



**JCB found in human rights breach of the OECD Guidelines after investigation into material use of its products to illegally demolish Palestinian homes; UK Government body criticises British manufacturer for its inaction and requires it to address human rights impacts**

**12 November 2021**

Today, the British construction equipment company, [JCB](#), has been found by a [UK Government body](#) to be in breach of its human rights responsibilities under the government-backed [OECD Guidelines for Multinational Enterprises](#). The [UK National Contact Point \(UK NCP\)](#), that is part of the Department for International Trade, has found that JCB is critically failing to undertake human rights due diligence and to have a human rights policy, within the context of the frequent use of its heavy machinery products in Israel's [home demolitions](#) and [settlement construction](#) in the occupied Palestinian territory.

The use of JCB's products – predominantly its “[world's number one backhoe loader](#)” - in carrying out these illegal activities is material and prolific, resulting in serious human rights violations. Palestinian children are particularly affected by the impacts of being rendered homeless and traumatised, as recently documented by [Save the Children](#). This [video](#) of a home demolition in the occupied West Bank vividly illustrates the key use of JCB's products in human rights violations and [breaches of international humanitarian law](#).

The UK NCP's examination was initiated by a comprehensive [evidence-based OECD complaint](#) submitted by the UK legal charity, [Lawyers for Palestinian Human Rights \(LPHR\)](#), in December 2019. **We submitted that JCB is failing to take the actions needed to identify, prevent, mitigate and address the material use of its heavy machinery products in serious human rights violations. This has been substantiated during the UK NCP complaint process. LPHR notes the following points from this process and the [UK NCP final decision](#):**

1. **JCB is now on public record in admitting its awareness of the use of its products in demolitions of Palestinian homes and property in the occupied Palestinian territory.** (para. 64 of UK NCP decision)
2. **JCB does not have the minimum basics of a human rights due diligence process to identify and address human rights violations within its value chain, nor a human rights policy.** This is despite the compelling evidence within LPHR's complaint in 2019 on specific use of JCB products, and the UN Office of the High Commissioner for Human Rights (**UN OHCHR**) subsequent listing of JCB on its [database of companies](#) with a “clear and direct link” to human rights harms in February 2020.
3. **The UK NCP is clearly concerned and surprised by JCB's inaction over the known use of its products in demolitions.** It states that JCB's claim that it has “*no control over its products... does not reflect the spirit of the OECD Guidelines on Responsible Business Conduct*”, and that “*It is unfortunate that JCB, which is a leading British manufacturer of world-class products, did not take any steps to conduct human rights due diligence of any kind despite being aware of alleged adverse human rights impacts and that its products are potentially contributing to those impacts*”.
4. **The UK NCP has placed clear requirements on JCB to act.** It states that the “*scale of alleged adverse human rights impact and the evidence of JCB products used in demolition of houses*” requires JCB to “*set out a plan on how it will integrate and act upon the findings of its due diligence – including how impacts will be addressed – if adverse human rights impacts are identified in its supply chain.*”
5. The UK NCP did not find JCB to have a 'direct link in a business relationship' with its sole distributor in Israel, [Comasco](#), to human rights violations. The UK NCP found that it could not “*conclusively*” prove that the JCB vehicles used by Israeli authorities or its private contractors in specific violations were obtained via Comasco, rather than via an “*established second hand market*” as alternatively suggested by JCB. The UK NCP did not apply a 'reasonable grounds to believe' fact-finding standard, as used by LPHR and UN OHCHR, that the products are likely to have been obtained via JCB's sole dealer in Israel. Although it is clearly not possible for LPHR to obtain such evidence to meet the very



high standard of proof set by the UK NCP, **it should be within JCB's ability to ascertain as part of the due diligence process that the UK NCP has mandated. Therefore the discrete issue of 'direct link in a business relationship' is not a closed matter.**

