absent from Palestinian towns and villages, and other community welfare services for dependents of the extended family are also lacking.
- c. Israeli public transportation generally circumvents Palestinian towns and villages in Israel. Many women have no cars, and a lack of transportation options is a major impediment to the ability to work in other areas.

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<sup>16</sup> Some examples: Kav Laoved- Workers' Hotline, "Arab Citizens of Israel and Work: Trends of Workplace Discrimination and Violation of Labor Rights," January 2013, [https://docs.google.com/file/d/0B7WeOy-B\\_GpkT2Zrc1hYS3p2aTg/edit](https://docs.google.com/file/d/0B7WeOy-B_GpkT2Zrc1hYS3p2aTg/edit), retrieved March 4<sup>th</sup>, 2014  
Tsofen, "Background," [http://www.tsofen.org/?page\\_id=137&lang=en](http://www.tsofen.org/?page_id=137&lang=en), retrieved March 4<sup>th</sup>, 2014  
אורלי אלמגור-לוטון, תעסוקה בקרב אקדמאיות ערביות, מרכז המחקר והמידע של הכנסת, 15 בפברואר 2010  
יוסף ג'בארין, אסטרטגיה לפיתוח התעסוקה בקרב הערבים בישראל, מוסד שמואל נאמן, 2007  
הקריה האקדמית אונו, דו"ח אונו 2010

- d. Despite the tendency to focus on training and job education, in general the Palestinian population is highly educated, with high rates of academic unemployment. Palestinian workers in the Israeli workforce experience a “glass ceiling” with severe underrepresentation in higher paying, skilled and managerial jobs.
- e. Palestinian workers are alienated from Israeli institutions, they distrust the state authorities, and they are less likely to complain of violations or sue for their rights. Even though Arabic is an official language in Israel, many Israeli companies and institutions use Hebrew exclusively.
- f. During the last summer, several Palestinian workers have been reportedly fired<sup>17</sup> for posting political opinions on social media<sup>18</sup>. Especially during times of violent conflict, companies try to portray themselves as patriotic, supporting the troops, or identifying with military efforts, and Palestinian employees might be viewed and treated as potential enemies.
- g. Companies that have large contracts with the Israeli security services use these as a reason not to hire Palestinians as they might be considered a security threat. Some employers<sup>19</sup> adopt an overt general discriminatory policy to appeal to customers, and some settler and nationalist organizations promote and certify<sup>20</sup> “Jewish only” businesses that would not employ Palestinians.
- h. Companies consistently refuse to disclose any information about the number of Palestinian workers in the company and their distribution among professions and ranks. A common claim made by U.S. corporations is that “collecting such information is contrary to Israeli law.” According to a legal opinion by leading Israeli human rights lawyer Michael Sfard, this claim is false.

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<sup>17</sup> Or Kashti, Eli Ashkenazi and Nir Hasson, “Workplaces discipline Israeli Arabs for Facebook posts against Gaza incursion,” Ha’aretz, July 23<sup>rd</sup>, 2014, <http://www.haaretz.com/news/national/1.606681>, retrieved March 4<sup>th</sup>, 2014.

<sup>18</sup> New Israel Fund, “Dozens of Workers Fired Because of Facebook Posts,” August 7<sup>th</sup>, 2014, <http://www.nif.org/our-issues/civil-and-human-rights/1754-dozens-of-workers-fired-because-of-facebook-posts>, retrieved March 6<sup>th</sup>, 2015.

<sup>19</sup> Ben Hartmann, “Ashkelon mayor ceases municipal construction by Arab workers,” The Jerusalem Post, November 19<sup>th</sup>, 2014, <http://www.jpost.com/Arab-Israeli-Conflict/Ashkelon-mayor-ceases-municipal-construction-by-Arab-workers-382305>, retrieved March 4<sup>th</sup>, 2015.

<sup>20</sup> "לוח עבודה עברית", <http://www.avoda-ivrit.org/>, retrieved March 4<sup>th</sup>, 2015.

