



**Call for information: Special Rapporteur on the Right to Development
Input into the UNGA report (October 2023) – “Role of businesses in realizing the right to
development”**

Question: What laws, policies and incentives are in place (or should be introduced) to encourage businesses to contribute to the effective realization of the right to development?

1. PayPal is the most prominent multinational digital payments company, as merchants and consumers worldwide rely on its services to conduct business and join the global market. Since 2016, Palestinians and human rights defenders have raised concerns that PayPal is committing human rights violations and discriminatory practices against Palestinians in the occupied Palestinian territory (oPt) – encompassing the Gaza Strip and West Bank, albeit excluding East Jerusalem – by denying Palestinians in these areas access to PayPal’s platform, while simultaneously providing access to Israeli settlers illegally residing in the oPt.¹
2. Palestinian individuals are disproportionately affected by the exclusion of Palestinian banks from the world’s leading digital payment system. Applying such a policy to the entire population of the oPt with Palestinian bank accounts paints a picture of grave discrimination, unequal treatment and functional impairment of business opportunities, consequently hindering the entire economic development of the oPt. Palestinians in the West Bank and Gaza are in greater need of such services, given that they are deprived of accessing and benefiting from their resources and face discriminatory restrictions imposed on exports and imports, all of which constrain the development of their economy. PayPal’s policy prevents many Palestinians from accessing the digital economy, which could significantly improve their lives.
3. This practical consequence stands in stark contrast with the company’s own internal Code of Business Conduct & Ethics, which states that the company respects “*the rights enshrined in the Universal Declaration of Human Rights and work[s] to align [its] efforts with the U.N. Guiding Principles on Business and Human Rights and other international standards.*”² Indeed, Article 11 of the UN Guiding Principles on Business and Human Rights (“UN Guiding Principles”) prescribes that

¹ Evidence of this can be found in the following articles: [Ouf, M. *Palestinians call out PayPal for discrimination* \(23 June 2022\) Al-Monitor.com, available at: <https://www.al-monitor.com/originals/2022/06/palestinians-call-out-paypal-discrimination>; \[El-Haroun, Z. *Palestinians urge PayPal to offer services in West Bank and Gaza* \\(21 Oct 2021\\) Reuters.com, available at: <https://www.reuters.com/world/middle-east/palestinians-urge-paypal-offer-services-west-bank-gaza-2021-10-21/>; \\[Al Tahhan, Z. *Rights groups to PayPal: End discrimination against Palestinians* \\\(17 Oct 2021\\\) Aljazeera.com, available at: <https://www.aljazeera.com/news/2021/10/7/rights-groups-paypal-end-discrimination-against-palestinians>; \\\[Human rights organisations call out PayPal for its digital discrimination against Palestinians \\\\(5 Oct 2021\\\\) MiddleEastMonitor.com, available at: <https://www.middleeastmonitor.com/20211005-human-rights-organisations-call-out-paypal-for-its-digital-discrimination-against-palestinians/>; <https://actions.sumofus.org/a/paypal-stop-discriminating-against-palestinians>.\\\]\\\(https://www.middleeastmonitor.com/20211005-human-rights-organisations-call-out-paypal-for-its-digital-discrimination-against-palestinians/\\\)\\]\\(https://www.aljazeera.com/news/2021/10/7/rights-groups-paypal-end-discrimination-against-palestinians\\)\]\(https://www.reuters.com/world/middle-east/palestinians-urge-paypal-offer-services-west-bank-gaza-2021-10-21/\)](https://www.al-monitor.com/originals/2022/06/palestinians-call-out-paypal-discrimination)

² PayPal, Code of Business Conduct & Ethics (2022) p.47.

“*[b]usiness enterprises should respect human rights*”³ by taking adequate measures for the prevention, mitigation, and remediation of human rights violations. In addition, the undisclosed policy that PayPal employs to exclude Palestinian bank accounts, and thus predominantly Palestinians, from its provision of services potentially violates the same Universal Declaration of Human Rights (UDHR) that PayPal explicitly upholds. The economic rights and the right to work protected, respectively, by Articles 22 and 23 of the UDHR are actively unenforced and undermined through the denial of digital financial services to Palestinians who, as a result, cannot conduct business and are excluded from the market. “[*T*]he growing importance of [...] e-commerce in global markets” is internationally recognised,⁴ and access to said markets is vital to guarantee the basic economic rights envisioned by the UDHR.

