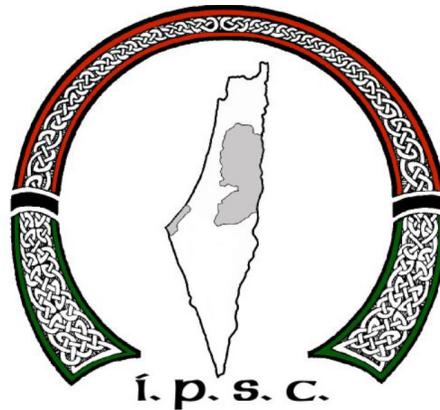


Ireland-Palestine Solidarity Campaign

raises a Complaint against

CRH plc

Specific Instance regarding CRH's business activities in Israel and the occupied territories of Palestine and its alleged violations of the OECD Guidelines for Multinational Enterprises



May 3rd 2011

Complainant - Contact Details

John Dorman

Divestment Officer of the IPSC

The Ireland-Palestine Solidarity Campaign

Unit 5, 64 Dame street, Dublin 2

Telephone: 01 6770253 / Mobile

E-mail: divestment@ipsc.ie

National Contact Point - Contact Details

Ms Dympna Hayes

Ireland's National Contact Point for OECD Guidelines for Multinational Enterprises

Department of Enterprise, Trade and Innovation

Earlsfort Centre

Earlsfort Terrace

Lower Hatch Street

Dublin 2

E-mail: Dympna.hayes@deti.ie

Table of contents

Executive summary

A. General overview

- 1. Object of the complaint**
- 2. Information regarding the complainants**
- 3. Information regarding the targeted company**

B. The Complaint

- 1.0 Context**
 - 1.1 CRH and its investment in Israel**
 - 1.2 CRH in the context of Israel's violations of International Law**
 - 2.0 Violations of the Guidelines and Code of Conduct**
 - 2.1 Overview of CRH's violations of OECD Guidelines**
 - 2.2 International norms on Corporate Responsibility**
 - 2.3 CRH's failure to abide by its own Code of Business Conduct**
 - 3.0 Previous contact between the IPSC and CRH plc and between other relevant actors and/or institutions and CRH**
 - 3.1 The Russell tribunal on Palestine**
 - 3.2 Correspondence between the IPSC and CRH plc**
 - 3.3 Shareholders raise serious questions about CRH's activities in occupied Palestine at the 2010 CRH AGM**
 - 3.4 The Divestment Task Force of the New England Conference of the United Methodist Church divest from CRH**
- C. The Complainants demands**
 - D. Photographs and maps**
 - E. Other recipients of the complaint**

Executive Summary

The Ireland-Palestine Solidarity Campaign is raising a Specific Instance against the international materials company CRH plc with Ireland's OECD National Contact Point due to CRH's activities in Israel/Palestine. It is our submission that CRH have failed and neglected to comply with the OECD guidelines for Multinational Enterprises. The IPSC believe that CRH plc is guilty of failure to implement good business practices which respect international law in accordance with the due diligence process.

The Organisation for Economic Co-operation and Development (OECD) comprises 30 states, Ireland being one. A major instrument for monitoring businesses is the OECD guidelines for multinational enterprise. These guidelines hold states responsible for monitoring corporations operating both within and from their territory¹. As a member of the OECD, Ireland is expected to adhere to these guidelines and investigate all company activities both here and abroad.

"Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines should encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country."²

By agreeing to be part of the OECD, Governments are obliged to have National Contact Points in order to promote the guidelines and investigate any complaints or issues that are raised. It is this complaint mechanism that shall be utilised here;

We are requesting that the Irish NCP now;

- investigate whether CRH is complying with the OECD Guidelines for Multinational Enterprises with respect to Palestinian human rights;
- investigate what due diligence measures has CRH undertaken in order to ensure the company adheres to the OECD Guidelines and to the discharge of its corporate responsibility to comply with national and international law to ensure it does not contribute to human rights abuses in countries where it operates;
- and that you require CRH plc to commit itself to comply scrupulously with the OECD Guidelines and with International Human Rights Laws referred to in the Guidelines, and failing that to call for CRH to divest from the Israeli company Mashav Initiative and Development Ltd and therefore bring an end to CRH's complicity with Israel's violations of International law.

¹ Grene, H (2009) Corporate Accountability for human rights: using the OECD guidelines as a tool, in Trocaire Development Review

² OECD Guidelines (2008) Pg 14 "Concepts and Principles"

A. General Overview

1. Object of the complaint

This complaint is being lodged on behalf of the Ireland-Palestine Solidarity Campaign against CRH plc.

The point of contact at the IPSC is John Dorman, divestment officer.

