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### **London Session of The Russell Tribunal on Palestine**

**Day One: Saturday 20<sup>th</sup> November 2010**

**Session II: Implications of Corporate Activities in and around the Settlements**

#### **Presentation on CRH plc**

**by**

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Ladies and Gentlemen of the Tribunal Jury, good afternoon. My name is John Dorman. I am a human rights activist based in Dublin. I am the Divestment Officer of the Ireland-Palestine Solidarity Campaign<sup>1</sup>.

Today, I am here to speak about an Irish construction materials company called CRH plc. It is my intention to draw several issues to the attention of this Tribunal Jury. It is my submission that CRH plc are in breach of the international guidelines on corporate responsibility. Furthermore, I intend to convince the Jury that they are guilty of complicity with Israel's breaches of International Law.

In that regard, I will discuss the following issues:-

1. Firstly, I will outline the nature of CRH's involvement with the settlement industry and construction of the illegal Separation Wall in the occupied Palestinian Territories. I will identify why CRH activities are complicit with Israel's breaches of International Law.
2. Secondly, I will discuss two important internationally accepted frameworks on Corporate Responsibility. I will identify how CRH have failed the corporate responsibilities set out in these guidelines.
3. Finally, I will outline the nature of the CRH's own Code of Business Conduct<sup>2</sup>. I will identify their failure to comply with their own guidelines on ethics, responsible business strategy and the respect for human rights.

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<sup>1</sup> The Ireland-Palestine Solidarity Campaign website, <http://www.ipsc.ie>

## CRH

To begin, I will give the Jury a brief background to CRH plc itself.

CRH is an international diversified building materials group with operations in 35 countries worldwide. CRH are 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 net<sup>3</sup>.

In 2001, CRH purchased 25% of the Israeli Company Mashav Initiative and Development Ltd. The Clal Group own the remaining 75%. Mashav wholly own Neshor Israel Cement Enterprises Ltd. Neshor are Israel's sole cement producer<sup>4</sup>, supplying 75-90% of all cement sold in Israel and the occupied Palestinian territories.

The use of Neshor cement has been well documented<sup>5</sup> across many construction sites in the West Bank settlements, 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'<sup>6</sup> their subsidiaries cement was being used in the construction of the wall.

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<sup>2</sup> CRH Code of Business Conduct 2008 <http://www.crh.com/en/crh-people/crh-code-of-conduct.aspx>

<sup>3</sup> CRH website Home page <http://www.crh.ie>

<sup>4</sup> Neshor Cement Enterprises website Homepage [http://www.neshor.co.il/new\\_site/en/index.htm](http://www.neshor.co.il/new_site/en/index.htm)

<sup>5</sup> Project Clean Hands website, 2009 <http://projectcleanhands.wordpress.com/category/crh/crh-photos/>

<sup>6</sup> Amnesty International News Release 16 June 2004

Furthermore, the Mashav Group, through its subsidiary Neshet, has several other subsidiaries extensively involved in a broad range of construction activities<sup>7</sup>.

Neshet own 50% of Ta'avura, who wholly own Tavit Construction Machinery.

Tavit 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<sup>8</sup>.

These activities facilitate the continued ethnic cleansing of Palestinians from their land and the expansion of Israel's colonial project in occupied Palestine.

The construction of the settlements and their infrastructure is contrary to several Articles of the Fourth Geneva Convention<sup>9</sup>. These constitute breaches of International Humanitarian Law. The International Court of Justice reaffirmed this in the 2004 advisory opinion on the legality of the Separation wall and the settlements<sup>10</sup>.

The impact of the Separation wall<sup>11</sup>, the settlements and their infrastructure on the Palestinian people are contrary to basic rights enshrined in The Universal Declaration

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<sup>7</sup> Neshet Cement Enterprises website Homepage [http://www.neshet.co.il/new\\_site/en/index.htm](http://www.neshet.co.il/new_site/en/index.htm)

<sup>8</sup> Who Profits from the Occupation website <http://www.whoprofits.org/>

<sup>9</sup> Jews against the Occupation. International Humanitarian Law: The Geneva Conventions <http://www.jatonyc.org/humanitarian.htm>

<sup>10</sup> International Court of Justice: Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July <http://www.icj-cij.org/docket/files/131/1677.pdf>

<sup>11</sup> UN Report The Humanitarian Impact of the Barrier: Four years after the advisory opinion of the International Court of Justice. UNOCHA July 2008

of Human Rights<sup>12</sup> and subsequently breach many provisions of International Human Rights Law<sup>13</sup>.

