Tread cautiously

Due diligence, responsible business conduct, and business relationships with land rights violators

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Pharmaceutical giant Novo Nordisk's acquisition of land from controversial Iranian business conglomerate EIKO raises human rights concerns

Introduction

In November 2019, Iran's Revolutionary Court ruled that the possessions of the "perverse sect of Baha'ism" in the village of Ivel, including farmland and dozens of buildings, some of which they had owned since the mid-19th century, be confiscated on the basis of their "perverse ideology", and given that certain leaders of the Baha'is faith were, according to the Iranian government, "now outside the country collaborating with the opposition groups against the regime".[1] In August 2020, Branch 54 of the Tehran Court of Appeals upheld the initial decision stating that the properties belonging to Baha'i residents of the village of Ivel were illegitimate and that the confiscations were legal. According to the ruling, Baha'i properties in Ivel village were put "at the disposal" of a state entity known as Execution of Imam Khomeini's Order (EIKO).[2] Such land seizures are legal in Iran, where the constitution permits the confiscation by the government of "illegitimate wealth".[3]

Since the announcement of the court verdict, religious leaders, government officials and parliamentarians from around the world have joined a growing outcry at the unjust confiscation based on religious prejudice of properties owned by Bahá'ís in favour of EIKO.[4]

Ivel is just one of many recent examples of confiscation of the lands of religious minorities in Iran, an ongoing practice of the Iranian regime since the 1979 Revolution. In 1981, for example, Baha'i residents of the village of Matnagh were displaced and their homes and lands confiscated.[5] In the following years, their land was transferred to, and subsequently sold off in a public auction by EIKO. EIKO, which has since transformed into a multi-billion dollar corporate conglomerate, is under the ultimate authority and control of the Supreme Leader of Iran, currently Ayatollah Ali Khamenei.[6] EIKO was established in 1989 for the sole purpose of expropriation and confiscation of "illegitimate" land and property, as well as those "of unknown ownership" and "properties subject to Article 49 of the Constitution".[7] Lands and properties expropriated by EIKO are to be managed or sold for charitable purposes, specifically for "the families of the martyrs, veterans, the missing, prisoners of war and the downtrodden," which the government considered to constitute a "public interest".[8]

Key takeaways for companies

1 Buying or leasing land for industrial purposes is a business activity that is inherently fraught with human rights risks because of the importance of land as a means for the enjoyment of human rights. It may provide livelihood, physical security and offer unique spaces for cultural practices. Contexts in which there is a history of illegal land confiscation utilised as a weapon against minority populations or to punish people based on their race, religion, national or social origin, or other status requires companies to engage in appropriately robust due diligence to counter the risk of becoming involved in some of the most severe human rights abuses. When purchasing land in these contexts, international normative standards for responsible business conduct insist that companies conduct due diligence to avoid becoming involved in either:
   - abuses that regard the specific plot of land in question; or
   - abuses relating to the business partner more generally where establishing a partnership could exacerbate or contribute to ongoing abuses. This exacerbation or contribution could occur, for example, by offering legitimacy to the business partner and their actions, thereby making it worse or harder for victims of a land-related human rights violation to seek justice or obtain remedy.

2 Appropriate due diligence in contexts where there are risks of severe harm and a history of land confiscation must not simply rest on the technical, tick-box or transactional due diligence of obtaining what purports to be a "legal" deed or title as proof of ownership. The severity of the risk at hand dictates that companies should at a minimum conduct their own investigation into the history and ownership of the land (beyond obtaining "legal" title) and engage with potentially affected people or organisations that can inform them of the de facto status of the land and indicate any risks of engaging with the business partner.

3 In Iran, as in many contexts, land rights violations by government entities are systematic and pervasive, and companies doing business there have little leverage to address or remediate past abuses. Companies entering this context must realise at the outset that they are voluntarily putting themselves in a situation in which they will not have leverage and will likely be unable to adequately address adverse impacts if they arise or come to light. Simply claiming later that the lack of leverage in the business relationship prevents them from adequately addressing impacts is not an acceptable excuse, and companies must be prepared to bear the full consequences – legal, reputational, moral and financial.

4 When forging new business relationships in authoritarian contexts, companies should be transparent and meaningfully engage relevant stakeholders, including potentially impacted communities, in a timely and open way in their due diligence. If a company feels uncomfortable in providing such transparency about the business partner or the details of its due diligence, this is a red flag that points in the direction of not proceeding with the deal.