The Ireland-Palestine Solidarity Campaign³ ('the complainant') requests the Irish National Contact Point to ascertain whether CRH plc is adhering to the following sections of the OECD Guidelines for Multinational Enterprises and to facilitate a resolution with respect to the company's operations in Israel and the occupied Palestinian territories .

To our best knowledge, there is no parallel procedure against the corporation targeted by this specific instance.

2. Information regarding the complainant

The Ireland-Palestine Solidarity Campaign was set up in late 2001 by a group of established Irish human rights and community activists, academics and journalists who were deeply concerned with the current situation in the occupied territories of Palestine. In partnership with Palestinians now living in Ireland the IPSC was formed to provide a voice for Palestine in Ireland.

The IPSC is an independent, non-party political organisation, run by volunteers all committed to a just and sustainable peace in the Middle East.

The IPSC is a member-based organisation, funded by our member's annual fees, standing orders and donations.

3. Information regarding the targeted company, CRH plc

CRH plc is headquartered in Belgard Castle, Clondalkin, Dublin 22, Ireland.

CRH plc is an international diversified building materials group with operations in 35 countries worldwide. CRH is Ireland's largest company quoted on the stock exchange. In 2009, the company recorded sales of over €17 billion and recorded profits of €598 million net⁴. It is divided into 3 main divisions: Europe, the Americas and the emerging regions.

³ IPSC website Home page <http://www.ipsc.ie>

⁴ CRH website Home page <http://www.crh.ie>

Materials comprise cement, aggregates, asphalt and ready mixed concrete. Concrete Products comprise Structural Concrete, Architectural Concrete and Construction Accessories. Exterior Products comprise Clay, Glass, Entrance Control and Building Products. Distribution comprises Builder merchants and DIY stores.

In 2001, CRH purchased 25% of the Israeli Company Mashav Initiative and Development Ltd from Clal Industries. The Clal Group owns the remaining 75%. Mashav wholly owns Neshet Israel Cement Enterprises Ltd. Neshet is Israel's sole cement producer⁵, supplying 75-90% of all cement sold in Israel and the occupied Palestinian territories.

In 2006, when construction of the illegal Separation Wall was at its peak Neshet produced approximately 5.1m tonnes of cement.

CRH is returning significant profits every year from its operation in Israel and occupied Palestine.

The income that Neshet yielded to Clal in 2010 was 1,589 million shekels (323 million euro) which suggest that CRH received 107.67 million euros from Neshet in 2010.

The net profit that Neshet yielded to Clal in 2010 was 172 million shekels (35 million euro) which would imply that CRH got 11.67 million euros from Neshet in 2010.

CRH is defined in Clal's annual report as a "strategic partner" of Clal in the field of cement. The agreement allows CRH to appoint 25% of the directors of Mash'av and of Neshet. Currently the CRH directors who sit on two of the eight seats on the board of Neshet Cement Enterprises are John Madden (director since 2009) and Mairtin MacAodha (director since 2001).⁶

⁵ Neshet Cement Enterprises website Homepage http://www.neshet.co.il/new_site/en/index.htm

⁶ Company Registry File BDi Coface Mashav Initiative and Development

B. The Complaint

The Guidelines are recommendations by governments covering all major areas of business ethics, including corporate steps to obey the law, observe internationally-recognised standards and respond to other societal expectations.

Two of the key policies state "that enterprises should respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments" and that they should "Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines"⁶.

It is our submission that CRH has failed and neglected to comply with the OECD guidelines. CRH is guilty of failure to implement business practices which respect international law in accordance with the due diligence process.

CRH has been put on full notice of their complicity with these human rights abuses. It has full knowledge of the nature of these abuses and has failed to take positive action to prevent complicity. CRH has failed, and continues to fail, in its corporate responsibility to protect against human rights abuses in its business dealings. Its action and inaction makes a direct contribution to the perpetration of human rights abuses against the Palestinian people.

1. Context

1.1 CRH and its investment in Israel

The location of the complaint is in the Occupied Palestinian Territories.

CRH owns 25% of the Israeli Company Mashav Initiative and Development Ltd from Clal Industries. Mashav wholly own Neshar Israel Cement Enterprises Ltd. Neshar are Israel's sole cement producer ⁷, supplying 75-90% of all cement sold in Israel .

The use of Neshar cement has been well documented across many construction sites in the illegal West Bank settlements⁸, their infrastructure and in the construction of the Jerusalem Light Rail in illegally annexed East Jerusalem. In 2004 CRH admitted to Amnesty international that 'in all probability' ⁹ its subsidiary's cement was being used in the construction of the illegal Separation Wall.

Furthermore, the Mashav Group, through its subsidiary Neshar, has several other subsidiaries extensively involved in a broad range of construction activities¹⁰

Neshar own 50% of Ta'avura, which wholly owns Tasfit Construction Machinery.

