

Investor Obligations in Occupied Territories: A Report on the Norwegian Government Pension Fund – Global

Executive Summary

All businesses are expected to respect human rights, regardless of their industry, size, ownership structure, or operational context. To realize their responsibility, institutional investors must ensure appropriate policies and undertake careful human rights due diligence. This can be difficult even in the best of circumstances. Situations of armed conflict and occupation are not the best of circumstances. Focusing on the Norwegian Statens Pensjonsfond Utland (“SPU”), this Report examines what institutional investors need to do in order to meet their responsibility to respect human rights when investing in businesses that operate in occupied territories.

The United Nations Guiding Principles on Business and Human Rights articulate an expectation that businesses will avoid causing or contributing to adverse human rights impacts. Where they neither cause nor contribute to those impacts – as is generally the case for institutional investors – but are directly linked to adverse impacts through their operations, products, services, or business relationships, businesses are expected to use leverage to ensure respect for human rights. If leverage proves ineffective, and the impacts are severe, businesses need to consider terminating their relationships. A failure to exercise leverage, or to terminate a relationship where the leverage proves ineffective, can transform a business’s relationship with the human rights impact. Where it would normally only be directly linked to the harm, the failure to take appropriate action can mean the business is now contributing to the impact and owes reparations to those harmed by its activities.

This Report starts by establishing the basis and the content of institutional investors’ responsibility to respect human rights before applying these standards to SPU’s investments in businesses operating in Israeli settlements in the Occupied Palestinian Territories. While the report focuses on the factual situation in the Occupied Palestinian Territories, the lessons are applicable to institutional investors operating in a host of occupied territories.

Demonstrating how businesses should undertake human rights due diligence, the Report first considers the adverse impacts Palestinians experience as a result of the settlements. The Report highlights the impact of settlements on Palestinians’ rights to life, freedom from torture and cruel, inhuman or degrading treatment or punishment, housing, freedom of movement, education, water and sanitation, and non-discrimination. It also considers communal harms and international crimes associated with the settlements. The Report then turns to SPU’s responsibility.

The Report points to several significant findings for SPU. First, SPU is *directly linked* to a wide variety of adverse human rights impacts in the Occupied Palestinian Territories through its investments. Second, SPU is not employing a consistent approach in how it addresses the adverse impacts. Its does not target, as it should, all businesses operating in the West Bank for enhanced human rights due diligence, nor does it appear to exercise leverage or exclude businesses operating in the West Bank in a consistent manner. As a result, some businesses are excluded while others are not despite having similar impacts. Where it is not adequately exercising leverage, or where it has attempted to exercise leverage but has not seen adequate change over time, SPU may be contributing to adverse human rights impacts. In such circumstances, SPU owes reparations to the Palestinians harmed by its activities. Third, SPU has fallen behind other institutional investors in Europe, investing in businesses that others have already divested from because of the adverse impacts they cause or contribute to.

To address concerns over its policies and processes, this report recommends NBIM and/or SPU:

- Conduct human rights due diligence for all companies in its portfolio operating in occupied territories;
- Transparently communicate the actions it takes in regards to these investments;
- Quickly divest from companies that cannot, by their nature or due to the Israeli legal structure, meet their own human rights responsibility to respect;
- Revise the Council on Ethics’ Guidelines for observation and exclusion of companies;
- Systematically integrate the Council on Ethics with NBIM’s human rights due diligence processes;
- Adopt remedial efforts for those instances where SPU is no longer simply *linked* to human rights impacts but is now *contributing* to those impacts.

The Report concludes by recommending that the Government of Norway adopt clearer due diligence requirements for all its businesses.



This report was commissioned by Fagforbundet and Norwegian People’s Aid. It was authored by Dr Chiara Macchi, Dr Tara Van Ho and Mr Luis Felipe Yanes on behalf of the Essex Business and Human Rights Project. For more information, contact: Essex Business and Human Rights Project at ebhr—at—essex.ac.uk.