5 Conducting business activity that supports the fulfilment of some human rights (such as the provision of essential medicines) does not exempt companies from respecting the full range of human rights (including land rights) nor from their responsibility to conduct human rights due diligence to prevent infringing on any and all human rights. The United Nations Guiding Principles on Business and Human Rights are clear that undertaking activities that may contribute to the enjoyment of rights "does not offset a failure to respect human rights throughout their operations".[9]

According to numerous reports, EIKO was involved in the confiscation of several private pharmaceutical companies, particularly the pharmaceutical groups formerly belonging to the Khsoroshahi family.[10] All of the assets of the Khsoroshahi family, as well as 16 Khsoroshahi-owned companies, mostly in the pharmaceutical sector, were reportedly confiscated by EIKO.[11]

In 2016, the Danish pharmaceutical company Novo Nordisk purchased land from a company controlled by EIKO to construct a manufacturing facility to be used for the assembly and packaging of insulin pens for the Iranian market.[12] Using the case of Novo Nordisk's purchase of land from an EIKO-controlled company in Iran as an example, this paper considers the role of human rights due diligence and why it is sometimes necessary for companies not to initiate a business relationship with entities at high risk of involvement in severe human rights abuses.[13] We draw on the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and other OECD due diligence guidance documents as a normative framework for analysing Novo Nordisk's actions in the Iran case and discussing responsible business conduct in relation to land confiscation and disputes more broadly. The paper considers the responsibilities of companies considering or engaging in business relationships with governments or entities that are known to be involved in unlawful land acquisitions. It concludes by drawing general recommendations for Novo Nordisk as well as other companies that may find themselves in these situations.

EIKO's track record of abuse

EIKO has been accused of systematic land grabbing in the name of the Supreme Leader, namely through the acquisition of land and property on the basis of their owners' perceived religious beliefs and political views through purportedly legal rulings in the Iranian courts and executive orders, as well as unlawful means, including threats and intimidation.[14] Despite EIKO's façade of legality under Iranian law, its actions are contrary to international law and normative standards because expropriation has been arbitrary (that is, without due process) and discriminatory, in that EIKO has targeted political dissidents, opponents and prisoners of the regime, pro-democracy activists, persecuted religious minorities, particularly Baha'is, and exiled Iranians living abroad.[15]

According to Stolen Lands, a comprehensive database of confiscated lands and properties in Iran created by Justice for Iran, since 1996 EIKO has auctioned off around 23,000 properties amounting to hundreds of hundereds of millions of square 'meters' of land, selling for billions of dollars.

Several times a year, most recently in September 2020 and January 2021, EIKO advertises a long list of properties (sometimes up to 1,000 items), including plots of land, houses, apartments, farms and warehouses, in major national newspapers.[16] The massive revenue generated from the auctions has provided EIKO with additional capital needed for the expansion of its business empire and the entrenchment of EIKO's control over various sectors of the Iranian economy, including the pharmaceutical sector.

EIKO has variously been subject to US sanctions since 2013. In a press release accompanying the announcement of the sanctions in 2013, the US Department of the Treasury stated that EIKO had made tens of billions of dollars in profit for the Iranian regime each year through, among other things, the sale and management of real estate holdings, including the confiscation of properties that were owned by Iranians not living in the country full-time.[17] The press release also noted that EIKO and its subsidiary Tadbir Economic Development Company (TEDC) were involved in hiding the assets of Iranian government leaders.[18] EIKO was removed from the US sanctions list in 2015,[19] then relisted in 2018.[20]

Novo Nordisk in Iran

Novo Nordisk A/S[21] is a Denmark-based multinational pharmaceutical company, which provides an estimated 50 per cent of the world's insulin supply, a life-saving medicine.[22] Novo Nordisk has publicly committed to meeting its responsibility to respect human rights and conduct due diligence as defined by the UNGPs.[23] Novo Nordisk also supports the establishment of mandatory human rights due diligence legislation in the European Union,[24] expected to be tabled by the European Commission in the first quarter of 2021.[25] In 2005, Novo Nordisk expanded its operations to Iran by setting up the wholly-owned subsidiary Novo Nordisk Pars (NN IR).[26] NN IR is currently the largest provider of insulin products in Iran.[27] Sales of medicines to Iran are considered exempt from sanctions as they are a humanitarian good.[28]

In 2016, NN IR acquired four hectares of land from Barakat Pharmaceutical Company (BPC), a subsidiary of TEDC and, ultimately, EIKO.[29] Novo Nordisk purchased the land to construct a manufacturing facility to be used for the assembly and packaging of insulin pens for the Iranian market.[30] The land was located in Barakat Pharmaceutical Town, an industrial zone near Kordan, one hour from Tehran.[31] Two years later, NN IR commenced construction of the facility, and in 2019, construction was completed.

Normative expectations for responsible business conduct on land rights

The government-backed OECD Guidelines implicitly cover several aspects of land rights, including the principle to respect the internationally recognised human rights of those affected by corporate activities.[32] This principle covers the rights to land, property and housing, among other rights, as recognised by international and regional human rights conventions such as the International Covenant on Economic, Social and Cultural Rights and European Convention on Human Rights. Importantly, the responsibility to conduct human rights due diligence under the OECD Guidelines exists even if a company does not itself cause the impact; the company is expected to seek to prevent adverse impacts that are caused by another entity, even if this is a government, if there is a risk that the impact would be directly linked to the company's products or services through a business relationship, such as is the case for Novo Nordisk and its business relationship with BPC, TEDC, and ultimately EIKO.