### Our recommendations for specific corporate guidelines:

Based on these concerns, the following is a non-exhaustive list of suggestions for locally-informed corporate principles designed to help remedy the existing discrimination against Palestinian citizens of Israel in the Israeli workplace. Each suggested recommendation relates to the corresponding issue listed in the previous section:

- a. Ask companies to help develop employment opportunities closer to Palestinian towns.
- b. Focus on women's needs, gender discrimination, and the advancement of women in the workplace; help develop child care and other support services in the community.
- c. Offer affordable transportation services to workers to and from Palestinian areas.
- d. Commit to anti-racist policies and training for staff and affirmative action quotas in all levels of the organization.
- e. Provide workers with information about their rights in Arabic and create an office for complaints in Arabic. Accept Arabic as an official company language for all company publications and signage.
- f. Ask companies to allow for a diversity of political views among employees, to avoid censorship or surveillance of workers views, and to not take public political stands against their own workers.
- g. Ask companies to step away from any contracts that restrict Palestinian workers' participation and any business relationships with companies that sign on to overtly racist employment policies.
- h. Require companies to monitor and disclose the number and rank of Palestinian workers in all levels of the organization.

### 3. How do the Principles compare to other sets of principles?

Maybe the most disturbing fact about the Holy Land Principles is that there are already other, more mainstream and well-accepted corporate guideline regimes, which expect more of U.S. companies while doing business in Palestine/ Israel.

Our comparison starts with the Sullivan Principles and the MacBride Principles, showing how these were more specifically tailored to the respective situation in South Africa and in Northern Ireland than the Holy Land Principles are to the situation in Palestine. Then we move to the international labor standards of the ILO and to the UN Guiding Principles on Business and Human Rights and show how they go well beyond the Holy Land Principles in requiring a change of policy and conduct from companies that respect human rights.

#### **3.1 The Sullivan Principles and the MacBride Principles explicitly asked for more**

The Holy Land Principles initiative presents itself as following “in the tradition of the Sullivan Principles (South Africa) and the MacBride Principles (Northern Ireland),”<sup>21</sup> so it is worthwhile to see how they compare:

	<i>Sullivan Principles</i>	<i>MacBride Principles</i>	<i>HL Principles</i>
<b><i>Explicitly refers to the oppressed group</i></b>	Yes: “Blacks and other non-whites”	Yes, almost: “Religious groups”	No: “National, racial, ethnic & religious groups”; “underrepresented groups”
<b><i>Requires specific action beyond abiding by local labor laws</i></b>	Yes	Yes	No
<b><i>Includes specific remedies based on the situation</i></b>	Yes: desegregation of the workplace, equal pay for equal work.	Yes: banning of all political emblems, securing transportation to work.	No
<b><i>Calls for equal representation in all levels of the company, including managerial and supervisory levels.</i></b>	Yes	Yes	No
<b><i>Sets up an independent monitoring agency</i></b>	Yes	Yes	No
<b><i>Requires the company contributes to community development</i></b>	Yes	No	No

<sup>21</sup> Holy Land Principles, the official website, <http://www.holylandprinciples.org/8-holy-land-principles/>, retrieved 2/24/2015.

<b><i>Requires the company opposes local discriminatory laws</i></b>	Yes (1984 version)	No	No
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These differences among the different initiatives can perhaps be attributed to their origins:

### **3.2 The Holy Land Principles kept distance from Palestinian stakeholders**

The Sullivan Principles were drafted by the Rev. Leon Sullivan, an African American Baptist minister and civil rights leader, who never concealed his solidarity with black South Africans and commitment to their political struggle against Apartheid. The MacBride Principles were drafted by Nobel Laureate Sean MacBride, an Irish government minister, international politician and a former Chief of Staff of the IRA.

Fr. Sean McManus of the Irish National Caucus, who leads the MacBride Principles initiative, is the public face of the Holy Land Principles, but there is very little information published about the genesis of the Principles, and it is not clear who drafted them. No Palestinian-Americans or Palestinian rights organizations were mentioned as associated with this organization, and there is no mention of support for Palestinian equal rights or self-determination on the organization’s website.

Throughout our correspondence with the Holy Land Principles organization, suggestions for more input from Palestinian and Israeli civil society were answered by the insistence that the Holy Land Principles is an American campaign, its byline is “American Principles following American Investment,” and “these principles are American principles – neither Irish/British nor Palestinian/Israelis<sup>22</sup>,” etc.