Some of these breaches of International law by Israel constitute War Crimes and Crimes against Humanity.

CRH, through their part ownership of Mashav are complicit with these violations of International law.

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 activities ' support in a significant way the Israeli occupation of Palestinian territories'<sup>14</sup>. CRH's response was that they had no control over the end use of their products and that they could not discriminate who they sold their product to. This did not satisfy the task force's ethical criteria and the church subsequently placed CRH on their divestment list.

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.

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

<sup>13</sup> A Summary of United Nations Agreements on Human Rights  
<http://www.hrweb.org/legal/undocs.html#UDHR>

<sup>14</sup> . The Divestment Task Force of the New England Conference of the United Methodist Church  
<http://www.neumc.org/pages/detail/375>

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 them to divest from Mashav.

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

They continue to ignore the requests of human rights and church organisations to divest from Mashav. At this stage, it seems that the only way of encouraging CRH to divest from Mashav is by raising public awareness of CRH's illegal activities and to encourage state, church, financial and other investors to divest from CRH.

As a result the IPSC have instigated a global CRH divestment campaign.

### **International norms on Corporate Responsibility**

I now refer to the two key international frameworks on corporate responsibility. I will focus primarily on The United Nations "Protect, Respect and Remedy"

Framework for Business and Human Rights<sup>15</sup> and make reference to “The OECD Guidelines for Multinational Enterprises”<sup>16</sup>.

In 2005 the Secretary General of the United Nations appointed the Harvard professor John Ruggie as his special representative to clarify the roles and responsibilities of states, corporations and other social actors in business and human rights spheres.

In June 2008 Ruggie presented his Report 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

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<sup>15</sup> 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>

<sup>16</sup> OECD Guidelines for Multinational Enterprises , 2000 <http://www.oecd.org/dataoecd/56/36/1922428.pdf>

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.

The second framework is “The OECD Guidelines for Multinational Enterprises”.

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 states “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”<sup>17</sup>.

It is my submission that CRH have failed and neglected to comply with the UN framework and the OECD guidelines. They are guilty of failure to implement business practices which respect international law in accordance with the due diligence process.

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

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<sup>17</sup> OECD Guidelines for Multinational Enterprises , 2008. The Organisation for Economic Cooperation and Development <http://www.oecd.org/dataoecd/56/36/1922428.pdf>

## **CRH and their Code of Business Conduct**

That brings me to my third and final submission in relation to CRH's own "Code of Business Conduct"<sup>18</sup>. This code of conduct claims to "ensure that (the company) have in place clear guidelines on business conduct and ethical behaviour".

However, it is my submission that in fact CRH's code of business conduct fails to address these issues in relation to their investment in the Mashav Group. In line with John Ruggie's recommendations, CRH have 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 their part ownership of the Israeli company, Mashav Limited.

While CRH profits from their subsidiaries activities in the West Bank they continue to maintain that they are a company who protect human rights. Clearly this is not the case.

It is submitted that CRH's failure to address these issues amounts to a breach of their guidelines and ethical code. CRH cannot continue to promote themselves as an

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<sup>18</sup> CRH Code of Business Conduct <http://www.crh.com/en/crh-people/crh-code-of-conduct.aspx>

ethically sound organisation unless these issues are addressed. Meanwhile their complicity continues.

I call on the Tribunal to take action against CRH's unethical business conduct and irresponsible investment.

I call on this Tribunal to take action against CRH's complicity, where they have failed to take action themselves.

I call on the Tribunal to make findings of guilt in relation to CRH's complicity with Israel's violations of International Law in the occupied Palestinian territories.

Finally I call upon the Tribunal to support the call for CRH to divest from the Israeli company Mashav Initiative and Development Ltd.

Thank you for allowing me the opportunity to highlight the shameful complicity of this Irish company with Israel's violations of International Law.

John Dorman

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Ireland-Palestine Solidarity Campaign