An essential component of companies' responsibilities under the OECD Guidelines is the expectation to disclose clear and complete information to improve public understanding of their enterprise and to act in a transparent manner.[33] Under the Guidelines, companies are required to disclose "all material matters regarding their activities"[34] particularly on related party transactions and foreseeable risk factors.[35] Disclosure of timely, accurate, clear and complete information is particularly important when doing business with governments with a track record of human rights violations, such as Iran.

Other OECD due diligence documents provide guidance for companies on their responsibility to respect land rights. Businesses are encouraged to identify all land rights holders and claims and to seek stakeholder advice to avoid or compensate displacement of all legitimate rights holders.[36] Regarding greenfield investments (such as Novo Nordisk's operations in Iran through NN IR), the OECD recommends companies undertake due diligence to ensure that land has not been expropriated from communities for private purposes and without fair and prompt compensation.[37] The OECD also emphasises that, while governments are primarily responsible for providing compensation to former legitimate land rights holders when expropriating land, companies have responsibilities to ensure that their operations do not lead to the resettlement of local communities without meaningful consultations or their forced evictions without proper consultation.[38] If land rights have been negatively impacted, companies should work with governments to ensure that rights holders receive fair, prompt and adequate compensation for those rights negatively impacted by their operations.[39] When government capacity to assist is limited, companies should play an active role in these processes.[40]

The OECD also elaborates on disclosure expectations for companies acquiring or operating on land in high-risk contexts. It recommends for companies to provide timely and accurate information to the public, without endangering its competitive position or responsibilities, about the nature and scale of the operations' lease agreements or contracts, including impact assessments (such as potential social and human rights impacts) and stakeholder engagement processes.

The OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (OECD Stakeholder Engagement Guidance) also provides a framework for all companies that may be linked to historical human rights violations. Prior to making any commitments and investments in a project, companies should identify historical events in which stakeholders have not been consulted or that have negatively impacted human rights.[41] Examples of historical events include inherited legacy issues from prior development projects, cumulative impacts of past activities, and previous protests over land ownership.[42]

The OECD Stakeholder Engagement Guidance also encourages companies to clearly identify their relationship with previous operators and acknowledge any perceived issues about lack of engagement or consultation.[43] Companies should clarify what they can do in the future, what issues remain negotiable and whether they have the ability to address adverse impacts from past operations.[44] Companies should also address adverse impacts that are inherited from a predecessor but which it continues to contribute to and, in the case of human rights impacts – if no other remedy is available – companies should provide, enable or support remediation, to the extent of its contribution to the impacts of its predecessor.[45]

The OECD Due Diligence Guidance for Responsible Business Conduct (OECD Guidance) provides practical support to companies on their due diligence responsibilities under the OECD Guidelines. The OECD Guidance provides that in cases of particularly severe human rights risks, the only appropriate course of action may be for a company not to enter into a business relationship linking it to the human rights risk.[46] If the situation is unclear or disputed, companies should not use the lack of clarity about a potentially severe impact or potential link to a severe impact as an excuse to proceed with the risky business activity. In other words, companies should follow the precautionary principle and err on the side of caution, especially when potential impacts are severe. If a company identifies, as part of its due diligence,

a risk of a particularly severe human rights impact associated with an existing business relationship, the company should – in consultation with its stakeholders – consider disengaging from the business relationship, especially if the business partner is not willing to address or remediate the impact. If a company does decide to disengage, in order to do so responsibly, it should identify any potential negative human rights impacts from the disengagement.[47]

Despite the OECD Guidelines and UNGPs clearly stating that companies have an independent responsibility to respect human rights that is separate from governments' duties to protect human rights, many companies treat respect for these rights as the sole responsibility of the state. Companies themselves frequently fail to conduct adequate human rights due diligence to avoid directly linking themselves or contributing to severe negative human rights impacts associated with the acquisition of land. Similarly, many companies that support rather than lead development projects (including companies that purchase land zoned for industrial use from governments, as well as auditors, consultants, contractors and financiers) do not themselves take responsibility for addressing negative land-related human rights impacts to which they are directly linked through their business relationship with a government or state-owned enterprise.