It seems that in the effort to maintain an image of neutrality and build an initiative that is “pro-Jewish, pro-Palestinian, and pro-company<sup>23</sup>,” the authors of the Principles have neglected input from the people most connected to the serious problems on the ground and subsequently created a set of principles that fail to address real needs.

### **3.3 Contemporary international principles and guidelines offer a more promising framework**

The original Sullivan Principles of 1977 were an experiment with a new approach to voluntary corporate social responsibility. Several initiatives such as the MacBride Principles of 1984 grew out of it, as well as more global, systematic attempts to set corporate guidelines and standards of human and labor rights. Some of these have gained wide acceptance and are routinely quoted in corporate codes of conduct.

In 1999, as part of that process, Rev. Leon Sullivan published his “Global Sullivan Principles” that go well beyond the three sets compared above. They include updated labor rights such as prohibitions of forced labor and child labor, a commitment to health and the environment, an expressed support for the human rights of all communities involved, work to improve conditions in those communities, explicit

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<sup>22</sup> Holy Land Principles, “Take Action,” the official website, <http://www.holylandprinciples.org/take-action/>, retrieved March 19<sup>th</sup>, 2015.

<sup>23</sup> Holy Land Principles, “Company Reports,” the official website, <http://www.holylandprinciples.org/company-reports/>, retrieved March 19<sup>th</sup>, 2015.

respect for the freedom of association and more. Thus, the Global Sullivan Principles go further than the Holy Land Principles (2013) in addressing Palestinian human and civil rights issues in Palestine/Israel.

Specifically regarding labor rights, the International Labor Organization (ILO) has created a set of international labor standards, based on its eight Core Conventions, which are international treaties. Their anti-discrimination treaty does not include affirmative action, but the others add strictures about child and forced labor, gender equality, the right to organize, and collective bargaining. Israel has ratified all of these treaties, and many corporations routinely include these in their codes of conduct.

The most promising set of corporate guidelines is the UN Guiding Principles on Business and Human Rights<sup>24</sup> (the Ruggie Principles). These establish an authoritative global standard on the respective roles of businesses and governments in helping ensure that companies respect human rights. They were unanimously endorsed in 2011 by the UN Human Rights Council, followed by endorsement by many governments including the U.S. They are incorporated into the OECD Guidelines for Multinational Enterprises<sup>25</sup>, as well as the Guidance on Social Responsibility<sup>26</sup> from the International Organization for Standardization (ISO 26000), and the revised Sustainability Framework and Performance Standards of the International Finance Corporation of the World Bank Group<sup>27</sup>.

The UN Guiding Principles are not voluntary, they represent a set of widely agreed-upon expectations from governments and corporations with regards to human rights, and they apply even when not endorsed by a particular company or country. They include guidelines for mitigation and remediation, managing supply chain risks, and due diligence principles, and they cover the entire range of human rights as covered by the International Bill on Human Rights and the ILO Core Conventions on labor rights. Working groups associated with this UN initiative have created implementation and reporting guides for different sectors and different areas, with special attention to corporate dilemmas in conflict zones.

Another international structure of principles is the UN Global Compact, which is a voluntary network with a reporting mechanism. It includes all the parts of the UN Guiding Principles regarding human and labor rights, and adds to them environmental and anti-corruption principles.

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<sup>24</sup> United Nations Office of the High Commissioner for Human Rights, "Guiding Principles on Business and Human Rights," Geneva, 2011, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf), retrieved March 6<sup>th</sup>, 2015.

<sup>25</sup> Organization for Economic Cooperation and Development, "Guidelines for Multinational Enterprises," 2012, <http://www.oecd.org/daf/inv/mne/48004323.pdf>, retrieved March 6<sup>th</sup>, 2015.

<sup>26</sup> International Organization for Standardization, "ISO 26000 - Social responsibility," [http://www.iso.org/iso/iso\\_catalogue/management\\_standards/iso26000](http://www.iso.org/iso/iso_catalogue/management_standards/iso26000), retrieved March 6<sup>th</sup>, 2015.