⁷ Neshar Cement Enterprises website Homepage http://www.neshar.co.il/new_site/en/index.htm

⁸ Project Clean Hands website, 2009 <http://projectcleanhands.wordpress.com/category/crh/crh-photos/>

⁹ Amnesty International News Release 16 June 2004

¹⁰ Neshar Cement Enterprises website Homepage http://www.neshar.co.il/new_site/en/index.htm

Tastit are the sole importers of Liebherr excavators and cranes. These have been documented destroying Palestinian farms and olive groves to enable the construction of the illegal Separation Wall.¹¹

1.2 CRH in the context of Israel's violations of International Law

To see how CRH plc is failing to adhere to the OECD general policies it is necessary first to look at the host government, Israel, and its failure to comply with its international obligations and commitments as demonstrated by its violations of international human rights law and humanitarian law.¹²

Violations of international law committed by Israel

The Wall and settlements

In June 2002 Israel began the construction of a separation barrier encompassing most Israeli settlement areas in the West Bank, including East Jerusalem. It is approximately 8 metres high with a control zone which is 60-100 metres wide. It is made of concrete and barbed wire with various secondary features such as electric fences, sensors, trace paths, patrol roads and fortified guard towers. When complete it will be 725Km long.

The building of the 'Wall' along with the Israeli settlements and infrastructure continue to displace Palestinians from their homes and land. The wall will isolate 9.5% of West bank territory including East Jerusalem. Approximately 35,000 Palestinians will be located between the wall and the Green Line, the internationally recognised border between Israel and the West Bank), isolated from the rest of the West Bank and the 250,000 Palestinians living in East Jerusalem. Approximately 250,000 Palestinians in 28 communities will be surrounded on 3 sides by the wall and 26,000 totally surrounded. Approximately 350,000 settlers in 80 settlements will be located between the Green Line and the Separation Wall.¹³

On 9 July 2004, the International Court of Justice published its advisory opinion on the wall, finding it to be contrary to international law:

"The Court considers that the construction of the wall and its associated regime create a 'fait accompli' on the ground that it could well become permanent, in which case, and notwithstanding the formal characterisation of the wall by Israel, it would be tantamount to de facto annexation."¹⁴

The Court furthermore noted that:

¹¹ Who Profits from the Occupation website <http://www.whoprofits.org/>

¹² A Summary of United Nations Agreements on Human Rights
<http://www.hrweb.org/legal/undocs.html#UDHR>

¹³ UN Humanitarian Impact of the Barrier. July 2008

¹⁴ International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004)

"[T]he construction by Israel of a wall in the Occupied Palestinian Territory and its associated régime are contrary to international law."¹⁵

It is worth noting that since 2001, when CRH purchased its 25% stake in Mashav, the population of illegal settlers in the occupied West Bank and East Jerusalem increased from 376,000¹⁶ to just under 500,000 today.

Israeli conduct relevant to CRH plc activities that violate international law¹⁷

1. In constructing a wall in the West Bank on Palestinian territory that it occupies, Israel denies the Palestinians access to their own land, violates their property rights and seriously restricts the freedom of movement of the Palestinian population, thereby violating article 12 of the International Covenant on Civil and Political Rights; the illegality of the construction of the Wall was confirmed by the International Court of Justice in its Advisory Opinion of 9 July 2004¹⁸, which was endorsed by the UN General Assembly in its resolution ES-10/15;

2. Systematically building settlements in Jerusalem and the West Bank, Israel breaches the rules of international humanitarian law governing occupation, in particular article 49 of the Fourth Geneva Convention of 12 August 1949¹⁹;

In its Advisory Opinion on the Wall, the International Court of Justice stated that there exists an *erga omnes* obligation to refrain from recognizing or in any way supporting the illegality that arises from the conduct of Israel in building the Wall and violating international humanitarian law.

The establishment and maintenance of settlements in the occupied Palestinian territories are violations of international humanitarian law and entail the commission of war crimes by Israel. CRH plc through their subsidiary assist in the establishment of such settlements by supplying equipment that can be used to demolish dwellings, destroy Palestinian land and to build property.

CRH plc is therefore complicit in Israel's violations of international law, including war crimes.

The construction by Israel, inside the occupied Palestinian territories, of a Separation Wall violates a number of international legal rules by seriously restricting, without legal justification, the exercise of certain civil, economic, social and cultural rights by the affected Palestinian population. CRH plc is assisting Israel in its violations of

¹⁵ *ibid*

¹⁶ Israeli settlements in the occupied territories A guide; A special report for the foundation For Middle east Peace March 2002 <http://www.fmep.org/reports/special-reports/a-guide-to-israeli-settlements-in-the-occupied-territories/PDF>

¹⁷ Findings of the Russell Tribunal on Palestine February 2011

<http://www.russelltribunalonpalestine.com/en/sessions/london-session/findings>

¹⁸ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004)

¹⁹ Universal Declaration of Human Rights 12 August 1948 <http://www.hrweb.org/legal/undocs.html#UDHR>

international law by providing Israel with cement and vehicles that are used in the construction and maintenance of the Wall.