6. LPHR submitted to the UK NCP an authoritative independent expert opinion by the leading corporate human rights lawyer, [Professor Robert McCorquodale](#), who concluded JCB is “*directly linked in a business relationship*” to adverse human rights impacts in the occupied Palestinian territory, whether through its confirmed sole dealer in Israel, Comasco, or an established second-hand market.
7. **The UK NCP process has paved the way for JCB to be found by a potential future complaint process to be *contributing* to human rights violations**, should the British company fail to undertake a comprehensive due diligence process, coupled with its admission of actual knowledge of the specific use of its products in demolitions in the occupied Palestinian territory. The UK NCP has not yet found a company to be in breach of its responsibility to “avoid contributing” to human rights violations.
8. **The UK NCP has noted JCB's apparent disregard for the OECD Guidelines and its limited interpretation of some core provisions of those Guidelines:** “...JCB argued that ‘there is no lawful requirement for JCB to have a policy on the sole subject of human rights’...UK NCP would like to stress that while the OECD Guidelines for Multinational Enterprises provide voluntary principles as standards, they are internationally recognised standards for responsible business conduct which also mirror the United Nations Guiding Principles and good business practice standards adopted by many multilateral organisations.” LPHR separately notes that **JCB declined to participate in the mediation process that the UK NCP offered after the Initial Assessment phase, and which LPHR accepted.**

**UK NCP recommendations to JCB after finding of breaches of OECD Guidelines following LPHR's complaint:**

1. “That JCB carry out human rights due diligence to assess actual and potential human rights impacts. In line with the OECD Guidelines and Due Diligence Guidance, JCB should also set out a plan on how it will integrate and act upon the findings of its due diligence – including how impacts will be addressed – if adverse human rights impacts are identified in its supply chain. This process should go beyond simply identifying and managing material risks to the enterprise. As the human rights risks may change over time, due diligence should be a regular, on-going exercise, which should be part of JCB's policy statement on human rights.”
2. “That JCB write a statement of policy which should expressly state its commitment to respect human rights as stated in paragraphs 74 and 75 above. This statement should be separate from its statement on Modern Slavery, Supplier's Code of Conduct and the Dealer's Charter.”

The UK NCP will request an update from JCB and LPHR on action taken by JCB in response to the UK NCP recommendations, and then publish a 'Follow-Up Statement' in **November 2022**. LPHR will especially examine whether JCB has taken appropriate preventative steps as part of the creation and implementation of an effective human rights due diligence system. In this context, **LPHR made submissions during the UK NCP investigation on two potential remedial steps for JCB to undertake:**

- **Impose human rights related contractual provisions on Comasco** - the Israeli company which is JCB's acknowledged sole dealer of its products in Israel - with respect to onward sale/use of JCB products, and to properly consider ending its business relationship if Comasco is unwilling to accept them.
- **Utilise its own 'Live-Link' technology to track, trace, and be ready to immobilise, its products if located in high-risk areas in the occupied Palestinian territory**, in line with its expected new human rights policy, and as part of the establishment of an effective human rights due diligence system.



**Director of LPHR, Tareq Shrourou, said:**

“LPHR's complaint outcome is a key step for advancing Palestinian human rights. JCB is now on public record in admitting its awareness of the use of JCB products to demolish homes that harm Palestinian lives and the National Contact Point has reprimanded the company for failing to address this serious human rights issue.

“JCB's board of directors and senior management must consider the real-life repercussions of its non-compliance with core human rights provisions of the OECD Guidelines. A 14-year-old Palestinian girl, \*Luma, told Save the Children in a vivid quote disclosed to LPHR: *“My old home was a dream come true as I always dreamt of living in a house with my own bedroom. But this dream was shattered the day that the yellow bulldozers arrived. I see [those bulldozers] in my nightmares. I felt like all hope went down with my home”*.

“JCB cannot defy a UK Government body. The onus has firmly been placed on JCB to take all necessary steps to fully comply with its responsibility to address the use of its products in serious human rights violations against Palestinians. It is now unsustainable for JCB act otherwise.”

\*[Luma's name has been changed for protection]

**NOTES TO EDITORS/FURTHER INFORMATION (including links to video evidence)**

Contact information: Tareq Shrourou, Director of LPHR, [contact@lphr.org.uk](mailto:contact@lphr.org.uk)