<sup>27</sup> World Bank Group, "International Finance Corporation Sustainability Framework," January 1<sup>st</sup>, 2012 [http://www.ifc.org/wps/wcm/connect/b9dadb004a73e7a8a273fff998895a12/IFC\\_Sustainability\\_Framework.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/b9dadb004a73e7a8a273fff998895a12/IFC_Sustainability_Framework.pdf?MOD=AJPERES), retrieved March 6<sup>th</sup>, 2015.

### 3.4 The UN Guiding Principles respond to human rights abuses in Palestine/ Israel

The UN Guiding Principles on Business and Human Rights have been criticized by many civil society actors as being too tame, and as an unacceptable, toothless compromise with corporate power. However, the wide acceptance of these by governments and corporations as a new universal standard makes them a powerful tool for exposing the special impunity granted for many years to human rights violators in Palestine.

U.S. companies need guidance when operating in Palestine/Israel; it is a minefield for human rights. Global campaigns have targeted several U.S. companies for complicity in war crimes, violations of international law, and supply chain violations. Some have cost these companies many millions of dollars in contracts, while others have resulted in a wave of symbolic divestment resolutions or calls for consumer boycotts. The Holy Land Principles do not offer any relevant guidance for these cases.

One central issue in these controversies is corporate complicity in Israeli settlements in the occupied Palestinian territory. These settlements are in direct violation of the Fourth Geneva Convention and The Hague Regulations, thus constituting a severe human rights violation<sup>28</sup>. This is the consensus among the international community, the human rights community<sup>29</sup>, and international legal institutions. The International Court of Justice has confirmed this in its 2004 advisory opinion<sup>30</sup>. The U.S. has consistently viewed settlements as illegitimate<sup>31</sup> and opposed continued Israeli settlement activity. Many countries around the world have imposed sanctions and limitations on supports and trade with settlements<sup>32</sup>.

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<sup>28</sup> Global Exchange, "Why Settlements are Illegal," <http://www.globalexchange.org/economicactivism/illegal>, retrieved March 6<sup>th</sup>, 2015.

<sup>29</sup> B'Tselem, "Land Expropriation and Settlements in the International Law," May 9<sup>th</sup>, 2010, [http://www.btselem.org/settlements/international\\_law](http://www.btselem.org/settlements/international_law), retrieved March 6<sup>th</sup>, 2015.

<sup>30</sup> International Court of Justice, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," July 9<sup>th</sup>, 2004, <http://www.icj-cij.org/docket/?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4>, retrieved March 3<sup>rd</sup>, 2015.

<sup>31</sup> Churches for Middle East Peace, "Statements from U.S. Government Officials Concerning Israeli Settlements," [http://www.cmep.org/content/us-statements-israeli-settlements\\_short](http://www.cmep.org/content/us-statements-israeli-settlements_short), retrieved March 3<sup>rd</sup>, 2015.

<sup>32</sup> Examples: Barak Ravid, "Netherlands calls on stores to label products from Israeli settlements," Ha'aretz, March 7<sup>th</sup>, 2013, <http://www.haaretz.com/news/diplomacy-defense/netherlands-calls-on-stores-to-label-products-from-israeli-settlements.premium-1.508024>, retrieved March 4<sup>th</sup> 2015.

Ian Black, "EU guidelines on Israeli settlements send out powerful message," The Guardian, July 16<sup>th</sup> 2013, <http://www.theguardian.com/world/2013/jul/16/eu-guidelines-israeli-settlements-message>, retrieved March 4<sup>th</sup>, 2015.

Barak Ravid, "Dutch engineering giant cancels East Jerusalem project," Ha'aretz, September 6<sup>th</sup> 2013, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.545605>, retrieved March 4<sup>th</sup> 2015.

Haaretz, "Report: EU planning to step up sanctions on Israeli settlements after election," February 10<sup>th</sup>, 2015, <http://www.haaretz.com/news/diplomacy-defense/1.641903> retrieved March 6<sup>th</sup>, 2015.



Corporate respect for human rights means, at the very least, ceasing to aid and abet the settlement economy in any way.