2. Overview of CRH's violations of OECD Guidelines

As a result of the above-mentioned violations of International law by Israel and CRH's complicity with those violations it is clear that CRH is in breach of several of the OECD Guidelines.

Guidelines: General Policies. Chapter II ²⁰

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

- 1. Contribute to economic, social and environmental progress with a view to achieving sustainable development*
- 2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments*
- 3. Encourage local capacity building through close co-operation with the local community.*
- 6. Support and uphold good corporate governance principles and develop and apply good corporate governance practice.*
- 11. Abstain from improper involvement in local political activities.*

The wall, settlements and their infrastructure violate several of the key articles of the International Covenant on Economic, Social and Cultural Rights²¹ and International Covenant on Civil and Political Rights²².

Israel is violating its human rights obligations under various international treaties such as the International Covenant on Civil and Political Rights, including its articles on the right to liberty of movement (Article 12) and the right not to have an arbitrary or unlawful interference with privacy, family or home (Article 17).

Israel is violating the International Covenant on Economic, Social and Cultural Rights in which people are entitled to a right to an adequate standard of living (including

²⁰ Text of the 'OECD Guidelines for Multinational Enterprises'

<http://www.oecd.org/dataoecd/56/36/1922428.pdf>

²¹ International Covenant on Economic, Social and Cultural Rights. 16 December 1966

<http://www2.ohchr.org/english/law/cescr.htm> <http://www2.ohchr.org/english/law/cescr.htm>

²² International Covenant on Civil and Political Rights 16 December 1966

<http://www2.ohchr.org/english/law/ccpr.htm>

food, clothing and housing (article 11), the right to work (article 6), the right to the highest attainable standard of health (article 12), right to education (article 13). Israel is also violating article 1 of both treaties: the right of peoples to self determination.

CRH, through its subsidiary Neshar Cement Enterprises, is complicit in these violations by facilitating the displacement of the indigenous population from their lands, and isolation from their communities, by supplying the key raw construction material: cement.

Contrary to rights enshrined in the International Covenant on Civil and Political Rights, Palestinian movement and access are controlled by permits and gates or by secondary routes - bridges, tunnels, underpasses. These physical and bureaucratic measures, added to the closure regime of checkpoints and road blocks, prevent and delay Palestinians from accessing essential services, schools and work places.

CRH through its subsidiary's activities is also ensuring that the Palestinian people are denied their economic, social and cultural rights. CRH is therefore failing in its responsibility to protect the human rights of the Palestinian people. It would appear that CRH has no policy to avoid displacement of local communities and thereby protect the rights of those affected by its activities.

This illegal activity has a disastrous effect on the Palestinian people. The Wall constantly affects the daily life of the inhabitants of the Occupied Palestinian Territory²³. It restricts their movement, destroys property, trees and agricultural land and cuts off access to water. Palestinian dwellings and farms have been destroyed by Israeli forces in order to clear land for the wall or other associated activity²⁴.

The Wall also cuts communities and families off from each other and separates people from vital services such as health care and educational facilities. Additionally it has cut the Palestinian people off from East Jerusalem which has traditionally been the economic and social centre of the West Bank. This has adversely affected Palestinian access to employment as it is extremely difficult for Palestinians to get permits to enter East Jerusalem.

CRH's subsidiary, Neshar Cement Enterprises Ltd, operates from Israel, a country which is known to perpetrate serious and persistent human rights violations. The company's operations indirectly support human rights violations by the government of Israel. Has CRH adopted the Voluntary Principles on Human Rights and Security and has it taken the necessary steps to ensure their relevant staff is fully capable of implementing the policy?

It is not acceptable for an Irish company to be involved in activity contrary to International and Human rights Law and to be profiting from injustices being

²³ UN Report The Humanitarian Impact of the Barrier: Four years after the advisory opinion of the International Court of Justice. UNOCHA July 2008

²⁴ ICAHD Statistics on House Demolitions (1967-2007)

perpetrated by the Israeli state. The ICJ ruling is clear on state obligations which would include the Irish Government's responsibility to investigate CRH's actions.

2.2 International norms on Corporate Responsibility

In June 2008 John Ruggie presented his Report "Protect, Respect and Remedy" Framework for Business and Human Rights"²⁵ to the United Nations Human Rights Council outlining a framework for business and Human Rights. He identifies three key principles which outline the duties and responsibilities which must be addressed in order to maintain and ensure compliance with national and international laws.

The first of these principles is the "State's duty to protect against human rights abuses committed by third parties, including business". This highlights that states have a primary role in preventing and addressing corporate related human rights abuses.