Novo Nordisk's due diligence in relation to the purchase of EIKO-owned land

When Novo Nordisk decided to purchase the land and enter the Barakat Pharmaceutical Town in 2016, the relationship between BPC, TEDC and EIKO was well-documented, as was EIKO's history of dealing in confiscated land.[48] As previously noted, EIKO had just been removed from the US sanctions list in 2015, though sanctions would subsequently be reimposed in 2018. Numerous reports documented how BPC had been built on the foundations of confiscated private pharmaceutical companies, particularly the pharmaceutical group formerly belonging to the Khsoroshahi family. Additionally, BPC's CEO and Board Chairman, Nasrollah Fathian, is a Brigadier General in the Islamic Revolutionary Guard Corps – Iran's most powerful military and security entity, which as designated by the United States as a terrorist organization in 2019.[49] Mr Fathian has been the Commander of IRGC's Ground Force Battlefield Medicine (1988-1997),[50] the Chief of Staff and Head of advisors of IRGC's Commander in Chief (1997-2007),[51] the deputy (and subsequently advisor) of Iran's General Staff of the Armed Forces (2007-2017)[52] and currently the head of IRGC's Battlefield Medicine Organisation (2017-present).[53] EIKO's reputation, along with the high risk of severe human rights impacts associated with the land, should have raised serious red flags within Novo Nordisk. It also should have triggered the company to conduct a heightened degree of human rights due diligence, as instructed by the UNGPs and OECD Guidelines, because of the severe risks associated with partnering with EIKO and purchasing land that may have been controversially confiscated from minority communities, political dissidents or other persecuted persons prior to its sale.

There is controversy and a lack of clarity surrounding the piece of land in the Barakat Pharmaceutical Town that Novo Nordisk purchased from BPC. In 2009, Barakat Pharmaceutical Town land was subject to a legal dispute between the Iranian Ministry of Interior and BPC. Reportedly, BPC commenced legal proceedings against the Ministry of Interior, seeking to gain possession of 10 hectares of land, where the Ministry had previously built facilities with funds that it had received from the United Nations Office of the High Commissioner for Refugees. However, the court held that the Ministry had no ownership rights over the land, because BPC had already obtained registered deeds for that land. The court ordered the Ministry to evacuate and handover the disputed land to BPC.[54] At the inauguration ceremony of the Barakat Pharmaceutical Town in 2019, BPC's CEO stated that BPC purchased the land from the Iranian Ministry of "Housing and Urban Development".[55] However, Novo Nordisk has stated that the company's "legal due diligence" determined BPC acquired the land in question from the Iranian Natural Reservoir and Environmental Organization.[56] Novo Nordisk further claimed that it "investigated land rights and obtained documentation that the plot of land was government-owned" and that the plot was "located on a mountain slope where there were no signs of previous habitation."[57]

In response to an investigative report by Danwatch and Zamaneh into its Iranian operations, Novo Nordisk asserted that the purchase of land from BPC was approved following "legal compliance and technical due diligence".[58] Additionally, in a reply to a draft version of the present report, Novo Nordisk further clarified that this due diligence was conducted by "external experts, prior to the final decision regarding location of the local manufacturing site and choice of partner", and included "assessments of business ethics (i.e. business integrity/anti-corruption and respect for human rights), as well as legal aspects, including international sanctions".[59] On the basis of this due diligence, Novo Nordisk concluded, "There were no salient adverse human rights impacts."[60] According to Novo Nordisk, BPC had complied with local and international law as well as Novo Nordisk's internal rules and ethical standards.[61] Novo Nordisk maintains that it has "undertaken all relevant due diligence, including but not limited to human rights due diligence."[62] The company did not provide any further

details of this human rights due diligence in regard to the purchase of land from BPC.

While the authors of the present report cannot ascertain the veracity of any of the claims about the land in question, the controversies and the evident lack of clarity is clearly a red flag. Given this situation and the risk of severe human rights abuses impacts, it appears that Novo Nordisk's due diligence prior to the purchase of the land may have focused too narrowly on compliance with strictly legal and technical aspects, such as the US sanctions regime and a government-issued land title, and too little on human rights due diligence with a heightened degree of caution, meaningful stakeholder engagement and transparency. Ensuring compliance with legal regimes and fulfilling sanctions-related requirements is the starting point for human rights due diligence, the green light to initiate enhanced due diligence, not the end of it.[63] Obtaining a land title from the government – particularly from a repressive regime whose land grabbing practices are well-known and well-documented – is not sufficient to satisfy human rights due diligence requirements. The fact that Novo Nordisk found no evidence of habitation when the land was purchased does not exclude the possibility of prior, lawful land ownership by individuals or communities who did not wilfully sell the land to the government.

Beyond the specific parcel of land in question, there is also the issue of the appropriateness of Novo Nordisk's decision to enter into a business relationship with BPC and EIKO, which at least partially funds its operations with revenue and assets acquired through land grabbing. In response to the Danwatch/Zamaneh report, Novo Nordisk stated that it had investigated the integrity of its business partners and concluded that these partners met all legal requirements and international standards.[64] It is unclear whether Novo Nordisk's investigation extended to EIKO as the parent company of BPC, and Novo Nordisk did not explain how it came to this conclusion given EIKO's control of TEDC and BPC. It is also unclear how Novo Nordisk could have reached this conclusion given the role of BPC's CEO in the Islamic Revolutionary Guard Corps.