The UN Special Rapporteur on the situation of human rights in the Palestinian territories submitted a report<sup>33</sup> to the General Assembly in 2012 on corporate responsibility and legal obligations. The report describes the UN Guiding Principles and continues to implement them in a list of specific case studies, which include U.S. companies Caterpillar, Elbit Systems, Hewlett Packard, and Motorola Solutions. The conclusions of the report call upon these companies to stop any direct complicity, mitigate indirect complicity, and remedy the harm done. It further calls on governments and the general public to take action against the companies that do not do so.

An extensive and thorough set of corporate guidelines on human and labor rights is already universally accepted and in effect. The UN Guiding Principles on Business and Human Rights describe a thorough due diligence process for companies to prevent, mitigate and remediate human rights abuses associated with their business operations. Companies cannot be exempted from the full range of their obligations by a weaker, local, and voluntary initiative. Responsible investors should demand of their companies to add the UN Guiding Principles to their Code of Conduct, or, better still, to join the UN Global Compact.

**At this time, the main task at hand should be to educate companies about existing universal guidelines and their implementation in Palestine/ Israel.** It is our opinion that drafting a new set of corporate principles focused on business activities in Palestine/ Israel would be a welcome development, but only if:

- They explicitly refer to the UN Guiding Principles, and help companies understand their obligations to international human rights law in Palestine/ Israel.
- They add to the existing legal and regulatory framework specific corporate commitments which respond to local stakeholders' concerns.

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<sup>33</sup> United Nations, "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967," September 19<sup>th</sup>, 2012, <http://unispal.un.org/Unispal.Nsf/a39191b210be1d6085256da90053dee5/4b2de5243ebce35685257aa200487927?OpenDocument>, retrieved March 3<sup>rd</sup>, 2015.

## 4. What to do with shareholder resolutions on the Principles?

Shareholder resolutions asking three companies to endorse the Holy Land Principles are coming to a vote very soon: General Electric on April 22, Corning on April 29, and Intel on May 21. Another resolution was filed with Cisco. These votes are presented by the Holy Land Principles organization as votes for responsible corporate behavior in Palestine/ Israel, but adopting the Principles could not contribute to any change in corporate behavior, and in some cases it might prevent or postpone such a change.

**Our recommendation to ethical shareholders is to abstain.**

### **4.1 The Holy Land Principles do not challenge Intel Corporation**

From the Special Report “Intel and Human Rights”<sup>34</sup> produced by Sustainable Investments Institute for the Holy Land Principles Inc.:

“Intel has a comprehensive set of Human Rights Principles... which reference international covenants and norms on human rights, including the UN Global Compact, the UN Universal Declaration on Human Rights, the UN Guiding Principles on Business and Human Rights, core International Labor Organization Conventions, and OECD Guidelines for Multinational Enterprises. ...

“It also has an EEO policy that specifically bars discrimination and harassment based on religion and national origin. ...

“It also has demonstrated evidence of conducting human rights risk assessments of its operations and operationalizing its human rights standards throughout the company and supply chain. In addition, its human rights policy addresses many of the tenet of the Holy Land Principles. ... It appears to be working to diversify its workforce and to improve representation of underrepresented group ... and it has several education projects in Israel and the Occupied Territories.”

Intel has endorsed far stricter labor principles than the Holy Land Principles. It petitioned the SEC requesting to exclude the proposal from its 2015 proxy materials, as many companies regularly try to exclude independent shareholder proposals which might restrict their autonomy in any way. It is useful to note that Intel's petition reiterated its strong commitments to nondiscrimination in employment and specifically focused on Principle #7, claiming it was too vague and interfering with the company's “ordinary business operations.”<sup>35</sup>

Recalling the above discussion of Principle #7 in section 2.2, this is the only principle that deals with issues other than labor rights. In other words, it does not seem that the dispute with the company had anything to do with fair employment of Palestinian workers. In our opinion, this Principle is indeed

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<sup>34</sup> Peter DeSimone, “Special Report: Intel and Human Rights,” Sustainable Investment Institute, August 22, 2014, <http://www.holylandprinciples.org/wp-content/uploads/2014/11/IntelReport1.pdf>, retrieved March 3<sup>rd</sup>, 2015.