The second principle is "The corporate responsibility to respect human rights which require business to act with due diligence to avoid infringing the rights of others". The company's responsibility to respect human rights "applies across its business activities and through its relationship with third parties connected with those activities". This implies that there is a direct corporate responsibility to comply with national and international law in respecting human rights.

In order to discharge this responsibility the company must engage in due diligence to "prevent and address adverse human rights impacts".

Due diligence consists of positive action by the company to ensure that their business conduct does not contribute to human rights abuses. Companies should assess the risk of human rights abuses in countries where they operate on an individual basis and tailor their policies accordingly. They should assess what contribution their operations, whether as producers, service providers or employers, may make to human rights abuses.

Complicity amounts to an indirect breach of human rights by the company through their action, inaction or association with the acts of third parties. Due diligence is required to prevent complicity.

Ruggie's third principle is that companies must implement effective grievance mechanisms and access to remedies. The corporate responsibility to respect human rights requires a mechanism for the remedy of the breach of those rights. The responsibility lies with both the company and the state to ensure that an effective grievance procedure, whether judicial or non-judicial, exists.

²⁵ UN "Protect, Respect and Remedy" a framework for Business and Human Rights 2008, John Ruggie <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>

²⁵ OECD Guidelines for Multinational Enterprises , 2000 <http://www.oecd.org/dataoecd/56/36/1922428.pdf>

2.3 CRH's failure to abide by its own Code of Business Conduct

CRH's own code of business conduct ²⁶claims to "ensure that (the company) have in place clear guidelines on business conduct and ethical behaviour". However its own code fails to address these issues in relation to CRH's investment in the Mashav Group. In line with the recommendations of the UN Framework for Business and Human Rights, CRH has a responsibility to assess the particular risks associated with operations in particular parts of the world. CRH's code of business conduct fails to do so.

The code maintains that CRH "supports the United Nations Universal Declaration of Human Rights in so far it is applicable to our companies" and that the "The Group respects the protection of human rights within our areas of influence". However, the code does not address the risk of breaches of human rights through investments such as its part ownership of the Israeli company, Mashav Limited.

While CRH does refer to abiding by human rights, there is no evidence that CRH has adopted the Voluntary Principles on Human Rights and Security and has taken the necessary steps to ensure that the relevant staff are fully capable of implementing the policy. The company has not declared whether it has reviewed OECD's Risk Awareness Tool and what measures it has taken.

There is no evidence that CRH has taken any measures to ensure or encourage its subsidiary, Neshor Cement Enterprises, to comply with CRH's declared human rights policy. There is no evidence that CRH carries out any audits of its human rights performance. There appears to be no mechanism to address problems identified in audits.

If no regular audit is being out how then could the board or senior management of CRH adequately address the serious concerns raised in our complaint?

While CRH does publish annual accounts, it does not disclose what profits and/or dividends it returns from its investment in Israel.

3.0 Previous contact between the IPSC and CRH plc and between other relevant actors and/or institutions and CRH plc

3.1 The Russell Tribunal on Palestine

In November 2010 The Russell Tribunal on Palestine²⁷ investigated corporate complicity with Israel's violations of International Law. The Tribunal is an international

²⁶ CRH Code of Business Conduct <http://www.crh.com/en/crh-people/crh-code-of-conduct.aspx>

²⁷ The Russell Tribunal on Palestine <http://www.russelltribunalonpalestine.com/en/sessions/london-session>

citizen-based tribunal of conscience created in response to the demands of civil society.

The Jury of the Russell Tribunal on Palestine consisted of eminent barristers, human rights advocates, judges, and writers including the Irish Nobel Peace Laureate Mairead Corrigan Maguire, barristers Michael Mansfield QC and Lord Anthony Gifford, former UN Special Rapporteur on Human Rights in the Palestinian Territories John Dugard, former South African Minister Ronnie Kasrils, Stéphane Hessel, Ambassadeur de France (one of the original drafters of the Universal Declaration of Human Rights), France, José Antonio Martín Pallín, emeritus judge, Supreme Court, Spain, and Cynthia McKinney former US Congresswoman.

The tribunal heard evidence from the IPSC²⁸ on CRH's alleged complicity with Israel's violations of International Law.

CRH was invited to appear before the tribunal or have a written statement submitted into evidence; however, CRH chose not to respond or acknowledge receipt of the request.

The Tribunal investigated which Israeli violations of international law corporations are complicit in; what are the legal consequences of the activities of corporations that aid and abet Israeli violations; what remedies are available, and what are the obligations of states in relation to corporate complicity.

In February 2011 the Tribunal published its findings²⁹.