In response to a draft version of this paper, Novo Nordisk emphasised that many Iranians rely on the medicines that the company produces to improve their lives and indeed to keep them alive.[65] While the provision of medicines that are crucial for the fulfilment of the human right to health-care in Iran or any country is indeed a laudable aim, the pursuit of this aim does not exempt companies from respecting other human rights, and conducting appropriate human rights due diligence to ensure that they are not linked or contributing to potentially severe abuses of other human rights. The issue at hand here is not Novo Nordisk's provision of medicines in Iran in general – it is about a particular business partnership with, and purchase of land from, a specific entity associated with severe human rights abuses. That said, it is appropriate for Novo Nordisk to identify any risk of negative human rights impacts that may arise from a potential decision to disengage, in order to do so responsibly.

Recommendations to Novo Nordisk and other companies (at risk of being) directly linked to land grabs and associated human rights violations, based on the OECD Guidelines

Disclose relevant information and act in a transparent manner

- Novo Nordisk has disclosed minimal information about NN IR's purchase of land at Barakat Pharmaceutical Town. The only information available on Novo Nordisk's website about NN IR's manufacturing facility is a press release announcing the signing of the memorandum of understanding to build that facility.[66] Other relevant information has been sourced from Novo Nordisk's US SEC filings.

- Engaging in business relations with an entity owned by a state-owned business conglomerate with a well-documented track record of involvement in systematic and egregious human rights violations is fraught with risk and the heightened potential for violations. Thus, it is especially important for companies like Novo Nordisk to be extra transparent and to disclose timely, accurate, clear and complete information to stakeholders about these business relationships.

- Specifically, Novo Nordisk should release detailed information about the due diligence that it conducted prior to acquiring the land at Barakat Pharmaceutical Town, including the information and impact assessments that it relied upon about its relationship with BPC (and also, indirectly, TEDC and EIKO), as well as the land's ownership record, and its stakeholder engagement processes

Conduct due diligence, including assessing the adequacy of prior due diligence processes

- Under the OECD Guidelines, Novo Nordisk had an obligation to conduct human rights due diligence prior to its business relationship with BPC and purchase of land at Barakat Pharmaceutical Town. Novo Nordisk should assess the adequacy of the due diligence that it conducted prior to its business relation and this acquisition. Due diligence must always go beyond mere compliance with the law and technical requirements. Given the Iranian government's widespread and well-documented track-record of human rights violations, including illegal land grabs by EIKO that controls BPC, Novo Nordisk should not rely upon statements by the Iranian government or government-owned companies that the land was free of prior land rights violations.

- Novo Nordisk should consider whether its willingness to do business with a serious human rights violator that profits from unlawful land confiscations ultimately supports the business model of that organisation. By engaging in business with a known affiliate of EIKO, Novo Nordisk risks legitimising EIKO's practice of land grabbing, incentivising EIKO to continue to engage in this illegal activity, and making it more difficult for the victims of EIKO's abuses to seek and obtain remedy.

- Novo Nordisk should also consult with relevant stakeholders,[67] including potentially impacted communities and NGOs monitoring human rights violations in Iran, regarding their business partners and the possibility of the land on which their operations are based being unlawfully expropriated or linked to the unlawful practice of land grabbing. In seeking to meaningfully engage stakeholders, Novo Nordisk should be aware of the security and safety risks that rights holders face and that the possibility of reprisals by state authorities against individuals and communities participating in these processes may prevent them from speaking freely.

Enable remediation of past and ongoing human rights impacts

- If Novo Nordisk's reassessment of its prior due diligence concludes that its business relation with BPC is linked to EIKO's land grabbing and human rights violations, that the land it purchased was in fact unlawfully expropriated, or that legitimate land rights holders have not been fairly or adequately compensated, Novo Nordisk should contribute to remediation of the negative impacts to rights holders. Given the systematic and pervasive nature of land rights violations by the Iranian state, Novo Nordisk is unlikely to be able to convince the regime to remediate the abuses; nevertheless, if the company inherited legacy issues from the government's prior development of Barakat Pharmaceutical Town, and therefore by entering into business with EIKO's BPC and purchasing and operating on this land, Novo Nordisk is contributing to ongoing human rights violations, it would be Novo Nordisk's responsibility to contribute to their remediation.

Consider responsible disengagement from the land and business relationships with EIKO-controlled companies

- The OECD Guidance makes it clear that companies should consider disengaging from business relationships not merely after mitigation attempts have failed, but proactively where the risk or impact is serious enough to warrant disengagement. EIKO's unlawful land grabbing would certainly satisfy this criterion.