<sup>35</sup> Gibson, Dunn & Crutcher, Letter to the Securities and Exchange Commission, January 12<sup>th</sup>, 2015, <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2015/johnharrington011215-14a8-incoming.pdf>, retrieved March 4<sup>th</sup>, 2015.

confusing and vague, it has no bearing on its intended target, business in illegal settlements, and the proponents' explanations in response to the SEC had severe factual flaws.

But Intel is a major employer in Israel, and underrepresentation of Palestinian citizens of Israel in the ICT workforce is very much a problem of this company. If ever Intel would be convinced to take on some more specific commitments, such as the ones listed in the end of chapter 2 of this report, it could have an immense impact on the Israeli work market. If ever it could be convinced to publicly disavow all settlement business, even if it has none presently, that action could shift the Israeli public discourse on settlements. Unfortunately, the Holy Land Principles do not contribute to any of these goals.

#### **4.2 Companies can use the Principles to deflect corporate accountability**

Cisco and General Electric both also have very advanced human rights policies, which far outweigh the Holy Land Principles. The Holy Land Principles not only fail to add anything beyond a commitment to abide by local nondiscrimination law, but could potentially become an obstacle when attempting to convince companies to implement their existing and more serious human rights commitments.

All three companies deal with dilemmas regarding their business with the Israeli occupation and military: Cisco reportedly has settlement connections, GE provides engines for some Israeli military assault platforms, and Corning supplies materials for illegal construction such as the A1 train in the West Bank. These human rights challenges should be dealt with in earnest through a close reading of the process described by the UN Guiding Principles on Business and Human Rights. Signing the Holy Land Principles might serve these companies as a way to deflect public scrutiny and delay harder corporate decisions.

#### **4.3 U.S. Companies should respect human rights, regardless of political concerns**

Several U.S. companies contacted by the Holy Land Principles are knowingly and consistently, over many years and protests, supplying the Israeli military and settlements with specific technologies used in severe human rights violations and war crimes. These companies include: Caterpillar Inc., Hewlett-Packard Company, Motorola Solutions, Lockheed Martin, The Boeing Company and Northrop Grumman. Other companies on the list of those contacted, such as General Mills and Thrifty, source from or deal with illegal Israeli settlements.

We want these companies to commit to a more stringent human rights policy, and we want them to take international humanitarian law more seriously. The Holy Land Principles do not mention international law. Moreover, the Holy Land Principles disavow international law and official statements by the Holy Land Principles organization can be used by these companies to dismiss all further criticism as politically biased.

The Holy Land Principles campaign presents itself as an apolitical initiative, as explained by Fr. Sean McManus:

“The 545 American companies doing business in Palestine-Israel have huge potential for good. They do not have to get involved in politics; they do not have to take sides; they do not have to come up with political solutions<sup>36</sup>.

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<sup>36</sup> Holy Land Principles, Home Page, <http://www.holylandprinciples.org/>, Retrieved March 3rd 2015.

“The Holy Land Principles do not try to address political problems. That is not the proper business of American companies—or so companies might try to conveniently argue— but fair employment most assuredly is their business. ... Similarly, the Holy Land Principles organizers take no position on the issues of one state, two states, refugees, settlements, United Nations resolutions, or issues beyond fair employment practices of US companies doing business in Israel and Palestine. These are for other parties to address<sup>37</sup>.”

Considering the heated political debate around these issues, we understand this approach. Unfortunately, in the dedicated effort to make the Principles seem apolitical, the entire global infrastructure of human rights law is dismissed as “political.” This is the downfall of the Holy Land Principles as a human rights initiative—that it insists on censoring all reference to Palestinians, Palestine, settlements, or the occupation from the phrasing of the Principles, rendering them too confusing and devoid of practical meaning.

It is not true that U.S. companies should only care about fair employment. Companies should know and care about settlements, refugees, and the UN resolutions mentioned above, if they are to respect international humanitarian law and human rights and become a power for good in the area. These are the basic tenets of human rights law in Palestine/ Israel. If some portray these as “political” issues, it means that there are political powers that would oppose them. A new human rights initiative should help educate others about human rights and not help provide a cover for avoiding them.

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<sup>37</sup> Hank Boerner, “The Holy Land Principles for US Companies — Campaign for Fair Employment in Israel and Palestine,” Governance & Accountability: Sustainability Update, December 2, 2014.