The Tribunal found that corporations including CRH plc have been complicit in Israeli breaches of International law, concluding that:

'The RToP reiterates that the establishment and maintenance of settlements in the occupied Palestinian territories are violations of international humanitarian law and regulatory entail the commission of war crimes by Israel. Corporations assist in the establishment of such settlements by supplying equipment that can be used to demolish dwellings, to destroy Palestinian land and to build property. They also contribute to the maintenance of the settlements through the economic relations that they forge with the settlements; for example, by financing the construction of property, by investing in business firms established in the settlements, by importing goods produced by the settlements and by providing them with commercial services. These corporations are complicit in Israel's violations of international law, including war crimes. '

²⁸ Video evidence of John Dorman (IPSC) 'Implications of Corporate Activities In & Around Settlements'

<http://www.russelltribunalonpalestine.com/en/sessions/london-session/video-of-proceedings#oth1>

²⁹ <http://www.russelltribunalonpalestine.com/en/wp-content/uploads/2011/01/RTOP-London-Session-Findings.pdf>

' The RToP reiterates that the construction by Israel, inside the occupied territories, of a separation Wall between Israel and the rest of the territories violates a number of international legal rules by seriously restricting, without legal justification, the exercise of certain civil, economic, social and cultural rights by the affected Palestinian population. Corporations assist Israel in its violations of international law by providing Israel with cement, equipment and vehicles that are used in the construction and maintenance of the Wall.'

Regarding the legal liability of corporations assisting Israel in the violation of international law, the Tribunal concluded that;

'By assisting Israel, corporations have infringed the rights recognized by state obligations. Corporations may be liable under civil or criminal law....for infringing these rights in domestic law courts (many countries domestic law incorporates international law, including international humanitarian and human rights law).'

And

'that corporate actors may be liable under international criminal law and/or under domestic criminal law if they have taken decisions as a result of which corporations have become involved in assisting Israel's violations of international law. They may also be liable under civil law... for serious violations of international law. '

The Tribunal also advised;

'With regards to the non-legal liability of corporations, the Tribunal concludes that claims may be submitted to OECD National Contact Points for mediation and/or investigation and a final statement. The Tribunal recommends that a claim be brought before a domestic NCP where one is available for the state in which the corporation is domiciled.'

3.2 Correspondence between the IPSC and CRH plc.

In March 2010, the Ireland-Palestine Solidarity Campaign wrote to the Chief Executive and Board of Directors of CRH requesting that CRH support and respect the protection of internationally proclaimed human rights within the company's sphere of influence.

This letter illustrated the nature of the human rights abuses which are occurring in the occupied Palestinian territories and the nature of CRH's complicity with these abuses. It also put the company on notice of that complicity and invited it to divest from Mashav.

In response CRH claimed that that it was aware of its responsibilities to respect human rights but washed its hands of any responsibility for its subsidiaries' activities. It is our submission that CRH is fully aware of its complicity and continues to ignore and evade responsibility for it.

3.3 Shareholders raise serious questions about CRH's activities in occupied Palestine at the 2010 CRH AGM

In May 2010, at the CRH AGM³⁰, several shareholders raised the issue about CRH's unethical investment in Israel and questioned the directors about the company's policies and how they were addressing the issue of complicity with Israel's violations of international law. The questions included :

- asking the directors to confirm that CRH European Materials division received over €38m profit since 2008 and over €13m profit in the first 5 months of 2010 from Mashav, and asking how much of these profits arose as a result of the sale of cement being used in the construction of the illegal Separation Wall and illegal settlements in the occupied Palestinian territories
- what funds have been set aside by CRH to cover future claims by Palestinians dispossessed because of the construction of the Separation Wall and/or settlements where CRH may be found to have aided and abetted Israel in violating international law
- what due diligence measures have CRH undertaken in order to discharge its corporate responsibility to comply with national and international law to ensure it does not contribute to human rights abuses in countries where it operates, and in particular what steps CRH has taken to ensure that it addresses the risk of breaches of human rights through its investment in the Israeli company Mashav
- given the obvious risks involved with its investment, why the company would not now divest from Mashav

Regrettably the directors did not address these serious concerns directly. Their response mirrored the letter in response to the issues raised in the IPSC letter. CRH fell back on its usual line that it has no direct input in the operations of its subsidiary and that its subsidiary cannot discriminate between customers. The shareholders were told that ' CRH remain thoughtful and considered in its approach' to addressing human rights concerns. Indeed CRH reiterated that it fully subscribes to the Universal Declaration on Human Rights.

3.4 The Divestment Task Force of the New England Conference of the United Methodist Church divest from CRH

In 2006 The Divestment Task Force of the New England Conference of the United Methodist Church wrote to CRH expressing their concerns that the company's

³⁰ CRH: Opposition to Israeli apartheid wall dominates AGM of Irish multinational
<http://cosmos.ucc.ie/cs1064/jabowen/IPSC/ipsc/displayRelease.php?releaseID=328>

activities ' support in a significant way the Israeli occupation of Palestinian territories'³¹.