- In considering responsible disengagement from EIKO and its subsidiaries, the company must carefully evaluate its potential involvement in systematic land rights violations as well as potential adverse human rights abuses associated with disengagement. Given the fact that Novo Nordisk is currently producing essential medicines for Iranians, potential negative impacts from a decision to disengage are not insignificant. Novo Nordisk should engage stakeholders, including potentially impacted communities, as well as human rights and humanitarian NGOs focused on Iran, in disengagement decision-making and, if it does decide to disengage, do so responsibly.[68]

Endnotes

1 "Imprisonment, confiscation, denial of most basic civil rights: A surge in persecution of the Baha'is in Iran," Bahá'í World News Service, 28 January 2020, <https://news.bahai.org/story/1384/native/> (7 January 2021). For a translation of the Special Branch of the Revolutionary Court for Article 49 of the Constitution's order: <https://iranbahaipersecution.bic.org/sites/default/files/PDF/English/004731E_0.pdf>.

2 EIKO is also known as 'Setad', which stands for Setad Ejraiye Farmane Hazrate Emam (Headquarter for Executing Imam Khomeini's Order).

3 Article 49 of the Iranian Constitution states: "The government is responsible for confiscating illegitimate wealth resulting from usury, usurpation, bribery, embezzlement, theft, gamble, misuse of Islamic government endowments, misuse of government contracts and transactions, uncultivated lands and others belonging to the public, houses of ill repute, and other illegitimate sources. The government shall pass on this wealth to the rightful owner and in case such an owner is not identified it must be deposited in the public treasury. This ruling must be carried out by the government after investigation, research, and proof through Islamic law." For a translation of the Iranian Constitution: <https://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>.

4 Bahá'í World News Service, 18 February 2021, "An extraordinary wave of support": Calls in unison for Iran to end persecution of Bahá'ís", <https://news.bahai.org/story/1490/>.

5 Aasoo, "Confiscation of the Properties of Bahai's in the village of Matnagh," 1 June 2017, <https://www.aasoo.org/fa/documents/مصادره-املاک-بهائیان-روستای-مَتَنَق-در-آذربایجان-شرقی> (4 February 2021).

6 M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021). The Supreme Leader of Iran is himself reportedly responsible for massive and systematic human rights abuses. See, for example: United Nations General Assembly, Human Rights Council, Situation of human rights in the Islamic Republic of Iran: Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 28 January 2020, A/HRC/43/61, <https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf> (7 January 2021); Amnesty International, "Iran 2019," <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/> (7 January 2021); Human Rights Watch, "Iran: Events of 2019," <https://www.hrw.org/world-report/2020/country-chapters/iran> (7 January 2021).

7 S. Stecklow, B. Dehghanpisheh and Y. Torbati, "Khamenei controls massive financial empire built on property seizures," Reuters, 11 November 2013, <https://www.reuters.com/investigates/iran/#article/part1> (7 January 2021). For a translation of the original decree establishing EIKO: <https://www.reuters.com/investigates/iran/images/part3/doc_creation_eng.jpg>.

8 Ibid.

9 United Nations Office of the United Nations High Commissioner for Human Rights, "UN Guiding Principles, Commentary to Foundational Principles. The Corporate Responsibility to Respect Human Rights," 2011, <https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf> (7 January 2021).

10 Eghtesadonline, "The doors of Tulipress were closed," 19 August 2018, <https://www.eghtesadonline.com/n/1TOh> (4 February 2021); R. Haghighatnejad, IranWire, "What does EIKO do in the field of medicine?," <https://iranwire.com/fa/features/3958> (12 February 2021). The Eghtesadonline article lists 16 companies formerly owned by the Khsoroshahi family. Three of these companies fell within the Alborz corporate group. The IranWire article notes that a subsidiary of the Alborz group, previously owned by the Khsoroshahi family, is now one of the largest drug distribution companies in Iran. Additionally, according to an interview with Assadollah Asgrawladi, a long-standing member of the Iranian Chamber of Commerce, the property of the entire Khsoroshahi family – including their pharmaceutical companies – was confiscated in the aftermath of the Revolution: O. I. Mehr, Tarikhirani, "Confiscation of capitalists' property: Wrong list and failed attempt," <http://tarikhirani.ir/fa/news/3892/> (12 February 2021).

11 Tolid Darou and Sobhan Daru, two of Iran's major pharmaceutical companies which are currently owned and controlled by EIKO's BPC, were among those companies that reportedly belonged to, and were confiscated from, the Khsoroshahi family. See: Islamic Republic of Iran's News Agency (IRNA), "What We Know About Economic Activities of EIKO," 9 May 2020, < https://plus.irna.ir/news/83778598/آنچه-درباره-فعالیت-های-اقتصادی-ستاد-اجرایی-می-دانیم (Jan 2021); and Etehad Melat Newspaper, "Behind the Curtain of Pharmaceutical Sector in Iran: Who is the King of Drug?" 7 February 2019, < https://etehademelat.ir/سلطان-دارو-کیست؟/> (12 Jan 2021).