4. The right to work is further protected by Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which includes “*the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts*”.⁵ Article 1 also envisions an unrestricted right for each individual to pursue their economic development freely. Because of their exclusion from the world’s leading digital payment system, Palestinians are unable to pursue their economic development.
5. As a result of the unequal access to financial services, it is particularly difficult for many Palestinian businesses to conduct international business and for Palestinians to participate in the global market, as access to a secure digital payment system increases business opportunities exponentially. This results in a missed opportunity from PayPal to support the broader economic development of the Palestinian population residing in the oPt, thus contradicting its mission of “*democratiz[ing] financial services*”⁶ and further curtailing Palestinians’ right to self-determination, as provided by Article 1(1) of the International Covenant on Civil and Political Rights (ICCPR).⁷
6. PayPal’s policy does not only have an impact on Palestinians in the West Bank and Gaza Strip’s access to financial and professional opportunities but also on various aspects of their socio-political context, particularly in a conflict-affected environment where the economic climate is unforgiving and economic development is sorely hindered. One of the most worrying dynamics is the negative impact on political stability in the oPt. The inability to access new career opportunities will contribute to increasing frustration among the population, which will be channelled, for example, into organising protests or non-participation in democratic processes. Furthermore, economic de-platforming is a phenomenon that exacerbates existing inequalities within a society. It also means that quality employment will not be available to all population strata in all socio-economic groups. The younger generations, especially women, will be the most affected: as in other regions of the

³ OHCHR Guiding Principles on Business and Human Rights, (HR/PUB/11/04) Article 11 “*Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*”

⁴ Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises* (2011) para 92, available at: <http://dx.doi.org/10.1787/9789264115415-en>.

⁵ ICESCR, Article 6(1) “*1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*”

⁶ PayPal, [Who We Are – Mission, Vision & Values](#), last accessed 28 Sept. 2022.

⁷ International Covenant on Civil and Political Rights, Article 1(1) “*All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*”

world, young people who do not see their professional ambitions fulfilled and who are unable to be part of a professional context that matches their academic qualifications (we should not forget that in 2022 the unemployment rate for young graduates in the West Bank reached 36%, compared to 74% in Gaza⁸), will experience increasing dissatisfaction with their institutions and their political representatives. The longer they wait, the more significant the impact this situation will have on their long-term prospects for financial stability and self-sufficiency, and the greater the potential for political instability. On top of this, the Palestinian case is exacerbated by the fact that a large part of the young, skilled labour force is only sometimes able to emigrate abroad in search of professional opportunities.

- 7. PayPal refuses to oblige both transparency and due diligence obligations despite the critical adverse impact of its policy on Palestinians' right to development. The business and human rights field provides numerous tools to guide business enterprises in their commitment to human rights. Amongst them, the Human Rights Impact Assessment (HRIA) is the most accredited one. Following a human rights-based approach, it enables businesses to analyse their activities' effects on rights-holders, also when it comes to the right to development; and it integrates human rights principles into the assessment process. However, PayPal does not appear to undertake such an assessment voluntarily, and its pledge to respect and ensure human rights is not reflected in any of its operational policies and procedures.⁹ Fostering sustainable and responsible corporate behaviour, specifically encouraging businesses to contribute to the effective realisation of the right to development, would require, therefore, mandatory Human-Rights Due Diligence and Impact Assessments throughout global value chains, following regulatory examples such as the EU's Corporate Sustainability Due Diligence Directive.**
- 8. Companies should be required to be transparent about how they respect human rights in practice, particularly in this case, regarding the specific policy(ies) that results in the refusal to provide services to individuals possessing Palestinian bank accounts, consequently hampering Palestinians in the oPt's right to development.**
- 9. International institutions have the duty to denounce fundamental rights violations at corporate stakeholders' hands publicly. For the UNGPs are also founded on a pillar of remedy, responsible authorities should take actionable steps to meet their respective duties and responsibilities to put an end to human rights abuses in company operations and provide remedies when such abuses take place. Companies need to put an end to their damaging practices, and any person(s) responsible for these infringements should be held liable for violations of the right to development.**
- 10. Companies, such as PayPal, should also be encouraged to visit the areas where the population's right to development is impeded as a consequence of their policies, and to meet with relevant stakeholders.**

⁸ Palestinian Central Bureau of Statistics (PCBS) Main Findings of Labour Force Survey in 2022, available at: <https://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=4421>

⁹ OHCHR Guiding Principles on Business and Human Rights, (HR/PUB/11/04), Article 16.