CRH's response was that it had no control over the end use of its products and that it could not discriminate between those to whom it sold its product. This did not satisfy the task force's ethical criteria and the church subsequently placed CRH on its divestment list.

³¹ . The Divestment Task Force of the New England Conference of the United Methodist Church
<http://www.neumc.org/pages/detail/375>

C. Complainants' demands

It is the view of the complainants that CRH has failed and neglected to comply with the OECD guidelines. It is guilty of failure to implement business practices which respect international law in accordance with the due diligence process.

CRH has been put on full notice, by the IPSC and other organisations, of its complicity with these human rights abuses. It has full knowledge of the nature of these abuses and has failed to take positive action to prevent complicity. CRH has failed, and continues to fail, in its corporate responsibility to protect against human rights abuses in its business dealings. Its action and inaction makes a direct contribution to the perpetration of human rights abuses against the Palestinian people.

While CRH profits from its subsidiary's activities in the West Bank it continues to maintain that it is a company that protects human rights. Clearly this is not the case.

It is submitted that CRH's failure to address these issues amounts to a breach of its guidelines and ethical code. CRH cannot continue to promote itself as an ethically sound organisation unless these issues are addressed.

CRH has attempted to distance itself from the illegal activities occurring daily in occupied Palestine and the significant part its subsidiary is playing in these violations of international law. CRH weakly argues that it has 'no involvement in the day to day management inputs in the operations of Mashav or Neshet'³².

The fact that CRH owns a significant shareholding in Mashav and that there is commonality of directorships is evident proof that CRH is fully aware of and complicit in the actions of these companies. As detailed in paragraph 3.2 CRH claims to have no knowledge of the actions of its subsidiary. With two CRH directors sitting on the board of Mashav this cannot be the case. Votes taken by the Board of Mashav (including contract tendering) are obviously taken with the full knowledge of these same CRH directors. It beggars belief that these directors would not relay the details of these decisions to the board of CRH particularly when

- The actions of these firms place CRH in a situation of risk viz. claims against the parent company by those affected by the actions of the subsidiaries through the law of torts
- The IPSC has written and detailed in full how the actions of the subsidiaries of CRH are affecting the lives of Palestinians
- The Russell Tribunal offered CRH an opportunity to defend its investment in these companies at its second session investigating corporate complicity in London

³² Letter from Myles Lee CEO of CRH plc to John Dorman Divestment Officer IPSC April 2010

The Complainants request that the Irish National Contact Point assess our complaint in a procedurally fair, timely and transparent manner.

- We request that you ascertain whether CRH plc has violated the above-mentioned sections in the OECD Guidelines for Multinational Enterprises with respect to its investments in Israel and facilitate a resolution to the issues raised in this complaint.
- We are asking you to investigate what due diligence measures has CRH undertaken in order to ensure the company adheres to the OECD Guidelines for Multinational Enterprises, and to the discharge of its corporate responsibility to comply with national and international law to ensure it does not contribute to human rights abuses in countries where it operates.
- We request that you require CRH plc to commit itself to comply scrupulously with the OECD Guidelines and with International Human Rights Laws referred to in the Guidelines, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
- and failing that, that you call for CRH to divest from the Israeli company Mashav Initiative and Development Ltd and therefore bring an end to CRH's complicity with Israel's violations of International law.

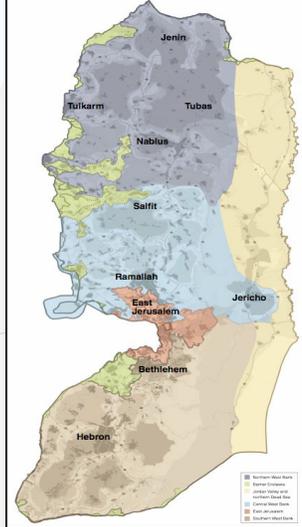
The Ireland-Palestine Solidarity Campaign May 3rd 2011