12 M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021); United States Securities and Exchange Commission, Form 20-F for Novo Nordisk A/S for the fiscal year ended 31 December 2019, 4 February 2020, p. 9, <https://www.novonordisk.com/content/dam/nncorp/global/en/investors/irmaterial/annual_report/2020/Novo-Nordisk-Form-20-f-2019.pdf> (7 January 2021).

13 This paper has utilised the joint investigative report conducted by Danwatch and Zamaneh Media, published in September 2020, about Novo Nordisk's business in Iran. See: C. Aagaard, "What is Novo hiding in Iran?," Danwatch, 16 September 2020, <https://danwatch.dk/en/undersoegelse/what-is-novo-hiding-in-iran/> (7 January 2021); M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021). The authors consider the Danwatch and Zamaneh investigation to be authoritative and credible as it involved "extensive interviews and investigation into extensive research into thousands of Persian, English and Danish language media reports, annual business reports, local and international business registries, statistics, research reports, social media sites, satellite imagery as well as interviews with dozens of experts inside and outside Iran, present and former employees at Novo Nordisk, local diabetes organisations, international NGOs, diabetes patients in Iran and Novo Nordisk."

14 Ibid.

15 Ibid.

16 See for example the 101th Auction of EIKO, published in Jaam-e-Jam Newspaper dated 19 December 2020 and Hamshahri Newspaper dated 20 December 2020: <https://saa-s.ir/index.php/auction/30-101> (4 February 2021).

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18 Ibid.

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20 "U.S. Government Fully Re-Imposes Sanctions on the Iranian Regime As Part of Unprecedented U.S. Economic Pressure Campaign," US Department of the Treasury, 5 November 2018, <https://home.treasury.gov/news/press-releases/sm541> (29 January 2021). In response to a draft version of this paper, Novo Nordisk stated: "Throughout our presence in Iran, Novo Nordisk has implemented and stood by a robust international trade sanctions compliance programme and has conducted due diligence on all relevant transactions executed locally… [T]he supply of medicines, for humanitarian reasons, as well as the manufacturing of medicine in Iran, is plainly, exempted from the sanctions that were re-imposed in November 2018 as part of the United States' withdrawal from JCPOA [Joint Comprehensive Plan of Action]. Novo Nordisk continues to comply with all applicable sanctions": Novo Nordisk email response to SOMO, 27 January 2021.

21 Three drafts of the present paper were provided to Novo Nordisk for comment. On 27 January 2021, 11 February 2021 and 25 February 2021, Novo Nordisk responded by email with a number of comments on various draft versions of this paper. Several of Novo Nordisk's comments have been incorporated into the present version of this paper, but Novo Nordisk has indicated that the company remains in profound disagreement about some of the key statements in the paper.

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24 Novo Nordisk email response to SOMO, 27 January 2021.

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26 United States Securities and Exchange Commission, Form 20-F for Novo Nordisk A/S for the fiscal year ended 31 December 2019, 4 February 2020, p. 8, <https://www.novonordisk.com/content/dam/nncorp/global/en/investors/irmaterial/annual_report/2020/Novo-Nordisk-Form-20-f-2019.pdf> (7 January 2021). The Iranian market for insulin is booming. In 2005, Novo Nordisk estimated that there were 4.5 million Iranian diabetes patients, and that 9.2 million Iranians were expected to have diabetes by 2040: M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021).

27 In response to a draft version of this paper, Novo Nordisk stated: "The main purpose of Novo Nordisk's presence in Iran is Novo Nordisk's commitment to support patients living with diabetes and other chronic diseases. Novo Nordisk has been operating in Iran since 2005, and we have both a responsibility and a strong commitment to patients with chronic diseases, as some of these rely on our lifesaving medicines. As Iran is a country subject to international sanctions, there are only a limited number of companies with as relevant high quality, safety and capacity capabilities as Novo Nordisk, to produce high-quality lifesaving medicine at large scale. Without Novo Nordisk's establishment of local operations, the supply of insulin products in Iran would be decimated, with a potential long-term, seriously detrimental consequence for diabetes patients in Iran. Novo Nordisk has remained committed to serving the Iranian population throughout difficult times and periods of international sanctions. Today we provide medicine to almost half a million people with diabetes or other chronic diseases in Iran." Novo Nordisk email response to SOMO, 27 January 2021.

28 "U.S. Government Fully Re-Imposes Sanctions on the Iranian Regime As Part of Unprecedented U.S. Economic Pressure Campaign," US Department of the Treasury, 5 November 2018, <https://home.treasury.gov/news/press-releases/sm541> (29 January 2021).

29 According to BPC regulations, in order for companies to acquire land, they must submit a proposal with the details of their business plan and. if accepted. enter into a contract with BPC that includes obligations on the company to construct a factory and start production within an agreed timeframe. The transfer of the land is provisional and only becomes completed when the factory with the specified requirements agreed with BPC is built and operative. After that, if the company wants to transfer ownership to a 3rd party or change its business activities, the company must request permission from BPC. For more on the BPC regulations, see <Farsi link> (18 February 2021).