1. [Lawyers for Palestinian Human Rights](#) (LPHR) is a UK legal charity that works on projects to protect and promote Palestinian human rights. Our trustees include expert human rights lawyers, Sir Geoffrey Bindman QC, Fiona McKay, Tessa Gregory and Nusrat Uddin. Profiles can be read [here](#).
2. LPHR's asks to JCB from its December 2019 complaint are extant following the UK NCP's final decision:
  - i) Immediately suspend supply of products to Comasco that could be identified as being part of the value chain that results in demolitions or settlement-related construction, and to permanently cease distribution to Comasco should it not be able to provide credible and verifiable guarantees that such products will not be subsequently used to commit human rights harms against Palestinians;
  - ii) Develops and publishes on its website a human rights policy which specifically sets out the due diligence methodology it applies to ensure that its products are not at risk of being directly linked in a business relationship to the violation of human rights; and
  - iii) Agrees to participate with LPHR and other appropriate stakeholders in establishing an effective grievance mechanism to enable remediation. Such a mechanism would be administered in accordance with the core criteria for a remediation process as specified in the OECD Guidelines, and include appropriate financial and/or non-financial remedies for individuals in respect of damages suffered through the known uses of JCB products in the demolition of their homes and property.
3. LPHR first sent a [letter](#) to JCB raising our concerns on 21 August 2018, which was simultaneously submitted to JCB by the Business and Human Rights Resource Centre. [JCB did not provide a response](#). As a private company, JCB has no statutory legal requirement to report on relevant human rights issues.
4. In 2019, LPHR obtained and assessed credible, clear and compelling video, photographic and written contemporaneous evidence that substantiates the material and prolific use of JCB products in a number of specific demolition and displacement incidents, and in settlement-related construction. The primary sources of our evidence are: the prominent Palestinian human rights organisation, Al-Haq; the leading Israeli human rights organisation, B'Tselem; and the UK charity, EyeWitness to Atrocities.



5. LPHR's OECD Guidelines [complaint](#) was submitted to the UK National Contact Point on 10 December 2019. It comprises 11 sections with four appendices. Its first appendix includes links to video evidence. The second and third appendices outlines the photographic and written evidence submitted in an accompanying 205-page evidence bundle. The fourth appendix provides a commentary on the case of the planned demolition of the entire Palestinian village of [Khan al-Ahmar](#) in the occupied West Bank.
6. One of the items of video evidence submitted with LPHR's complaint can be viewed [here](#). The video footage, taken on 11 September 2019 in the South Hebron Hills, shows a JCB vehicle, identifiable as the model 3CX, demolishing structures that are likely to be the six family homes reported in the B'Tselem commentary that accompanies the video. [Further video evidence with short reports are accessible at pages 31-32 of our complaint here.](#)
7. The primary evidence submitted with our complaint that substantiates the material use of JCB products in demolitions, relates to incidents in ten villages or areas in the occupied Palestinian territory, covering a time period of 2016 to 2019. In total, 89 homes are identified as having been demolished, resulting in the displacement of at least 484 individuals, including children and the elderly. One school (*Khirbet Tana Elementary School*) is among other property documented to have been demolished, as are water tanks.
8. The complaint also cited data from Al-Haq demonstrating that JCB products are prolifically involved in demolitions in the occupied Palestinian territory, having been responsible for at least 60 out of the 266 demolitions recorded in 2018, and at least 70 out of 281 demolitions of homes and other property it documented between 01 January 2019 to 31 October 2019.
9. On 28 February 2020, the [Office of the UN High Commissioner for Human Rights \(UN OHCHR\) published its database of companies](#) with a "material and substantial" involvement in one or more settlement-related activities. JCB and Comasco are two of the 112 listed companies. [UN OHCHR notes](#) *"the violations of human rights associated with settlements are devastating and pervasive."*
10. The [UK National Contact Point](#) considers complaints that a multinational enterprise based or operating in the UK, is in breach of the [OECD Guidelines for Multinational Enterprises](#). The OECD Guidelines constitute the only government-backed international instrument on responsible business conduct with an in-built grievance mechanism. The human rights chapter of the OECD Guidelines (Chapter 4) reflects the principles within the government-backed [United Nations Guiding Principles on Business and Human Rights](#). The UK National Contact Point is part of the Department for International Trade.
11. LPHR prior submitted a comprehensive human rights OECD [complaint](#) to the UK National Contact Point regarding the activities of the security firm G4S in Israel and the occupied Palestinian territory. The complaint resulted in [adverse human rights findings](#) being made against G4S by the UK National Contact Point in June 2015. Nine months later, G4S [announced](#) it had commenced a process to sell its subsidiary, G4S Israel. In June 2017, G4S [announced](#) the completion of the sale of G4S Israel to FIMI Opportunity Funds (an Israeli private equity fund).
12. The parliamentary Joint Committee on Human Rights expressly referred to LPHR's written evidence when recommending in its ['Human Rights and Business 2017: Promoting responsibility and ensuring accountability'](#) report that, *"the [UK] Government gives clear guidance to procurement officers that large public sector contracts, export credit, and other financial benefits should not be awarded to companies who have received negative final statements from the [UK] National Contact Point and who have not made effective and timely efforts to address any issues raised."*