D. Photographs and Maps

The Separation Barrier In the West Bank

February, 2008

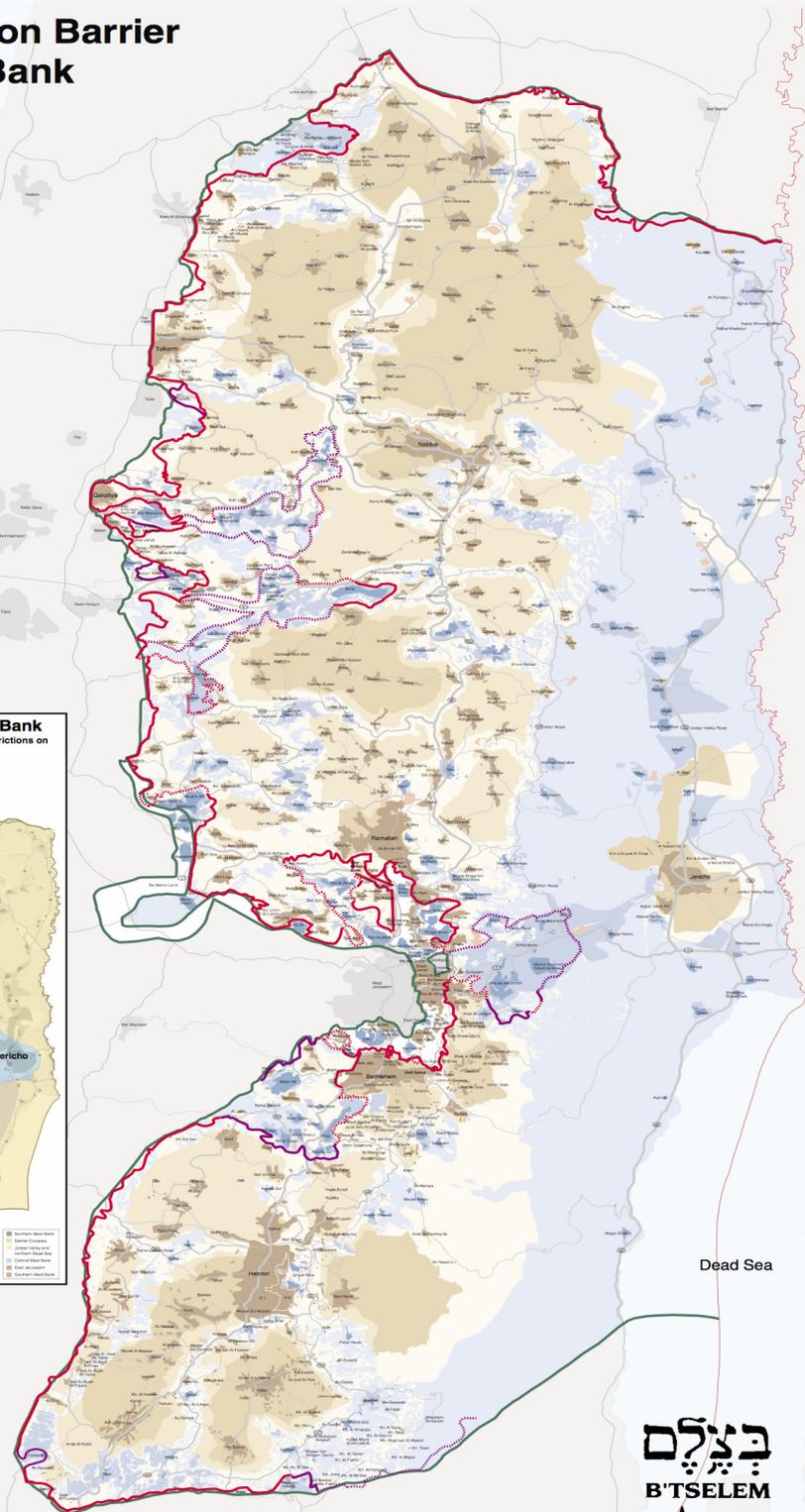
Fragmentation of the West Bank As a result of checkpoints and other Israeli restrictions on freedom of movement



- Completed Route
- Barrier Under Construction
- - - Approved Barrier Route
- Route Requiring Further Approval
- Green Line (1949 Armistice Line)
- Road
- Built-up Area (Settlement)
- Area within Municipal Boundary (Settlement)
- Regional Council Jurisdictional Area (Settlement)
- Area Annexed to Israel
- Military Base
- Built-up Area (Palestinian)
- Area A
- Area B
- Area C

Abbreviations:
 RC - Refugee Camp
 Kh - Khirbe - Small Village

Scale 1:150,000



Dead Sea

ב'תסלם
B'TSELEM
بتسيلم

B'TSELEM - The Israeli Information Center for
 Human Rights in the Occupied Territories
 P.O. Box 990, St. Ann's Road, Jerusalem 92400
 Tel.: 072-2-6725599 Fax: 072-2-6749111
 mail@btselem.org http://www.btselem.org



Nesher Cement is being used to construct the settler only light rail system 'Jerusalem Light Rail Project'.

Nesher cement used in construction of illegal settlements, such as Har Homa, near Bethlehem.

www.projectcleanhands.wordpress.com





The route of the illegal Wall runs deep inside Palestinian land. (Alternative Information Centre).



Palestinian olive groves being destroyed by Liebherr's heavy machinery imported by Taavura Holdings (through Tavit Construction Machinery). CRH subsidiary Neshor Cement Enterprises owns 50% of Taavura Holdings.

Who Profits from the Occupation. www.whoprofits.org

E. Other recipients of the complaint

OECD Watch, Russell Tribunal on Palestine