30 M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021); United States Securities and Exchange Commission, Form 20-F for Novo Nordisk A/S for the fiscal year ended 31 December 2019, 4 February 2020, p. 9, <https://www.novonordisk.com/content/dam/nncorp/global/en/investors/irmaterial/annual_report/2020/Novo-Nordisk-Form-20-f-2019.pdf> (7 January 2021).

31 M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021).

32 OECD Guidelines, Chapter IV (Human Rights), Principle 2.

33 OECD Guidelines, Chapter III (Disclosure), Commentary on Disclosure, para 28.

34 OECD Guidelines, Chapter III (Disclosure), Principle 1.

35 OECD Guidelines, Chapter III (Disclosure), Principle 2.

36 OECD-FAO Guidance for Responsible Agricultural Supply Chains, Annex A: Measures for risk mitigation and prevention along agricultural supply chains, p. 63.

37 Ibid, p. 62.

38 Ibid.

39 Ibid, p. 63.

40 Ibid.

41 OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, Recommendations to on-the ground personnel, p. 74.

42 Ibid, p. 39.

43 Ibid, p. 74.

44 Ibid.

45 Ibid.

46 OECD Due Diligence Guidance for Responsible Business Conduct, section 3.2, p. 30-31.

47 OECD Due Diligence Guidance for Responsible Business Conduct, section 3.2, p. 31.

48 See US Department of the Treasury, Press Center, "Treasury Targets Assets of Iranian Leadership," 4 June 2013, <https://www.treasury.gov/press-center/press-releases/pages/jl1968.aspx> (7 January 2021).

49 BBC website, "Revolutionary Guard Corps: US labels Iran force as terrorists," 8 April 2019, <https://www.bbc.com/news/world-us-canada-47857140> (17 Feb 2021).

50 Battlefield Medicine Organisation, Interview with Brigadier General Fathollahi, Part 1, 7 April 2019 <https://behdarirazmi.ir/مصاحبه-با-سردار-نصرالله-فتحیان-قسمت-اول/> (17 Feb 2021).

51 In an interview he states that he served for 10 years as the Chief of Staff and Head of advisors of the IRGC's Commander in Chief Major General Rahim Safavi. See: ibid; in 2008, Major General Rahim Safavi was added to the Specially Designated National (SDN) list maintained by the U.S. Treasury. See: <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20080708> (17 Feb 2021).

52 Battlefield Medicine Organisation, Interview with Brigadier General Fathollahi, Part 1, 7 April 2019 < https://behdarirazmi.ir/مصاحبه-با-سردار-نصرالله-فتحیان-قسمت-اول/> (17 Feb 2021); DefaPress, "Fourth Award Ceremony of Martyr Rahnamoun", 2 March 2016 <https://defapress.ir/fa/news/72752/چهارمین-آیین-اعطای-جایزه-ملی-شهید-دکتر-رهنمون-آغاز-شد> (17 Feb 2021).

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58 Refer: M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021); C. Aagaard, "What is Novo hiding in Iran?," Danwatch, 16 September 2020, <https://danwatch.dk/en/undersoegelse/what-is-novo-hiding-in-iran/> (7 January 2021).

59 Novo Nordisk email response to SOMO, 27 January 2021.

60 M. Dehgan, "What is the Danish pharmaceutical company hiding in Iran?," Zamaneh Media, 16 September 2020, <https://en.radiozamaneh.com/30638/> (7 January 2021).

61 Ibid.

62 Novo Nordisk email response to SOMO, 11 February 2021.

63 In response to a draft version of this paper, Novo Nordisk asserted that it "commits to due diligence which views compliance with legal and sanctions-related requirements as merely the starting point for human rights due diligence": Novo Nordisk email response to SOMO, 11 February 2021. Novo Nordisk provided no further information on the due diligence that it conducted prior to the purchase of land from BPC.

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67 Under the OECD Guidelines, companies that are or may be linked to human rights violations should engage in meaningful consultation with relevant stakeholders. See: OECD Guidelines, Chapter II (General Policies), Commentary on General Policies, para 25. For additional information on stakeholder engagement, refer to the OECD Due Diligence Guidance for Responsible Business Conduct.

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Colophon

Layout: Frans Schupp
Photo: Barakat Pharmaceutical Industrial Park

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Justice for Iran (JFI) is a London-based human rights NGO which seeks freedom from impunity and accountability for perpetrators of widespread and serious human rights violations in Iran. To achieve its mission, JFI researches, documents, reports, litigates, and further raises public awareness and participates in human rights advocacy. JFI has a business and human rights programme that aims to increase corporate accountability and respect for human rights among businesses and financial actors engaging in business activities in Iran.