



Factsheet 6

Additional legal points when assessing Veolia's conduct – the responsibility of the UK

As a signatory to the Geneva Conventions, the UK is obliged to observe and ensure the observance of the Geneva Conventions and international law. Public bodies, as an extension of the state, are obliged to recognise and comply with these duties and responsibilities.

The nature of these duties and responsibilities in the context of the expropriation, occupation, and settlement of Palestinian land have been articulated by the International Court of Justice:

The Court would also emphasise that Article I of the Fourth Geneva Convention, a provision common to the four Geneva conventions, provides that “the High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances”. It follows from that provision that every State party to that Convention, whether or not it is a party to a specific conflict, is under an obligation to ensure that the requirements of the instruments in question are complied with.

Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognise the illegal situation resulting from the construction of the wall the OPT, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the protection of civilian persons in time of war of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.^[1]

In summary, the UK, and by extension English public bodies, are required under article 1 IVGC to “respect and ensure respect for the present Convention in all circumstances” and under article 146(3) IVGC to take all measures necessary for the suppression of all [non-grave] breaches of that Convention. Moreover, all public bodies have the responsibility to protect against human rights abuses by transnational corporations and to formulate policies which ensure transnational corporations respect human rights.^[2] Therefore, and at the very least, corporations implicated in human

rights abuses and violations of international humanitarian law should not be rewarded with public contracts.

In light of the above it is clear that public bodies must recognise the “grave misconduct” by Veolia, and not reward these activities by allowing it to bid for (or awarding it) public contracts.

Public authorities in England and Wales need to take into account this country’s international obligations under the Fourth Geneva Convention when determining what constitutes grave misconduct, including paragraph three of Article 146 IVGC, which states:

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

Article 146 therefore not only requires universal jurisdiction to be applied to those suspected of criminal liability for grave breaches, but pursuant to article 146 (3), all states are required to take effective measures to repress non-grave breaches too. This duty is explained in the official ICRC commentary to the Convention as follows:

...under the terms of this paragraph, the Contracting Parties must also suppress all other acts contrary to the provisions of this Convention.

The wording is not very precise. The expression “faire cesser” used in the French text may be interpreted in different ways. In the opinion of the International Committee, it covers everything which can be done by a State to avoid acts contrary to the Convention being committed or repeated. ...[T]here is no doubt that what is primarily meant is the repression of breaches other than the grave breaches listed and only in the second place administrative measures to ensure respect for the provisions of the Convention.

Veolia’s activities also breach the OECD Guidelines for Multinational Enterprises (2000), which state that enterprises should “Respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments”.

[1] Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, paras 158-159.

[2] Report of the Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Human Rights Council, A/HRC/8/5, 7 April 2008.